

October 18, 2021 Zoning Hearing Meeting Packet

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- 200 Block Washington Street, Conshohocken, PA 19438 – Page 268
- 450 Colwell Lane, Conshohocken, PA 19428 – Page 339
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BOROUGH OF CONSHOHOCKEN

ZONING HEARING BOARD

AGENDA

October 18th, 2021 - 7:00 PM

This meeting is being held using a Go to Meeting platform and will be recorded.

Monthly Zoning Hearing Board Meeting

Please join my meeting from your computer, tablet or smartphone.

<https://global.gotomeeting.com/join/972846509>

You can also dial in using your phone.

United States (Toll Free): [1 866 899 4679](tel:18668994679)

Access Code: 972-846-509

The public is asked to please keep their phones on mute. There will be time for public comment that will be announced by the Zoning Hearing Board Chairman. During the meeting, you may submit written comments by e- mailing them to Zoning@conshohockenpa.gov. Please provide your name, address, and property reference.

1. Call to Order
2. Appearance of Property

PETITIONER: SK Elm, LLC.
PREMISES INVOLVED: 424 E. Elm St, Conshohocken, PA 19428
Borough Residential 2 District

PETITIONER: Millennium Waterfront Associates, II, LP.
PREMISES INVOLVED: 200 Block of Washington St., Conshohocken, PA 19428
Specially Planned District 2

PETITIONER: Dryden Court Development, LLC. C/O David Brosso
PREMISES INVOLVED: 450 Colwell Ln., Conshohocken, PA 19428
Limited Industrial District

PETITIONER: CGEM, LLC, Mun Chung, Member
PREMISES INVOLVED: 701 Fayette St., Conshohocken, PA 19428
Business Commercial

**** Persons who submitted an entry of appearance application for a specific property will be called upon at the appropriate time.

3. Public Comment – (state your name, address, and property reference)
4. Announcements/Discussion
5. Adjournment

The Conshohocken Zoning Hearing Board thanks you in advance for your cooperation during the remote meeting. If you encounter problems participating during the meeting, or have questions regarding the above prior to the meeting, please contact the Borough at zoning@conshohockenpa.gov.



BOROUGH OF CONSHOHOCKEN

Office of the Borough Manager

Zoning Administration

BOROUGH COUNCIL

Colleen Leonard, President
Tina Sokolowski, Vice-President
Robert Stokley, Member
Anita Barton, Member
James Griffin, Member
Jane Flanagan, Member
Karen Tutino, Member

Yaniv Aronson, Mayor

Stephanie Cecco, Borough Manager

ZONING NOTICE

August 16th, 2021, ZONING HEARING BOARD MEETING TO OCCUR VIA REMOTE MEANS

ZONING HEARING Z-2021-14

NOTICE IS HEREBY GIVEN that the Conshohocken Zoning Hearing Board will conduct a public hearing on August 16th, 2021, at 7:00 p.m. prevailing time via remote means. The public is encouraged to participate as set forth below.

This meeting will be held using a Go-To-Meeting Platform. To the extent possible, members of Conshohocken Zoning Hearing Board and Borough staff/professionals will participate via both video and audio. (INSTRUCTIONS ON SECOND PAGE)

At this time, the Conshohocken Zoning Hearing Board will hear testimony and accept evidence on the following request.

PETITIONER: SK Elm, LLC.
826 Dresher Way, Wayne, PA 19087

PREMISES INVOLVED: 424 E. Elm St, Conshohocken, PA 19428
Borough Residential 2 District

OWNER OF RECORD: Jeronimos, LLC
424 E. Elm St, Conshohocken, PA 19428

The applicant is seeking a special exception from the Zoning Hearing Board per §27-703.B to permit the change of a nonconforming use.

Persons who wish to become parties to the application must notify the Borough of their intent to ask for party status at least five (5) days prior to the scheduled hearing by emailing the attached entry of appearance form to zoning@conshohockenpa.gov. Said persons must be available to participate in the zoning hearing on the scheduled date and time. It is noted that submitting the attached entry of appearance form does not guarantee that you will be granted party status. The Zoning Hearing Board decides who may participate in the hearing before it as a party, subject to Section 908(3) of the Municipalities Planning Code (MPC). The MPC permits party status to any person "affected" by the application. Having taxpayer status alone is not enough to claim party status; however, a person whose property or business abuts the property that is the subject of the appeal is affected and should qualify as a party. Ultimately, the ZHB makes the party status determination after reviewing the request.

Thank you,
Zoning Hearing Board



BOROUGH OF CONSHOHOCKEN

Office of the Borough Manager

Zoning Administration

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Karen Tutino, Member

Yaniv Aronson, Mayor

Stephanie Cecco, Borough Manager

ZONING HEARING REMOTE SESSION ACCESS INSTRUCTIONS

The public is encouraged to participate as follows:

Audio Feed Participation: You may dial-in to access the audio feed of the meeting. All participants (whether listening or providing comments) must use this method of audio participation, even those using Go-To-Meeting to access the video feed. To access audio, please use the below number and access code/ password information.

We ask that you please always keep your phones on mute, unless giving a public comment as set forth in the Public Comment section below.

Please join my meeting from your computer, tablet or smartphone.

<https://global.gotomeeting.com/join/972846509>

You can also dial in using your phone.

United States (Toll Free): [1 866 899 4679](tel:18668994679)

Access Code: 972-846-509

New to GoToMeeting? Get the app now and be ready when your first meeting starts:

<https://global.gotomeeting.com/install/972846509>

If you have already downloaded the Go-To-Meeting application, the link will redirect you to the application itself. Please follow the instructions.

It is recommended that you download the application in advance of the meeting time. If you attempt to sign in prior to the start of the meeting, the Go-To-Meeting application will inform you that the meeting has not started. Please close the application and log back in at the time of the meeting (7:00 PM).

Public Comment: There will be a designated time on the agenda for public comment. Those with public comment shall state their name and address. Prior to the start of the meeting, you may submit written comments by e-mailing them to Zoning@conshohockenpa.gov. Similarly, during the meeting, you may submit written comments by e-mailing them to Zoning@conshohockenpa.gov.

Public comments submitted in this manner will be read by a member of Borough Administration during the public comment period. Because the actual time of the public comment period is determined by the pace of the meeting, please submit all comments as soon as possible, whether before or during the meeting. Written comments shall include the submitting person's name, address, and property in question.

The Conshohocken Zoning Hearing Board thanks you in advance for your cooperation during the remote meeting. If you encounter problems participating during the meeting, or have questions regarding the above prior to the meeting, please contact the Borough at zoning@conshohockenpa.gov.



BOROUGH OF CONSHOHOCKEN

Office of the Borough Manager

Zoning Administration

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The Borough of Conshohocken Zoning Hearing Board Entry of Appearance as a Party

I/We _____

Request to be granted party status in Application Z-2021-14.

Applicant: 424 E. Elm St - SK Elm, LLC. - Special Exception

Please print name:

Please print address:

Please print email:

Please Sign Below:

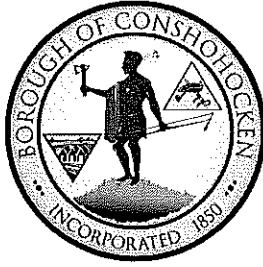
Please return form via mail or e-mail to the below:
(Entry must be received no later than August 11th, 2021)

MAIL:

Borough of Conshohocken
Attn: Bobbi Jo Myrsiades
400 Fayette St. - Suite 200
Conshohocken, PA 19428

E-MAIL:

zoning@conshohockenpa.gov



BOROUGH OF CONSHOHOCKEN
400 Fayette Street, Suite 200, Conshohocken, PA 19428
Phone (610) 828-1092 Fax (610) 828-0920

Zoning Application

Application: Z-2021-14
Date Submitted: 6-21-21
Date Received: 6-24-21

1. Application is hereby made for:

Special Exception Variance

Appeal of the decision of the zoning officer

Conditional Use approval Interpretation of the Zoning Ordinance

Other _____

2. Section of the Zoning Ordinance from which relief is requested:

Section 27-703B

3. Address of the property, which is the subject of the application:

424 East Elm Street, Conshohocken, PA

4. Applicant's Name: SK Elm LLC c/o Martin Klagholz

Address: 826 Dresher Way, Wayne PA 19087

Phone Number (daytime): &

E-mail Address: mck@360kbs.com>

5. Applicant is (check one): Legal Owner Equitable Owner ; Tenant

6. Property Owner: Jerónimo, LLC c/o Equitable Owner SK Elm LLC

Address: 424 East Elm Street, Conshohocken, PA

Phone Number: 610-337-5585

E-mail Address: ecampbell@campbellroccolaw.com

7. Lot Dimensions: irregular; 11,364 sq. ft. Zoning District: BR-2 Borough Residential 2

8. Has there been previous zoning relief requested in connection with this Property?

Yes No If yes, please describe.

Applicant is unaware of any prior zoning relief.

9. Please describe the present use of the property including any existing improvements and the dimensions of any structures on the property.

The site currently contains a two story non-conforming building. Each floor of the building is approximately 4,000 sf. The first floor is a yoga studio. The second floor is office space. The property has 18 parking spaces on site and additional spaces pursuant to an easement on an adjacent property.

10. Please describe the proposed use of the property.

The applicant proposes no change of use on the second floor, it will continue as office. The applicant proposes to convert the first floor yoga studio to a mix of warehouse/storage, equipment service/maintenance and related support and office space.

Please see addendum

11. Please describe proposal and improvements to the property in detail.

The Special Exception is requested in order to allow the change of a non-conforming use to a less intense non-conforming use. No change to the footprint of the building is proposed.

Please see addendum

12. Please describe the reasons the Applicant believes that the requested relief should be granted.

27-703 Change of Use.

B. (1) A nonconforming use may be changed to another nonconforming use which is equally appropriate or more appropriate to the district in which the property is located

13. If a Variance is being requested, please describe the following:

a. The unique characteristics of the property: _____

b. How the Zoning Ordinance unreasonably restricts development of the property:

c. How the proposal is consistent with the character of the surrounding neighborhood. _____

d. Why the requested relief is the minimum required to reasonably use the property; and why the proposal could not be less than what is proposed.

14. The following section should be completed if the applicant is contesting the determination of the zoning officer.

a. Please indicate the section of the zoning ordinance that is the subject of the zoning officer's decision (attach any written correspondence relating to the determination).

b. Please explain in detail the reasons why you disagree with the zoning officer's determination.

15. If the Applicant is requesting any other type of relief, please complete the following section.

a. Type of relief that is being requested by the applicant.

Special Exception

b. Please indicate the section of the Zoning Ordinance related to the relief being requested.

27-703 B. (1) A nonconforming use may be changed to another nonconforming use which is equally appropriate or more appropriate to the district in which the property is located.

c. Please describe in detail the reasons why the requested relief should be granted.

Such new use is equally appropriate or more appropriate to the district in which the property is located.

See Addendum

16. If the applicant is being represented by an attorney, please provide the following information.

a. Attorney's Name: Edmund J. Campbell, Jr. Esquire

b. Address: 2701 Renaissance Boulevard, Fourth Floor

c. Phone Number: 610-337-5585

d. E-mail Address: ecampbell@campbellroccolaw.com

I/we hereby certify that to the best of my knowledge, all of the above statements contained in this Zoning Application and any papers or plans submitted with this application to the Borough of Conshohocken are true and correct.

SK Elm LLC by Edmund G. Campbell, Jr. Esquire, its authorized representative

Applicant

SK Elm, LLC

Legal Owner

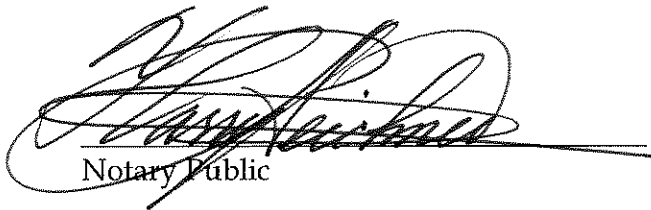
JUNE 18, 2021

Date

COMMONWEALTH OF PENNSYLVANIA

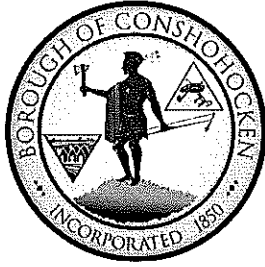
COUNTY OF MONTGOMERY

As subscribed and sworn to before me this 18TH day of JUNE, 2021.


Notary Public

(Seal)

Commonwealth of Pennsylvania - Notary Seal
Harry A. Reichner, Notary Public
Philadelphia County
My commission expires November 13, 2022
Commission number 1194882
Member, Pennsylvania Association of Notaries



BOROUGH OF CONSHOHOCKEN
400 Fayette Street, Suite 200, Conshohocken, PA 19428
Phone (610) 828-1092 Fax (610) 828-0920

Decision

(For Borough Use Only)

Application Granted

Application Denied

MOTION:

CONDITIONS:

BY ORDER OF THE ZONING HEARING BOARD

	Yes	No
_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>

DATE OF ORDER: _____

ADDENDUM TO ZONING APPLICATION

SK Elm LLC

Requesting a Special Exception

424 East Elm Street

The Applicant, SK Elm LLC intends to operate its related business, Key Business Solutions (KBS) at 424 East Elm Street in the Borough of Conshohocken (the "Property"). The Property is located in the BR-2 zoning district. There is a 2 story building located on the Property and it is currently used for office and a yoga studio. Those uses are not permitted in the BR-2 district.

KBS is in the business of providing mail room equipment supplies and support services. KBS proposes to move its current operations to the Property. There will be no change of use on the second floor as it will be used as office by KBS administration. The first floor will be used for storage of mail room equipment such as postage meters, scales, printers, etc. and supplies used with such equipment. The first floor will be used to prepare this equipment to be delivered to customers. The first floor will also be used to service this type of equipment. The first floor will also contain office space supporting these activities.

The service and maintenance of this mail room equipment does not involve any process that creates noise, dust or fumes. The service and maintenance of this mail room does not involve hazardous materials.

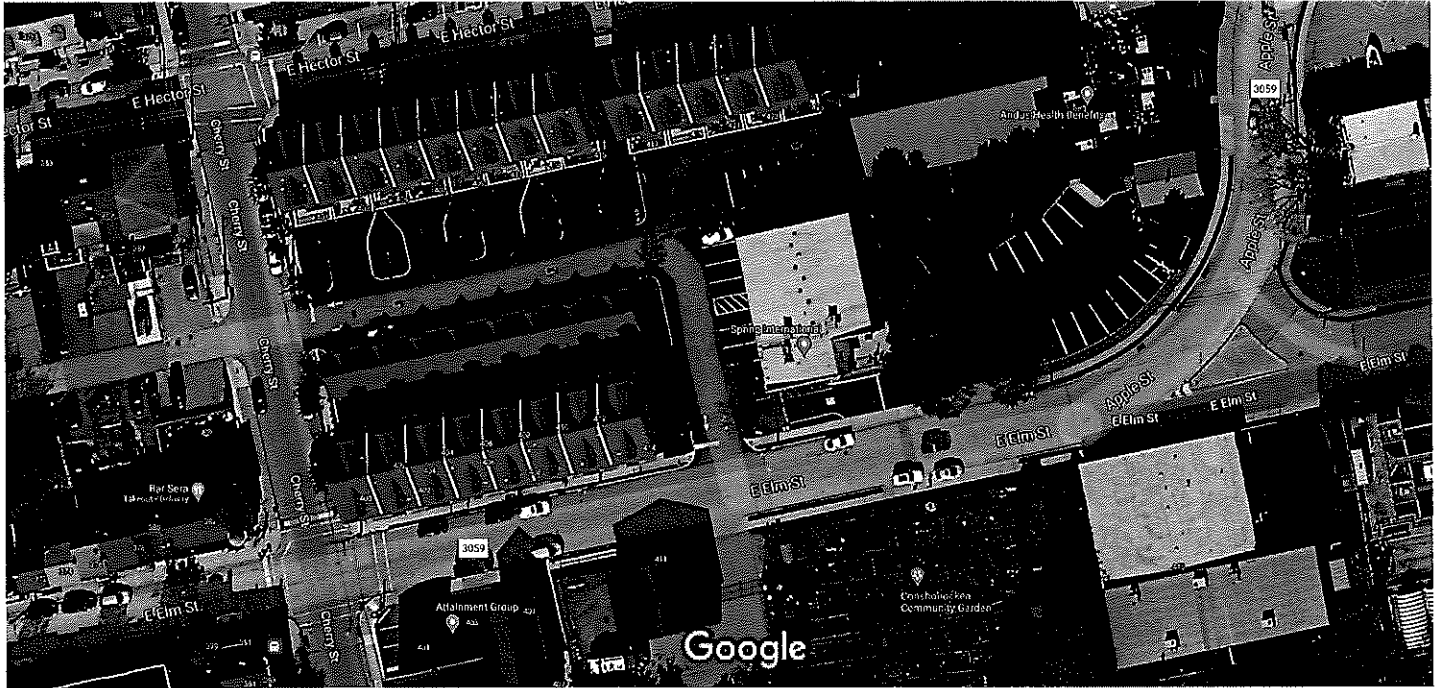
KBS employs approximately 20 full-time individuals, however only 10 employees will regularly work at the Property.

No changes are proposed to the footprint of the building or the exterior of the Property.

Deliveries to the KBS Elm Street facility are made by standard "fed-ex" style box trucks. Typically there are 1-2 such trips per day at KBS's existing facility and that is not expected to be any different at the Property. Other than the initial move in, no full size trailer deliveries are anticipated.

The exterior signage will be changed to reflect KBS. The size and location of the existing signage will not change.

Google Maps 424 east e,, street conshohocken



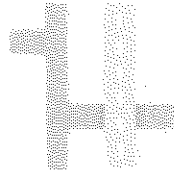
Imagery ©2021 Maxar Technologies, Map data ©2021 20 ft

E 11th Ave

No reviews

Conshohocken, PA 19428

east e,, street conshohocken



Don't see what you're looking for?

Try Google Search instead

Should this place be on

Google Maps?

Add a missing place



Google Maps 455 E Elm St

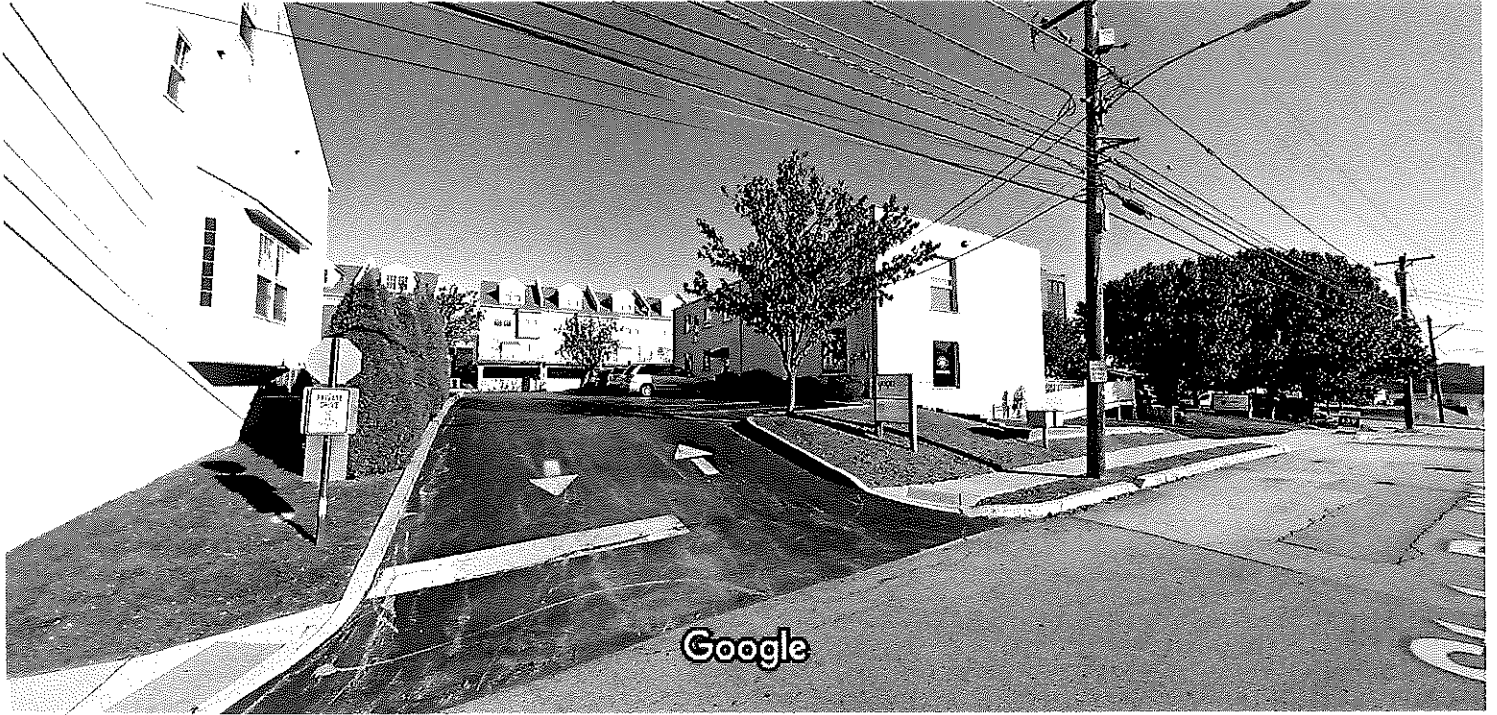
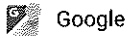
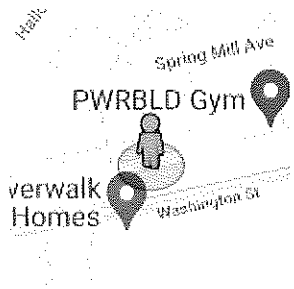


Image capture: Nov 2019 © 2021 Google

Conshohocken, Pennsylvania



Street View



PARID: 050005900008
 JERONIMOS LLC

424 E ELM ST

Parcel

TaxMapID	05023 039
Parid	05-00-05900-00-8
Land Use Code	4100
Land Use Description	C - RETAIL, OFFICE, APTS. - MULTI-USE
Property Location	424 E ELM ST
Lot #	14
Lot Size	11364 SF
Front Feet	114
Municipality	CONSHOHOCKEN
School District	COLONIAL
Utilities	ALL PUBLIC//

Owner

Name(s)	JERONIMOS LLC
Name(s)	
Mailing Address	424 E ELM ST
Care Of	
Mailing Address	
Mailing Address	CONSHOHOCKEN PA 19428

Current Assessment

Appraised Value	Assessed Value	Restrict Code
634,000	634,000	

Estimated Taxes

County	2,303
Montco Community College	247
Municipality	2,853
School District	14,813
Total	20,216
Tax Lien	Tax Claim Bureau Parcel Search

Last Sale

Sale Date	23-MAY-14
Sale Price	\$1,000,000
Tax Stamps	10000
Deed Book and Page	5914-01065
Grantor	APEX REALTY LLC
Grantee	JERONIMOS LLC
Date Recorded	28-MAY-14

Sales History

Sale Date	Sale Price	Tax Stamps	Deed Book and Page	Grantor	Grantee	Date Recorded
05-23-2014	\$1,000,000	10000	5914-01065	APEX REALTY LLC	JERONIMOS LLC	05-28-2014
12-24-2012	\$1	0	5860-01623	424 ELM STREET ASSOCIATES LP	APEX REALTY LLC	01-08-2013
04-26-2006	\$1,530,000		5600-02637	TR-SUBURBAN LP	424 ELM STREET ASSOCIATES LP	
06-10-1999	\$0	0	5279-01803	TR-SUBURBAN LP	TR-SUBURBAN LP	07-19-1999

08-30-1990	\$200,000	2000	4956-01968	COMER EDWARD A & ELAINE K	09-05-1990
09-11-1980	\$35,000	350	-	KALBACH JAMES C & PAULA F	
04-26-1978	\$37,000	0	-	HOME ASSN OF UNITED RUBBER	

Lot Information

Lot Size	11364 SF
Lot #	14
Remarks	114 X IRR 11364 SF
Remarks	
Remarks	

Commercial Parcel Summary

No. of Cards	1
Land Use Code	4100
Gross Building Area (Total of all Cards)	8,404
Total Living Units	

Commercial Parcel Summary

Use	Area
WAREHOUSE	7,404
MULTI-USE OFFICE	1,000

Commercial Card Summary

Card	1
Imp Name	
Structure Code	398
Structure	WAREHOUSE
Sprinkler	N
Units	
Identical Units	1
Year Built	1971
Gross Building Area	8,404
Elevator/Escalator	N

Permits

Permit Date	16-NOV-2018
Permit Number	18-01136
Amount	
Purpose	ELECTRICAL/MECHANICAL
Notes	REPLACE OLD CONDENSING UNIT WITH NEW UNIT
Notes	
Notes	
Status	CLOSED

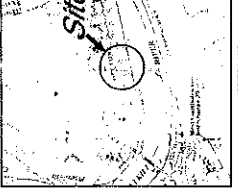
Assessment History

Appraised Value	Assessed Value	Restrict Code	Effective Date	Reason	Notice Date
634,000	634,000		01-JAN-15	COURT STIPULATION	18-DEC-15
295,340	295,340		01-JAN-07	APPEAL	24-OCT-06
295,340	295,340		01-JAN-06	SUBDIVISION	06-MAR-06
	295,340		01-JAN-06	SUBDIVISION	

6/18/2021

Montgomery, Pennsylvania

83,650	01-JAN-01	APPEAL
60,800	01-JAN-98	REASSESSMENT
1,100	01-JUL-96	DEMOLITION
6,200	01-JAN-87	



THIS MAP WAS PREPARED IN ACCORDANCE WITH THE PROVISIONS OF CHAPTER 10-2, MONTGOMERY COUNTY ORDINANCE NO. 10-2, WHICH AUTHORIZES THE BOARD OF ZONING ADJUSTMENTS TO REVIEW AND APPROVE SUCH MAPS.

DATE: 10/05/2006

BY: [Signature]

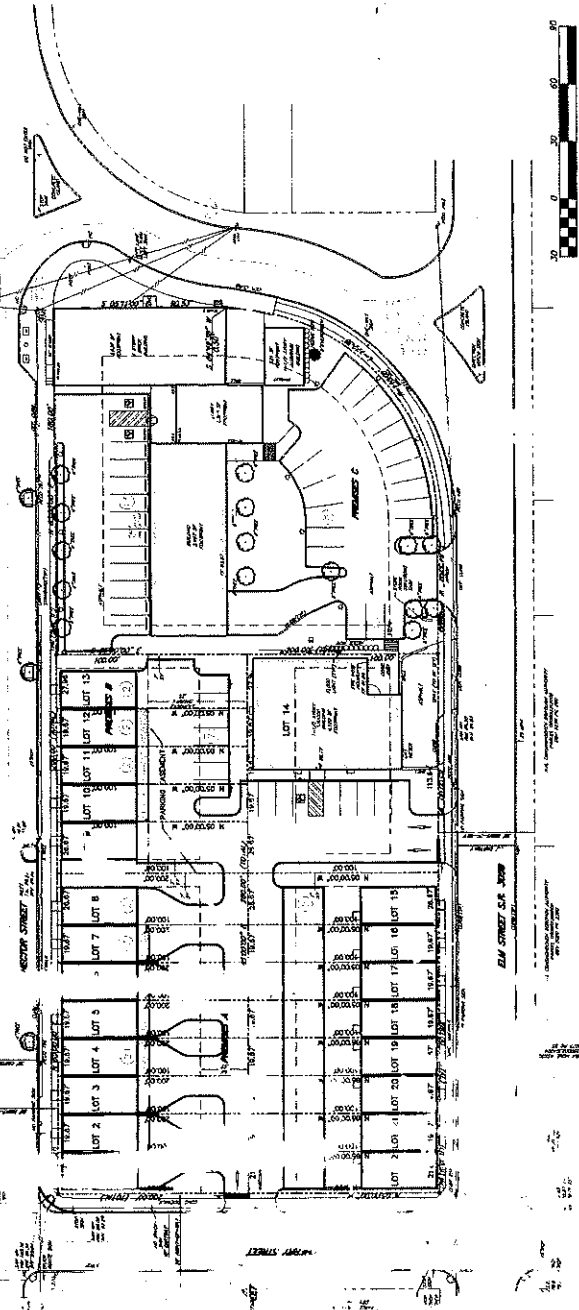
ZONING INFORMATION
 ZONING DISTRICT: M-1 (MEDIUM DENSITY RESIDENTIAL)
 MIN. LOT AREA: 1,500 SF
 MIN. LOT WIDTH: 25 FT.
 MIN. FRONT YARD SETBACK: 10 FT.
 MIN. SIDE YARD SETBACK: 5 FT.
 MIN. REAR YARD SETBACK: 10 FT.
 MAX. GROUND COVER: 25%
 MAX. BUILDING HEIGHT: 35 FT.
 MAX. NUMBER OF UNITS: 40
 MAX. NUMBER OF STORIES: 3

COMMERCIAL PARKING ANALYSIS
 TABLE 1: REQUIRED PARKING FOR PROPOSED DEVELOPMENT
 OFFICE: 20,450 SF (197/1000SF) = 20 SPACES
 WAREHOUSE: 8,889 SF (197/1000SF) = 9 SPACES
 HANDICAP ACCESSIBLE PARKING = 2 PS
 SPACES PROVIDED: 29 PS

RECORD PLAN
 401, 425 & 440 E. HECTOR STREET
 MOMENE AND ASSOCIATES, INC.
 CIVIL ENGINEERS & LAND SURVEYORS
 924 COUNTY LINE ROAD BRIVAN MARK PA 19010 (610) 377-3300
 420 EXTON SQUARE DRIVEWAY, EXTON PA 19341 (610) 334-8384

PLAN SHEET INDEX

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20	20	20	20	20



Scale 1" = 30'

25-276

LOT	AREA (SF)	DEVELOPMENT	REQUIREMENTS	PROVIDED
1	3,187 SF (0.0497 AC)	RESIDENTIAL	10 SPACES	10 SPACES
2	1,987 SF (0.0452 AC)	RESIDENTIAL	6 SPACES	6 SPACES
3	1,987 SF (0.0452 AC)	RESIDENTIAL	6 SPACES	6 SPACES
4	1,987 SF (0.0452 AC)	RESIDENTIAL	6 SPACES	6 SPACES
5	1,987 SF (0.0452 AC)	RESIDENTIAL	6 SPACES	6 SPACES
6	1,987 SF (0.0452 AC)	RESIDENTIAL	6 SPACES	6 SPACES
7	1,987 SF (0.0452 AC)	RESIDENTIAL	6 SPACES	6 SPACES
8	2,887 SF (0.0611 AC)	RESIDENTIAL	10 SPACES	10 SPACES
9	2,887 SF (0.0611 AC)	RESIDENTIAL	10 SPACES	10 SPACES
10	2,887 SF (0.0611 AC)	RESIDENTIAL	10 SPACES	10 SPACES
11	1,987 SF (0.0452 AC)	RESIDENTIAL	6 SPACES	6 SPACES
12	1,987 SF (0.0452 AC)	RESIDENTIAL	6 SPACES	6 SPACES
13	2,187 SF (0.0544 AC)	RESIDENTIAL	8 SPACES	8 SPACES
14	11,384 SF (0.2608 AC)	COMMERCIAL	20 SPACES	20 SPACES
15	33,455 SF (0.7680 AC)	COMMERCIAL	36 SPACES	36 SPACES

NOTES

- THE REQUIRED PARKING FOR LOTS 1 THROUGH 13 IS PROVIDED IN THE LOT.
- AT A MINIMUM 8 OUT OF 10 LOTS 1 THROUGH 13 SHALL BE PROVIDED WITH HANDICAP ACCESSIBLE PARKING.
- UNIT LOCATION SUBJECT TO CHANGE AT THE TIME OF BUILDING PERMIT REVIEW.

SECTION 11.2.C. APPLICANT SHALL PROVIDE A LETTER FROM THE OWNER OF THE ADJACENT PROPERTY TO THE NORTH OF THE PROPOSED DEVELOPMENT, APPROVING THE DEVELOPMENT AND THE PROPOSED SETBACKS.

SECTION 11.2.H. APPLICANT SHALL PROVIDE A LETTER FROM THE OWNER OF THE ADJACENT PROPERTY TO THE SOUTH OF THE PROPOSED DEVELOPMENT, APPROVING THE DEVELOPMENT AND THE PROPOSED SETBACKS.

SECTION 11.2.I. APPLICANT SHALL PROVIDE A LETTER FROM THE OWNER OF THE ADJACENT PROPERTY TO THE WEST OF THE PROPOSED DEVELOPMENT, APPROVING THE DEVELOPMENT AND THE PROPOSED SETBACKS.

SECTION 11.2.J. APPLICANT SHALL PROVIDE A LETTER FROM THE OWNER OF THE ADJACENT PROPERTY TO THE EAST OF THE PROPOSED DEVELOPMENT, APPROVING THE DEVELOPMENT AND THE PROPOSED SETBACKS.

SECTION 11.2.K. APPLICANT SHALL PROVIDE A LETTER FROM THE OWNER OF THE ADJACENT PROPERTY TO THE NORTH OF THE PROPOSED DEVELOPMENT, APPROVING THE DEVELOPMENT AND THE PROPOSED SETBACKS.

SECTION 11.2.L. APPLICANT SHALL PROVIDE A LETTER FROM THE OWNER OF THE ADJACENT PROPERTY TO THE SOUTH OF THE PROPOSED DEVELOPMENT, APPROVING THE DEVELOPMENT AND THE PROPOSED SETBACKS.

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SECTION 11.2.N. APPLICANT SHALL PROVIDE A LETTER FROM THE OWNER OF THE ADJACENT PROPERTY TO THE EAST OF THE PROPOSED DEVELOPMENT, APPROVING THE DEVELOPMENT AND THE PROPOSED SETBACKS.

RECORD PLAN
 401, 425 & 440 E. HECTOR STREET
 MOMENE AND ASSOCIATES, INC.
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 924 COUNTY LINE ROAD BRIVAN MARK PA 19010 (610) 377-3300
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- AT A MINIMUM 8 OUT OF 10 LOTS 1 THROUGH 13 SHALL BE PROVIDED WITH HANDICAP ACCESSIBLE PARKING.
- UNIT LOCATION SUBJECT TO CHANGE AT THE TIME OF BUILDING PERMIT REVIEW.

SECTION 11.2.C. APPLICANT SHALL PROVIDE A LETTER FROM THE OWNER OF THE ADJACENT PROPERTY TO THE NORTH OF THE PROPOSED DEVELOPMENT, APPROVING THE DEVELOPMENT AND THE PROPOSED SETBACKS.

SECTION 11.2.H. APPLICANT SHALL PROVIDE A LETTER FROM THE OWNER OF THE ADJACENT PROPERTY TO THE SOUTH OF THE PROPOSED DEVELOPMENT, APPROVING THE DEVELOPMENT AND THE PROPOSED SETBACKS.

SECTION 11.2.I. APPLICANT SHALL PROVIDE A LETTER FROM THE OWNER OF THE ADJACENT PROPERTY TO THE WEST OF THE PROPOSED DEVELOPMENT, APPROVING THE DEVELOPMENT AND THE PROPOSED SETBACKS.

SECTION 11.2.J. APPLICANT SHALL PROVIDE A LETTER FROM THE OWNER OF THE ADJACENT PROPERTY TO THE EAST OF THE PROPOSED DEVELOPMENT, APPROVING THE DEVELOPMENT AND THE PROPOSED SETBACKS.

SECTION 11.2.K. APPLICANT SHALL PROVIDE A LETTER FROM THE OWNER OF THE ADJACENT PROPERTY TO THE NORTH OF THE PROPOSED DEVELOPMENT, APPROVING THE DEVELOPMENT AND THE PROPOSED SETBACKS.

SECTION 11.2.L. APPLICANT SHALL PROVIDE A LETTER FROM THE OWNER OF THE ADJACENT PROPERTY TO THE SOUTH OF THE PROPOSED DEVELOPMENT, APPROVING THE DEVELOPMENT AND THE PROPOSED SETBACKS.

SECTION 11.2.M. APPLICANT SHALL PROVIDE A LETTER FROM THE OWNER OF THE ADJACENT PROPERTY TO THE WEST OF THE PROPOSED DEVELOPMENT, APPROVING THE DEVELOPMENT AND THE PROPOSED SETBACKS.

SECTION 11.2.N. APPLICANT SHALL PROVIDE A LETTER FROM THE OWNER OF THE ADJACENT PROPERTY TO THE EAST OF THE PROPOSED DEVELOPMENT, APPROVING THE DEVELOPMENT AND THE PROPOSED SETBACKS.

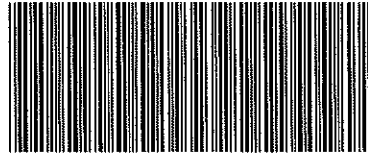




RECORDER OF DEEDS
MONTGOMERY COUNTY
Nancy J. Becker

One Montgomery Plaza
Swede and Airy Streets ~ Suite 303
P.O. Box 311 ~ Norristown, PA 19404
Office: (610) 278-3289 ~ Fax: (610) 278-3869

DEED BK 5914 PG 01065 to 01069
INSTRUMENT # : 2014032347
RECORDED DATE: 05/28/2014 11:34:34 AM



3080427-0012K

MONTGOMERY COUNTY ROD

OFFICIAL RECORDING COVER PAGE

Page 1 of 5

Document Type: Deed	Transaction #: 3059668 - 3 Doc(s)
Document Date: 05/23/2014	Document Page Count: 4
Reference Info:	Operator Id: dcane
RETURN TO: (Simplifile) Bryn Mawr Abstract, LLC 10 Campus Blvd Newtown Square, PA 19073	PAID BY: BRYN MAWR ABSTRACT LLC
* PROPERTY DATA:	
Parcel ID #: 05-00-05900-00-8	
Address: 424 E ELM ST	
Municipality: PA Conshohocken Borough (100%)	
School District: Colonial	
* ASSOCIATED DOCUMENT(S):	

CONSIDERATION / SECURED AMT:	
\$1,000,000.00	
TAXABLE AMOUNT:	
\$1,000,000.00	
FEES / TAXES:	
Recording Fee:Deed	\$83.00
State RTT	\$10,000.00
Conshohocken Borough RTT	\$5,000.00
Colonial School District RTT	\$5,000.00
Total:	\$20,083.00

DEED BK 5914 PG 01065 to 01069
Recorded Date: 05/28/2014 11:34:34 AM

I hereby CERTIFY that
this document is
recorded in the
Recorder of Deeds
Office in Montgomery
County, Pennsylvania.



Nancy J. Becker

Nancy J. Becker
Recorder of Deeds

PLEASE DO NOT DETACH

THIS PAGE IS NOW PART OF THIS LEGAL DOCUMENT

NOTE: If document data differs from cover sheet, document data always supersedes.

*COVER PAGE DOES NOT INCLUDE ALL DATA, PLEASE SEE INDEX AND DOCUMENT FOR ANY ADDITIONAL INFORMATION.



Prepared by and Return to:

Bryn Mawr Abstract, Inc.
10 Campus Blvd
Newtown Square, PA 19073
(610) 355-8107

File No. 14-5698

UPI # 05-00-05900-00-8

MONTGOMERY COUNTY COMMISSIONERS REGISTRY
05-00-05900-00-8 CONSHOHOCKEN BOROUGH

424 E ELM ST
APEX REALTY LLC

B 023 L 14 U 039 4100 05/28/2014

\$15.00

JG

This Indenture, made the 23rd day of May, 2014,

Between

APEX REALTY, LLC

(hereinafter called the Grantor), of the one part, and

JERONIMOS, LLC

(hereinafter called the Grantee), of the other part,

Witnesseth, that the said Grantor for and in consideration of the sum of **One Million And 00/100 Dollars (\$1,000,000.00)** lawful money of the United States of America, unto it well and truly paid by the said Grantee, at or before the sealing and delivery hereof, the receipt whereof is hereby acknowledged, has granted, bargained and sold, released and confirmed, and by these presents does grant, bargain and sell, release and confirm unto the said Grantee

ALL THAT CERTAIN lot or piece of ground with the buildings and improvements erected, said lot being Lot 14, Situate in the Borough of Conshohocken, County of Montgomery and Commonwealth of Pennsylvania, bounded and described according to a plan titled Record Plan - 401, 425 & 440 E. Hector Street by Momenee and Associates, Inc., dated March 8, 2004, last revised October 26, 2005, and recorded in Montgomery County in Plan Book 25 Page 276, as follows, to wit:

BEGINNING at a point, said point being located the following course and distance from an iron pin to be set at the intersection of the easterly side of Cherry Street, (50.00 feet wide), and the northerly side of Elm Street, (50.00 feet wide), (1) along the northerly side of Elm Street North 85 degrees 00 minutes 00 seconds East 166.36 feet to a common corner with Lot 15, thence from said point of beginning leaving the northerly side of Elm Street and along a common line with Lot 15 North 05 degrees 00 minutes 00 seconds West 100.00 feet to a common corner of Lots 15, 8 and 9, thence along a common line with Lots 9, 10, 11, 12, and 13 North 85 degrees 00 minutes 00 seconds East 113.64 feet to a common corner with Lot 13 and along a common line with Premises C, thence along said line South 05 degrees 00 minutes 00 seconds East 100.00 feet to a point along the northerly side of Elm Street marked by a spike to be set, thence along said line South 85 degrees 00 minutes 00 seconds West 113.64 feet to the first mentioned point and place of beginning.



PARCEL NO. 05-00-05900-00-8

BEING the same premises which 424 Elm Street Associates, L.P., by Deed dated 12/24/2012 and recorded 01/08/2013 in the Office of the Recorder of Deeds in and for the County of Montgomery in Deed Book 5860 Page 1624, granted and conveyed unto Apex Realty, LLC.

Together with all and singular the buildings and improvements, ways, streets, alleys, driveways, passages, waters, water-courses, rights, liberties, privileges, hereditaments and appurtenances, whatsoever unto the hereby granted premises belonging, or in anywise appertaining, and the reversions and remainders, rents, issues, and profits thereof; and all the estate, right, title, interest, property, claim and demand whatsoever of it, the said grantor, as well at law as in equity, of, in and to the same.

To have and to hold the said lot or piece of ground described above, with the buildings and improvements thereon erected, hereditaments and premises hereby granted, or mentioned and intended so to be, with the appurtenances, unto the said Grantee, its successors and assigns, to and for the only proper use and behoof of the said Grantee, its successors and assigns, forever.

And the said Grantor, for itself, its successors and assigns, does, by these presents, covenant, grant and agree, to and with the said Grantee, its successors and assigns, that it, the said Grantor, and its successors and assigns, all and singular the hereditaments and premises herein described and granted, or mentioned and intended so to be, with the appurtenances, unto the said Grantee, its successors and assigns, against it, the said Grantor, and its successors and assigns, will warrant and defend against the lawful claims of all persons claiming by, through or under the said Grantor but not otherwise.

In Witness Whereof, the party of the first part has caused its common and corporate seal to be affixed to these presents by the hand of its Vice President, and the same to be duly attested by its Secretary. Dated the day and year first above written.

ATTEST:

{SEAL}

APEX REALTY, LLC

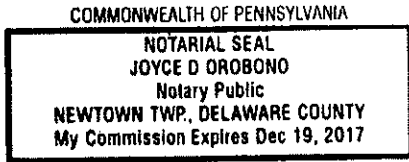
By: *Scott W. Herald*
Scott W. Herald, Vice President



Commonwealth of Pennsylvania } ss
County of Montgomery

AND NOW, this 23rd day of May, 2014, before me, the undersigned Notary Public, appeared **Scott W. Herald**, who acknowledged himself/herself to be the **Vice President** of **Apex Realty, LLC**, a corporation, and he/she, as such **Vice President** being authorized to do so, executed the foregoing instrument for the purposes therein contained by signing the name of the corporation by himself/herself as **Vice President**.

IN WITNESS WHEREOF, I hereunder set my hand and official seal.



Notary Public
My commission expires 12/19/2017

The precise residence and the complete post office address of the above-named Grantee is:

**424 E. Elm Street
Conshohocken, PA 19428**

On behalf of the Grantee



<p>Deed</p>	<p>UPI # 05-00-05900-00-8</p> <p>Apex Realty, LLC</p> <p>TO</p> <p>Jeronimos, LLC</p>	<p>Bryn Mawr Abstract, Inc. 10 Campus Blvd Newtown Square, PA 19073 Phone: (610) 355-8107 Fax: (610) 355-8407</p>
--------------------	---	---



**MONTGOMERY COUNTY
RECORDER OF DEEDS OFFICE
Jeanne Sorg, Recorder of Deeds
Office: (610) 278-3289**

CUSTOMER RECEIPT

Receipt #: 21122867
Printed: 06/18/2021 01:47:05 PM
Purchase Date: 06/18/2021 01:47:00 PM
Submitter Name: Campbell Rocco Law
Operator ID: SearchOrder
Payment Comment: Online Escrow Transaction

Charges

Certify Document	
# of Pages	5
eCertification Fee	\$10.50

Total Charges:	\$10.50
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Payments

Escrow Account Campbell Rocco Law	\$10.50
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Totals

Total Amount Due:	\$10.50
Total Amount Paid:	\$10.50
Refund :	\$0.00

Please note: If a credit card was used, the credit card company's convenience fee of 2.65% has been charged separately at the time of this transaction. This fee is not shown on this receipt.

**Jeanne Sorg
Montgomery County Recorder of Deeds**

AGREEMENT OF PURCHASE AND SALE

THIS AGREEMENT OF PURCHASE AND SALE (this "Agreement") is made as of _____, 2021 (the "Effective Date"), by and between SK ELM, LLC, a Pennsylvania limited liability company, having an address at 826 Dresher Way, Wayne, PA 19087, ("Buyer"), and JERONIMOS LLC, a Pennsylvania limited liability company with an address of 30 Cooper Beech, Lafayette Hill, PA 19444 ("Seller").

WITNESSETH:

In consideration of the covenants and provisions contained herein, and intending to be legally bound hereby, the parties hereto agree as follows:

1. Agreement to Sell and Purchase. Seller agrees to sell to Buyer, and Buyer agrees to purchase from Seller, subject to all of the terms and conditions of this Agreement, all of Seller's right, title and interest in and to the following property located at 424 E. Elm Street, Conshohocken Borough, Montgomery County, Pennsylvania, consisting of the following (collectively, the "Property"):

(a) Real Property. All of that certain tract of land more fully described on Exhibit A-1 to this Agreement commonly known as 424 E. Elm Street, tax parcel # [05-00-05900-00-3] [to be confirmed], together with all improvements thereon including a two-story building (the "Improvements"), and all appurtenances thereto including all easements, rights of way, water rights, and privileges, and subject to any burdens and obligations set forth in any recorded easements, declarations and covenants; together with all rights, title and interest of Seller in and to any land lying in the bed of any street, opened or proposed, in front of or abutting or adjoining the aforesaid tract of land, and all right, title and interest of Seller in and to any unpaid award for the taking by eminent domain of any part of the aforesaid tract of land or for damage to such tract of land by reason of a change of grade of any street (collectively, the "Real Property"). Buyer acknowledges that the Real Property is located within the Bella Square Townhomes Planned Community and subject to one or more recorded Declaration and association rules and regulations.

(b) Personal Property. All fixtures, furniture, equipment, supplies and other tangible personal property attached or appurtenant to, or located in or on the second floor of the building, or used solely in connection with the Real Property, which are owned by Seller, and all intangible personal property owned by Seller and related solely to the Land and Improvements, including, without limitation: any trade names; any and all plans and specifications and other architectural and engineering drawings for the Land; any and all assignable warranties; any and all assignable contract rights related to the Real Property; and any and all assignable governmental permits, approvals and licenses (collectively, the "Personal Property"), with the exception of the following items which Seller shall retain and remove from the Real Property: butcher block table and associated stools in the open area, exercise equipment, spring leaf lamp and two (2) office chairs.

(c) Leases. Seller's interest in all leases, tenancies, licenses and other agreements for the use or occupancy of any portion of the Property in effect on the date of this

contain the aforesaid provision.

IN WITNESS WHEREOF, intending to be legally bound, the parties have executed this Agreement as a sealed instrument as of the day and year first above written.

BUYER:

SK ELM, LLC,
a Pennsylvania limited liability company

By: _____ DocuSigned by:

Name:

Martin Klayholer

Title:

9060FD9338374A0...

SELLER:

JERONIMOS LLC,
a Pennsylvania limited liability company

By: _____

Dr. Fiona Jamison, Sole Member:

Fiona Jamison

80CF73324518480...



BOROUGH OF CONSHOHOCKEN

Office of the Borough Manager

MAYOR
Yaniv Aronson

BOROUGH COUNCIL
Colleen Leonard, President
Tina Sokolowski, Vice-President
Robert Stokley, Senior Member
Anita Barton, Member
James Griffin, Member
Jane Flanagan, Member
Karen Tutino, Member

MEMORANDUM

Stephanie Cecco
Borough Manager

Date: July 9, 2021
To: Stephanie Cecco, Brittany Rogers
From: Eric P. Johnson, PE
Re: 424 E. Elm Street – Zoning Determination

History of the Site:

424 E. Elm Street is an existing non-conforming, mixed use property, developed with a 2-story, 8,000 square-foot structure. The property contains parking spaces around the building perimeter and maintains access to additional parking spaces on the adjoining property pursuant to an easement agreement. The ground floor is currently occupied by a yoga studio and the second floor is occupied by commercial office space. The property is located in the BR-2 – Borough Residential Two zoning district.

Current Request:

The applicant, SK Elm, LLC, proposes to relocate their business, Key Business Solutions (KBS), to the subject property. KBS is a mail room equipment and support company. KBS proposes to convert the first floor of the building from the current yoga studio use to a mix of office space and storage, preparation, and servicing of mail room equipment. The second floor of the building will remain office space. No exterior building modifications are proposed except for the replacement of the existing signage to reflect KBS. The applicant indicates KBS has 20 full-time employees, but only 10 employees will regularly work at the subject property. The applicant also indicates that 1 or 2 box truck deliveries are anticipated per day.

In November 2005, the subject property was granted a special exception to convert the first floor from an office and warehouse use to the yoga studio use that currently occupies the space. As part of the special exception approval, an easement agreement was signed with the abutting property for the use of parking spaces for the benefit of 424 E. Elm Street.

Zoning Determination:

Per 27-703.B(1), a nonconforming use may be changed to another nonconforming use which is equally appropriate or more appropriate to the district in which the property is located and is no more detrimental than the existing nonconforming use as a special exception by the Zoning Hearing Board. The existing property is a nonconforming mixed-use commercial property in the BR-2 residential zoning district. The proposed change of use on the ground floor from a yoga studio constitutes a change of a nonconforming use, requiring a special exception granted by the Zoning Hearing Board.

The applicant should provide additional details on how daily box truck deliveries to the property will be handled, the anticipated parking demand for the proposed use, and if the change of use will impact the parking easement on the adjoining property.

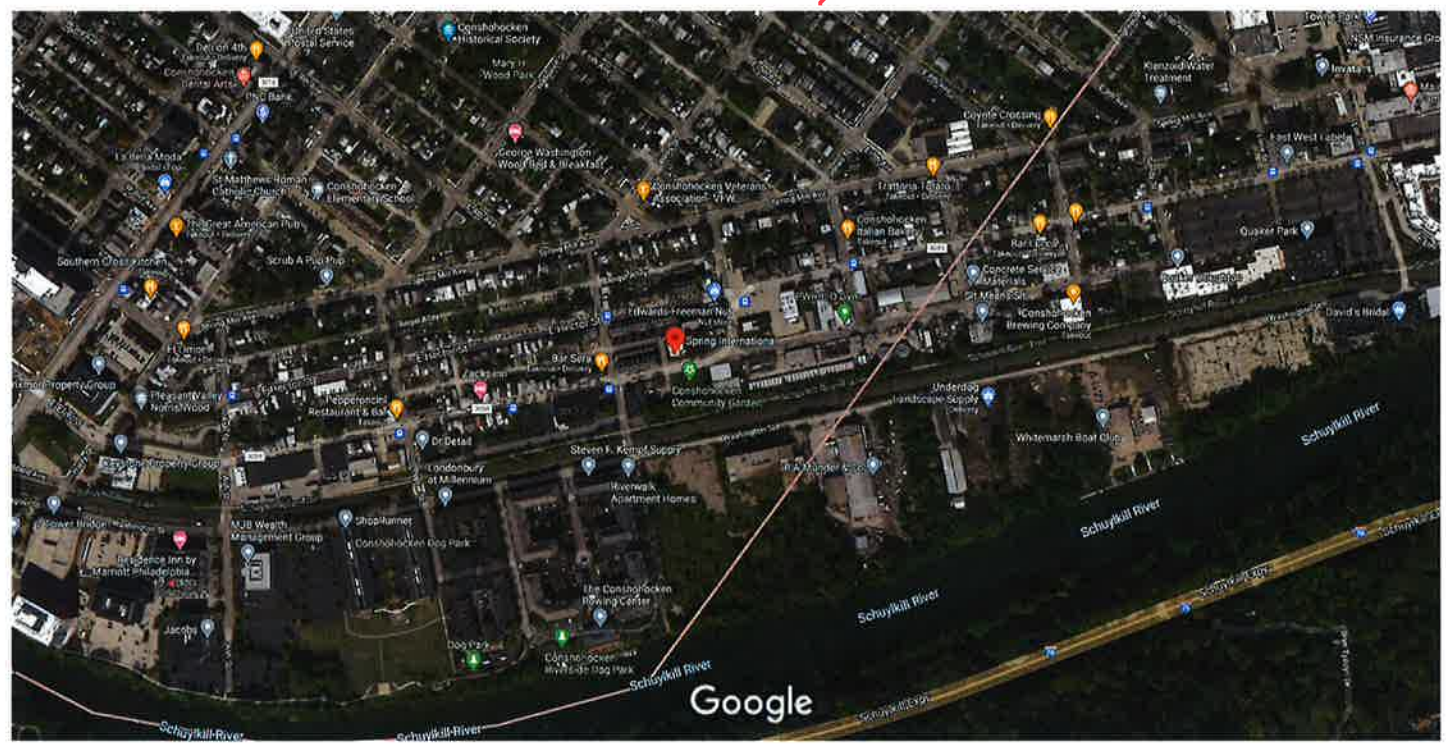
Exhibit 1

Aerial Photos of Site

- 1.1 Fayette Street to River
- 1.2 Zoom in photo

Google Maps Spring International

1.1 FAYETTE STREET TO RIVER



Google Maps Spring International

1.2 ZOOM IN PHOTO

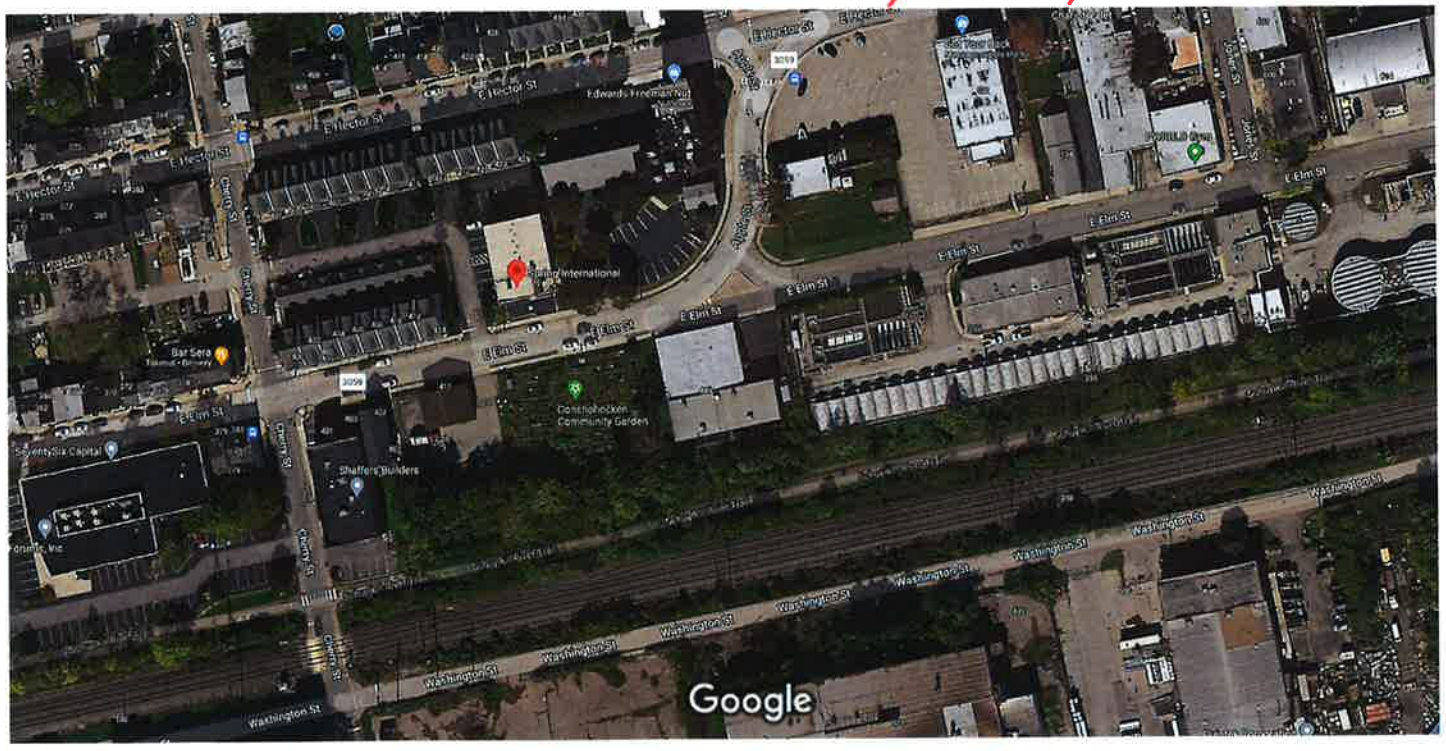


Exhibit 2

Ground Level Photos

2.1 South Façade / West Facade

2.2 North Façade / East Façade

EXHIBIT 2

Google Maps 499 State Rte 3059

2.1 SOUTH FAÇADE



Image capture: Nov 2019 © 2021 Google

Conshohocken, Pennsylvania

Google Maps 455 E Elm St

2.1 WEST FAÇADE



Image capture: Nov 2019 © 2021 Google

Conshohocken, Pennsylvania

7/19/2021

Conshohocken, Pennsylvania - Google Maps

EXHIBIT 2 (CONTINUES)

Google Maps Conshohocken, Pennsylvania

2.2 NORTH FAÇADE



Image capture: Aug 2019 © 2021 Google

7/19/2021

498 State Rte 3059 - Google Maps

Google Maps 498 State Rte 3059

2.2 EAST FAÇADE

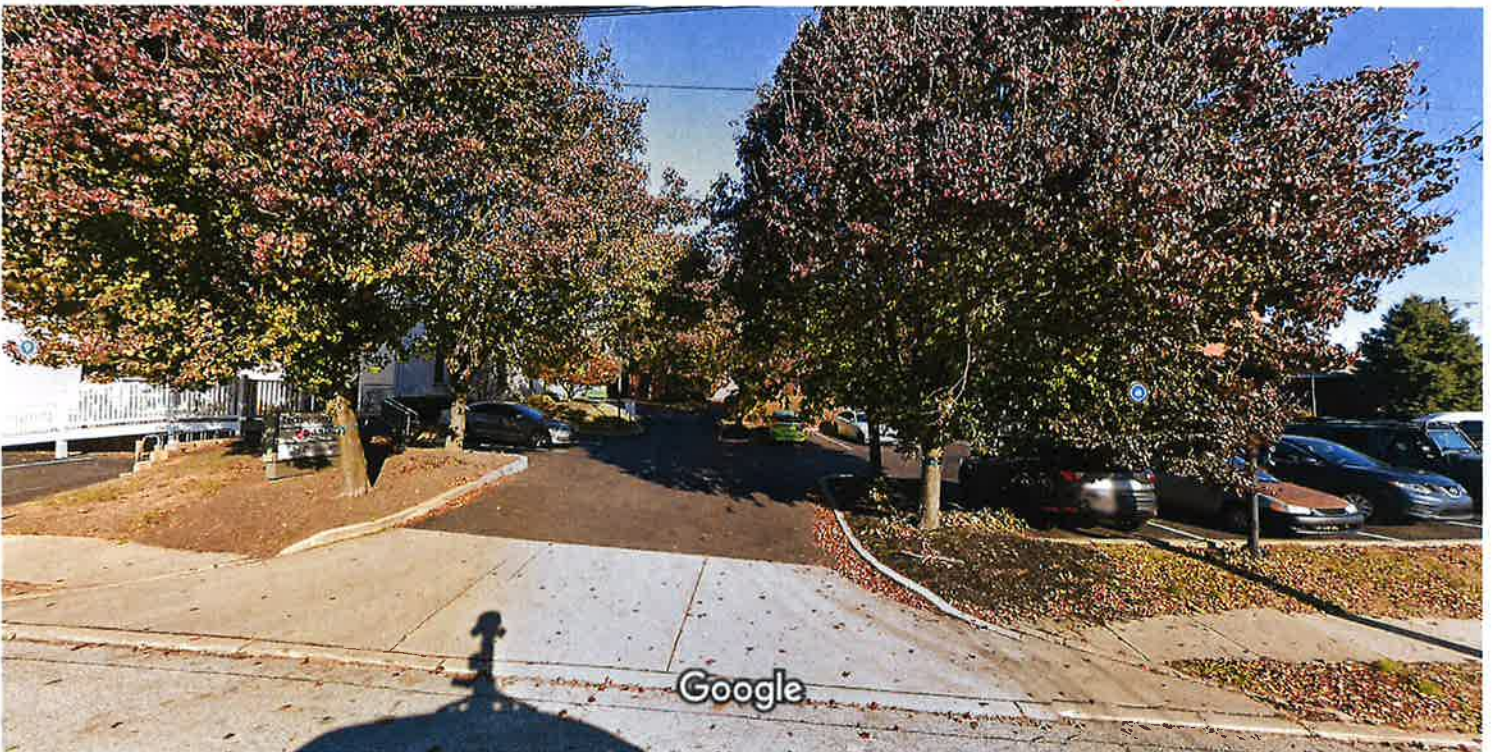


Image capture: Nov 2019 © 2021 Google

Conshohocken, Pennsylvania

Exhibit 3

Site Plan



THE APPLICANT HAS REVIEWED THE ZONING MAP OF MONTGOMERY COUNTY AND HAS DETERMINED THAT THE PROPOSED DEVELOPMENT IS PERMITTED BY THE ZONING MAP.

ZONING INFORMATION: 1000 S. STATE ST. (MONTGOMERY COUNTY) ZONING MAP. THE APPLICANT HAS REVIEWED THE ZONING MAP OF MONTGOMERY COUNTY AND HAS DETERMINED THAT THE PROPOSED DEVELOPMENT IS PERMITTED BY THE ZONING MAP.

OWNERS/APPLICANT: TO: L. BIRNBAUM, JR. 421 E. ELM STREET COVINGTON, PA 15021

RECORD PLAN: 401, 425 & 440 E. VECTOR STREET. MONTGOMERY COUNTY, PENNSYLVANIA. MOMENCE AND ASSOCIATES, INC. ONE BUSINESS AND LAND SURVEYORS.

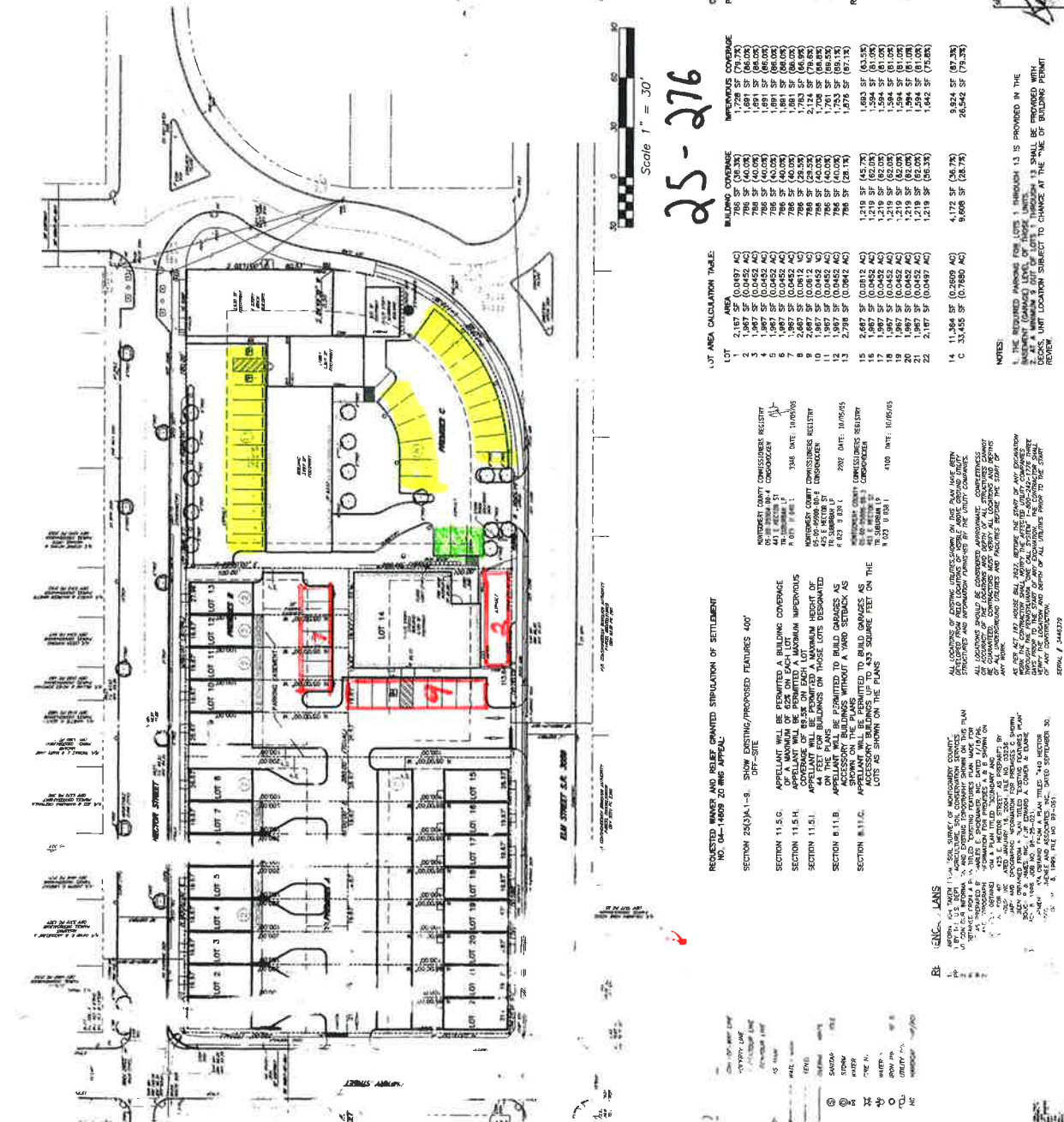
PLAN SHEET INDEX: SHEET 1 OF 2. SHEET 2 OF 2. SHEET 3 OF 2. SHEET 4 OF 2. SHEET 5 OF 2. SHEET 6 OF 2. SHEET 7 OF 2. SHEET 8 OF 2. SHEET 9 OF 2. SHEET 10 OF 2.

APPLICANT'S REPRESENTATIVE: MOMENCE AND ASSOCIATES, INC. 924 COUNTY LINE ROAD BRYN MAWR, PA 19010 (610) 527-3339. 425 ETON SQUARE HANOVER, PA 17341 (610) 594-5344.

COMMERCIAL PARKING ANALYSIS: PARKING PROVIDED: 42 PS. PARKING REQUIRED: 42 PS. RESIDENTIAL PARKING ANALYSIS: TOWNHOUSE UNITS = 21 (2PS/UNIT). PARKING PROVIDED: 42 PS. PARKING REQUIRED: 42 PS.

RECORD PLAN: 401, 425 & 440 E. VECTOR STREET. MONTGOMERY COUNTY, PENNSYLVANIA. MOMENCE AND ASSOCIATES, INC. ONE BUSINESS AND LAND SURVEYORS.

RECORD PLAN: 401, 425 & 440 E. VECTOR STREET. MONTGOMERY COUNTY, PENNSYLVANIA. MOMENCE AND ASSOCIATES, INC. ONE BUSINESS AND LAND SURVEYORS.



PLAN SHEET INDEX: SHEET 1 OF 2. SHEET 2 OF 2. SHEET 3 OF 2. SHEET 4 OF 2. SHEET 5 OF 2. SHEET 6 OF 2. SHEET 7 OF 2. SHEET 8 OF 2. SHEET 9 OF 2. SHEET 10 OF 2.

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COMMERCIAL PARKING ANALYSIS: PARKING PROVIDED: 42 PS. PARKING REQUIRED: 42 PS. RESIDENTIAL PARKING ANALYSIS: TOWNHOUSE UNITS = 21 (2PS/UNIT). PARKING PROVIDED: 42 PS. PARKING REQUIRED: 42 PS.

RECORD PLAN: 401, 425 & 440 E. VECTOR STREET. MONTGOMERY COUNTY, PENNSYLVANIA. MOMENCE AND ASSOCIATES, INC. ONE BUSINESS AND LAND SURVEYORS.

RECORD PLAN: 401, 425 & 440 E. VECTOR STREET. MONTGOMERY COUNTY, PENNSYLVANIA. MOMENCE AND ASSOCIATES, INC. ONE BUSINESS AND LAND SURVEYORS.

EXHIBIT 3
SITE PLAN

PLAN SHEET INDEX: SHEET 1 OF 2. SHEET 2 OF 2. SHEET 3 OF 2. SHEET 4 OF 2. SHEET 5 OF 2. SHEET 6 OF 2. SHEET 7 OF 2. SHEET 8 OF 2. SHEET 9 OF 2. SHEET 10 OF 2.

APPLICANT'S REPRESENTATIVE: MOMENCE AND ASSOCIATES, INC. 924 COUNTY LINE ROAD BRYN MAWR, PA 19010 (610) 527-3339. 425 ETON SQUARE HANOVER, PA 17341 (610) 594-5344.

COMMERCIAL PARKING ANALYSIS: PARKING PROVIDED: 42 PS. PARKING REQUIRED: 42 PS. RESIDENTIAL PARKING ANALYSIS: TOWNHOUSE UNITS = 21 (2PS/UNIT). PARKING PROVIDED: 42 PS. PARKING REQUIRED: 42 PS.

RECORD PLAN: 401, 425 & 440 E. VECTOR STREET. MONTGOMERY COUNTY, PENNSYLVANIA. MOMENCE AND ASSOCIATES, INC. ONE BUSINESS AND LAND SURVEYORS.

RECORD PLAN: 401, 425 & 440 E. VECTOR STREET. MONTGOMERY COUNTY, PENNSYLVANIA. MOMENCE AND ASSOCIATES, INC. ONE BUSINESS AND LAND SURVEYORS.

Exhibit 4
2005 Easement

125

E R 2

DE BK05584-1988 ON-DEED MISCELLANEOUS
2005188921 12/28/2005 01 18:40 PM:1
RCD FEE \$81 00



MONTGOMERY COUNTY ROD

05-CONSHOCKEN BOROUGH 30 00 NANCY BECKER ROD

Prepared by:
Carl N Weiner, Esquire
Hamburg, Rubin, Mullin, Maxwell & Lupin

Return to:
Carl N Weiner, Esquire
Hamburg, Rubin, Mullin, Maxwell & Lupin
375 Morris Road, P O Box 1479
Lansdale, PA 19446-0773
215-661-0400

EXHIBIT A
2005 EASEMENT

19554 002cd102705

DECLARATION OF COVENANTS AND EASEMENTS

THIS DECLARATION OF COVENANTS AND EASEMENTS ("Declaration") made this 26th day of October, 2005 by TR-SUBURBAN, L.P., a Pennsylvania limited partnership, with offices at 424 E Elm Street, Conshohocken, Montgomery County, Pennsylvania (hereinafter referred to as the "Declarant")

Basis of Declaration

A Declarant is the owner of certain properties located in Conshohocken Borough, Montgomery County, Pennsylvania, more fully identified as Tax Parcel Identification Numbers 05-00-05896-003, Block 023 and Unit 038, and 05-00-05900-008, Block 023 and Unit 039 (collectively, the "Property"), and as depicted on a Record Plan prepared for Declarant by Momenee and Associates, Inc, dated March 8, 2004, a true and correct copy of which is attached hereto as Exhibit A and made a part hereof (the "Plan")

B The said Property is being subdivided into twenty-one (21) townhouse lots ("Townhouse Lots") and a single one and one-half (1½) story office building lot ("Lot 14") The Townhouse Lots are identified as Lots 1 through 13 and Lots 15 through 22 on the Plan Hereinafter, the Townhouse Lots and Lot 14 are sometimes collectively referred to as the "Lots "

Plan the new count list attached



C Declarant desires that all of the Lots shall be developed and maintained in such manner so as to protect the value, attractiveness and desirability of the Property

D Declarant hereby further reserves for the benefit of any Owner, and such Owner's tenants, agents, employees and invitees, the right of full and uninterrupted use of the parking spaces located within Lot 14, as depicted on the Plan, for the purpose of parking of automobiles at all times other than Normal Business Hours

E Declarant or Declarant's Successor has created or intends to create a planned community which will govern the Townhouse Lots by recording a Declaration of Bella Square Townhomes Planned Community in the Office of the Recorder of Deeds of Montgomery County (the "Association Declaration")

SECTION 1. DEFINITIONS.

Unless otherwise expressly provided, the following words and phrases when used herein have the following meaning hereinafter specified

A "Association" shall mean and refer to the Bella Square Townhomes Community Association

B "Cherry Street Driveway" shall mean the common driveway located on the Property that runs from Cherry Street behind Townhouse Lots 1 through 9 and 15 through 22 and serves the Townhouse Lots and Lot 14 and is depicted on the Plan

C "Community Property" shall mean the portion of the Property which is subject to the terms of the Association Declaration

D "Declarant" shall mean and refer to TR-Suburban, L P

E "Declarant's Successor" shall mean and refer to Ava Landholding, Inc



F "Elm Street Driveway" shall mean the common driveway located on the Property that runs from Elm Street through Lot 14 and serves the Townhouse Lots and Lot 14 and is depicted on the Plan Hereinafter, the Cherry Street Driveway and the Elm Street Driveway shall sometimes be referred to collectively as the "Driveways "

G "Lot 14" shall mean and refer to the office building lot identified as Lot 14 and as shown upon the Plan

H "Lot 14 Owner" shall mean and refer to the person or persons or other legal entity or entities, including Declarant, holding fee simple interest of record to Lot 14, including sellers under executory contracts of sale, but excluding those having an interest merely as security for the performance of an obligation

I "Lot 14 Parking Easement" shall mean the parking easement located in the nine (9) parking spaces within Lot 14 as identified and shown on the Plan

J "Normal Business Hours" shall mean from seven (7) o'clock a m to six (6) o'clock p m , Monday through Friday

K "Owner" shall mean and refer to the person or persons or other legal entity or entities, including Declarant, holding fee simple interest of record to any Townhouse Lot, including sellers under executory contracts of sale, but excluding those having an interest merely as security for the performance of an obligation

L "Parking Easement" shall mean the Parking Easement located within the seven (7) parking spaces adjacent to Lot 14 and within the rear portions of Townhouse Lots 9 through 13, as identified and shown on the Plan

M "Person" shall mean a natural individual or any other entity with the legal right to hold title to real property



SECTION 2. RESERVATION OF EASEMENTS & MAINTENANCE OBLIGATIONS.

A Subject to the covenants set forth herein, Declarant hereby reserves for the benefit of the Lot 14 Owner, its tenants, agents, employees and invitees, a right-of-entry, full and uninterrupted use, right-of-way, liberty and privilege of and passage on and along all portions of the Cherry Street Driveway as shown on the Plan for the purposes of pedestrian and vehicular ingress and egress to and from Lot 14 and Cherry Street This easement area shall not be limited to the portion of the Cherry Street Driveway adjoining Lot 14 but shall extend throughout the entire Cherry Street Driveway

B Subject to the covenants set forth herein, Declarant hereby reserves for the benefit of any Owner, its tenants, agents, employees and invitees, a right-of-entry, full and uninterrupted use, right-of-way, liberty and privilege of and passage on and along all portions of the Elm Street Driveway as shown on the Plan for the purposes of pedestrian and vehicular ingress and egress to and from the Townhouse Lots and Elm Street This easement area shall not be limited to the portion of the Elm Street Driveway adjoining Lot 14 but shall extend throughout the entire Elm Street Driveway

C Declarant hereby further reserves for the benefit of the Lot 14 Owner, its tenants, agents, employees and invitees, the right of full and uninterrupted use and easement in and through the Parking Easement, as depicted on the Plan, for the purpose of pedestrian and vehicular access and the parking of automobiles in the seven (7) parking spaces shown on the Plan on that portion of the Property The Parking Easement is valid at all times, provided, however, that during Normal Business Hours, the Parking Easement shall be specifically reserved for the exclusive use of the Lot 14 Owner, its tenants, agents, employees and invitees



At all other times, the Parking Easement may be used by any Owner of Lots 9 through 13 and his, her or their tenants and invitees

D Declarant further reserves for the benefit of the Owners, their tenants, invitees, heirs, successors and assigns, the full right and uninterrupted use and easement in and to the nine (9) parking spaces located on Lot 14 for the purpose of parking automobiles in those nine (9) parking spaces in common with the owner, invitees, employees and tenants of Lot 14 except during Normal Business Hours (the "Lot 14 Parking Easement") The Lot 14 Parking Easement is valid at all times, provided, however, that during Normal Business Hours the Lot 14 Parking Easement shall be specifically reserved for the exclusive use of the Lot 14 owner and its tenants, invitees and employees At all other times, the Lot 14 Parking Easement may be used by the Owners and their invitees and tenants

E The Association and its successors or assigns, or anyone on its behalf, shall bear the exclusive responsibility for snow removal, maintenance and repair of the Driveways, Parking Easement and Lot 14 Parking Easement (the "Driveway and Parking Maintenance")

F The Lot 14 Owner will be responsible for reimbursing the Association for a proportionate share of the cost of the Driveway and Parking Maintenance (the "Reimbursement Obligation"), the balance of such costs shall be the responsibility of the Association Said Reimbursement Obligation shall be calculated as twenty-five percent (25%) of the total costs of the Driveway and Parking Maintenance as itemized in the annual budget of Association (the "Driveway and Parking Maintenance Share") The Association shall provide a copy of the annual budget of the Association every year, within thirty (30) days of its approval of same, to the Lot 14 Owner The Lot 14 Owner shall pay to the Association one-twelfth (1/12th) of the Driveway and Parking Maintenance Share on a monthly basis, payment to commence on the first



day of the first month following occupancy of the office building on Lot 14 In the event the amount for Driveway and Parking Maintenance itemized in the annual budget of the Association is insufficient to maintain the Driveways, Parking Easement and Lot 14 Parking Easement, the Association may assess the Lot 14 Owner for twenty-five percent (25%) of any additional costs for Driveway and Parking Maintenance

G Further, in addition to the Driveway and Parking Maintenance Share, the Lot 14 Owner shall pay to the Association an annual contribution in the amount of twenty-five percent (25%) of the reserve for the replacement of the driveways and parking areas as itemized in the annual budget of the Association (the "Annual Contribution") Such sum shall be paid within thirty (30) days of receipt by the Lot 14 Owner of the annual budget of the Association

H Declarant hereby further reserves for the benefit of the Association, its successors and assigns, an easement of access, ingress and egress over such portions of the Townhouse Lots and Lot 14 as is necessary for the Driveway and Parking Maintenance

I In the event that the Association fails to properly maintain the Driveways, Parking Easement or Lot 14 Parking Easement in a commercially reasonable manner, the Lot 14 Owner shall have the right to maintain that portion of the Driveways, Parking Easement and Lot 14 Parking Easement necessary for access to the public street, Elm Street, after written notice has been given to the Association and the Association has failed to cure the problem within thirty (30) days of said written notification, provided, however, that the Lot 14 Owner may proceed with reasonable diligence to correct any condition requiring immediate corrective action

J In the event that the Lot 14 Owner shall fail or refuse to make payment to the Association pursuant to the Reimbursement Obligation and Annual Contribution, as described herein, the Association shall be deemed to have advanced funds on behalf of the Lot 14 Owner,



and shall be entitled to reimbursement from the Lot 14 Owner, including interest at the rate of fifteen percent (15%) per annum

K In the event that either the Association or the Lot 14 Owner undertake corrective action due to the failure of the respective responsible party to either properly maintain certain improvements or make required reimbursement payments as provided herein, the party taking corrective action shall be entitled to reimbursement from the defaulting party of all costs expended for corrective action including but not limited to reasonable attorney's fees and court costs

SECTION 3. CONSTRUCTION NOTICE AND ACCEPTANCE. These restrictions and easements shall be deemed covenants running with the land and shall bind and inure to the benefit of the Lot 14 Owner, any Owner and the Association and their respective assigns and successors in title Every person who owns, occupies or acquires any right, title, estate or interest in and to any of the Lots does and shall be inclusively deemed to have consented and agreed to every limitation, restriction, condition, and covenant contained herein, whether or not any reference to these restrictions is contained in the instrument by which such person acquired an interest in the Property, or any portion thereof

SECTION 4. ENFORCEMENT. This Declaration may be enforced by appropriate legal proceedings by any Owner, the Lot 14 Owner or by Conshohocken Borough Nothing herein shall be deemed, however, to require Conshohocken Borough or to indicate any intent on the part of Conshohocken Borough, to maintain the Driveways and the Parking Easement

SECTION 5. INTERPRETATION. The provisions of this Declaration shall be liberally construed in accordance with the laws of the Commonwealth of Pennsylvania The section headings have been inserted for convenience only and shall not be considered or referred to in



resolving questions or interpretation or construction Unless the context requires a contrary construction, the singular shall include the plural and the plural the singular, and the masculine, feminine, and neuter shall each include the masculine, feminine and neuter

Declarant has executed this Declaration on the date first above written

TR-SUBURBAN, L.P.,
a Pennsylvania limited partnership,
By its General Partner,
TR-III, L L C

Witness *Barbara Gamber*

By *Anthony M. Rufo, Member*
Anthony M Rufo, Member




COMMONWEALTH OF PENNSYLVANIA

55

COUNTY OF MONTGOMERY

On the 26th day of OCTOBER, 2005, before me, the subscriber, a Notary Public, personally appeared ANTHONY M RUFO, who acknowledges himself to be a Member of TR-III, L L C , and that he, as such Member, being authorized to do so, executed the foregoing instrument by signing the name of the Company by himself as and for the act and deed of said Company for the uses and purposes therein contained and that he desires the same might be recorded as such

IN WITNESS WHEREOF, I have hereunto set my official hand and seal



Notary Public

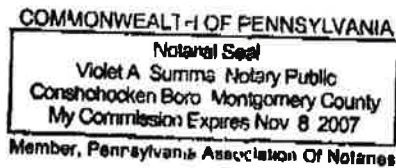
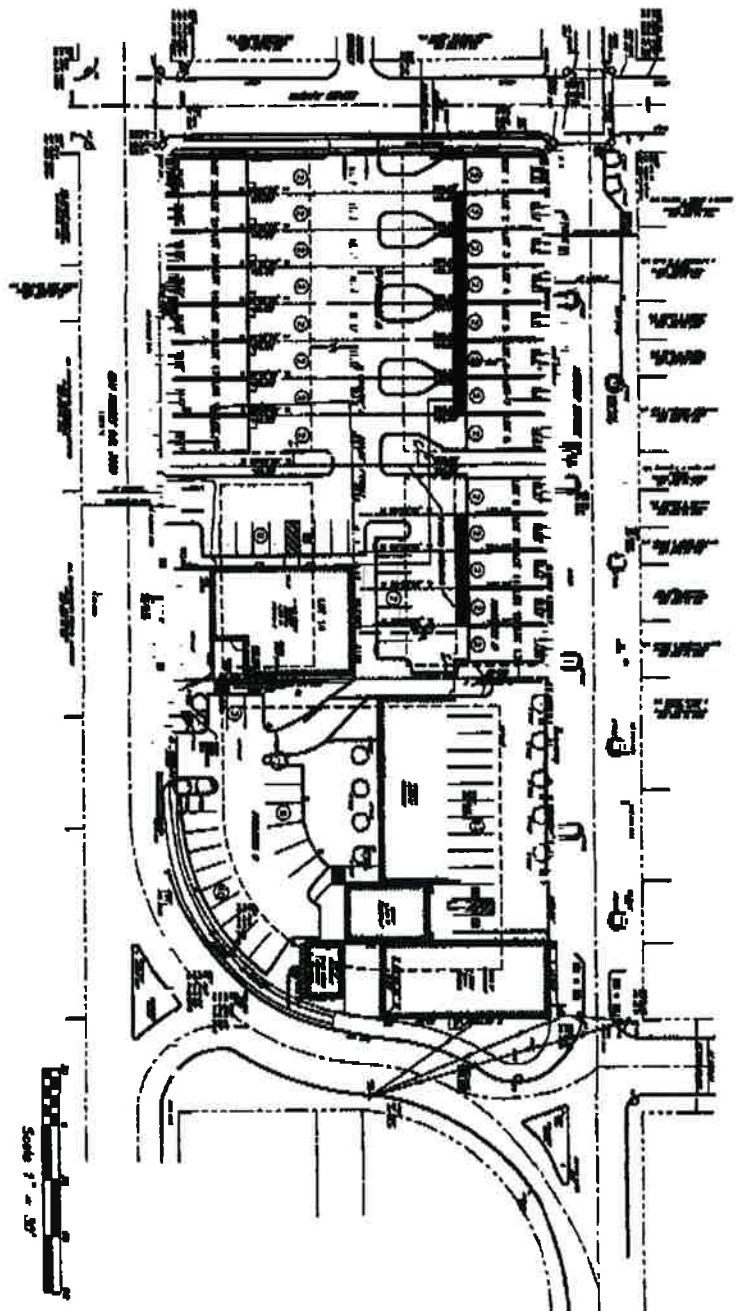


Exhibit A

THE PLAN





1. THE PROPOSED BUILDING SHALL BE CONSTRUCTED IN ACCORDANCE WITH THE FOLLOWING SPECIFICATIONS:

2. THE PROPOSED BUILDING SHALL BE CONSTRUCTED IN ACCORDANCE WITH THE FOLLOWING SPECIFICATIONS:

3. THE PROPOSED BUILDING SHALL BE CONSTRUCTED IN ACCORDANCE WITH THE FOLLOWING SPECIFICATIONS:

4. THE PROPOSED BUILDING SHALL BE CONSTRUCTED IN ACCORDANCE WITH THE FOLLOWING SPECIFICATIONS:

5. THE PROPOSED BUILDING SHALL BE CONSTRUCTED IN ACCORDANCE WITH THE FOLLOWING SPECIFICATIONS:

6. THE PROPOSED BUILDING SHALL BE CONSTRUCTED IN ACCORDANCE WITH THE FOLLOWING SPECIFICATIONS:

LEGEND

- 1. EXISTING BUILDING
- 2. EXISTING DRIVE
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1. THE PROPOSED BUILDING SHALL BE CONSTRUCTED IN ACCORDANCE WITH THE FOLLOWING SPECIFICATIONS:

2. THE PROPOSED BUILDING SHALL BE CONSTRUCTED IN ACCORDANCE WITH THE FOLLOWING SPECIFICATIONS:

3. THE PROPOSED BUILDING SHALL BE CONSTRUCTED IN ACCORDANCE WITH THE FOLLOWING SPECIFICATIONS:

4. THE PROPOSED BUILDING SHALL BE CONSTRUCTED IN ACCORDANCE WITH THE FOLLOWING SPECIFICATIONS:

5. THE PROPOSED BUILDING SHALL BE CONSTRUCTED IN ACCORDANCE WITH THE FOLLOWING SPECIFICATIONS:



Exhibit 5

2006 Easement

EXHIBIT 5
2006 EASEMENT

250052
#92

DE BK05598-0539
2006047903 04/24/2006 03 33 35 PM 1
RCO FEE 888.50

DT-EASEMENT



MONTGOMERY
COUNTY RCD

CONSHOHOCKEN BOROUGH #0 00 NANCY BECKER RCD

DECLARATION OF EASI

THIS DECLARATION, made this 21st day of April, 2006 by TR-Suburban, L P., a Pennsylvania limited partnership whose mailing address is 424 E. Elm Street, Conshohocken, Pennsylvania ("Declarant").

WITNESSETH

A Declarant is the owner in fee of two parcels of land located in Conshohocken Borough, Montgomery County, Pennsylvania, and described by the metes and bounds description contained in Exhibit "A" attached hereto and made a part hereof (the "Entire Premises"). The Entire Premises is depicted on the Plan prepared by Momence and Associates, Inc. and attached hereto as Exhibit "B".

B Declarant intends to convey a portion of the Entire Premises denoted as Lot 14 on the Plan and described by metes and bounds on Exhibit "C" attached hereto ("Lot 14"). Prior to the conveyance of Lot 14, Declarant desires to create certain easements which will benefit Lot 14 and burden the parcel described by metes and bounds on Exhibit "C" attached hereto and depicted as "Premises C" on the Plan ("Lot C").

C. Declarant desires to create certain perpetual easements for the benefit of Lot 14 which will burden Lot C

NOW, THEREFORE, for and in consideration of benefits accruing to Declarant by reason of this Declaration, and intending to be legally bound, Declarant for itself, its successors and assigns, hereby declares as follows:

1 Definitions.

(a) "Occupant" means any person entitled to the use, occupancy or enjoyment of all or any portion of Lot 14,

(b) "Owner" means the then current holder from time to time of fee simple title to any portion of the Entire Premises

(c) "Parking Easement Parcel" means that certain portion of Lot C cross-hatched on the Plan.

(d) "Permittees" means the following persons

- i) an Occupant, and
- ii) the officers, directors, employees, agents, contractors, subcontractors, customers, patrons, clients, visitors, licensees and invitees of any Occupant and/or of any Owner, its successors and assigns

(e) "Person" means individuals, partnerships, firms, associations, corporations, trusts and any other form of legal entity.

2 Grant of Easements

(a) Declarant hereby grants and declares that Lot C shall be held, sold, transferred, conveyed, leased, mortgaged and used subject to the following perpetual easements

MONTGOMERY COUNTY COMMISSIONERS REGISTRY
05 00-05900-00-8 CONSHOHOCKEN
E ELM ST

TR SUBURBAN LP
B 023 U 039 L 14 4100 DATE 04/24/06

MONTGOMERY COUNTY COMMISSIONERS REGISTRY
05-00 05904-00-4 CONSHOHOCKEN
441 E HECTOR ST
TR-SUBURBAN LP
B 023 U 040 L

eCertified copy of recorded # 2006047903 (page 1 of 9)
Montgomery County Recorder of Deeds
Only valid with epm-signature on cover page

PHILA1\2454656\1
RECEIVED APR 24 2006

3348 DATE 04/24/06



which shall be appurtenant to Lot 14 and which are granted to and for the benefit of any Owner, his heirs and assigns, of all or any portion of Lot 14, and all Permittees with respect to Lot 14.

i) an easement to use the Parking Easement Parcel, in common with Permittees of Lot C, for the parking and passage of motor vehicles and passage by pedestrians. It is further provided that Permittees of Lot 14 shall have the exclusive right to post signs that designating the three (3) spaces denoted on Exhibit "B" with double hatch marks as "Reserved Parking Spaces" as parking spaces reserved for the Permittees of Lot C

ii) an easement to use the Parking Easement Parcel for ingress and egress, by vehicle or on foot, in, to, upon and over the Parking Easement Parcel for all purposes for which roadways, driveways and walkways are commonly used

3 Not Affected by Change in Use. The easements granted by this Declaration shall continue in full force and effect as perpetual easements and shall be unaffected by any change in the use, whether such change is in the nature of use or the intensity of use, of Lot 14 or any portion thereof

4 Division of Lot C or Lot 14 If Lot C and/or Lot 14 are divided into multiple parts by separation of ownership or by lease, to the extent an easement hereby created benefits Lot 14, the benefits or the easements hereby created shall continue to attach to and run with, and benefit and burden, as the case may be, each part so divided

5. Use of Parking Easement Parcel. Use of the Parking Easement Parcel is not confined to present uses of the Entire Premises, the present buildings thereon (if any) or present means of transportation Declarant, its successors and assigns as Owner of Lot 14, expressly reserves the right to use the Parking Easement Parcel for the purposes set forth herein, and for any other use that does not unreasonably interfere with the use of the Parking Easement Parcel for the purposes set forth herein

6 Maintenance. The Owner(s) of Lot C shall be responsible for, and shall bear all costs for the construction, cleanliness, upkeep, maintenance, snow removal and repair of the Parking Easement Parcel

7. Running of Benefits and Burdens It is intended that all provisions of this Declaration, including the benefits and burdens, shall attach to and run with the Entire Premises, and each portion thereof, and shall be binding upon and inure to the heirs, assigns, successors, tenants and personal representatives of Declarant and all Owners of any portion of the Entire Premises

8 RESCISSION; Amendment. The provisions of this Declaration may be rescinded or amended in whole or in part only by the joinder of all Owners of all or any portion of the Entire Premises in such rescission or amendment. No other party or parties in interest shall have the right to rescind or amend, in whole or in part, this Declaration; nor shall the effectiveness of any rescission or amendment of this Declaration be dependent on the consent or approval of any other party or parties in interest



IN WITNESS WHEREOF Declarant has caused this Declaration of Cross Easements to be executed as of the date and year first above written

DECLARANT

TR - SUBURBAN, L.P., a Pennsylvania limited partnership, by its general partner

BY: TR - III, L.L.C.

BY 
Anthony M. Rufo, Member



COMMONWEALTH OF PENNSYLVANIA

:
SS.

COUNTY OF Montgomery :

On the 21st day of April, 2006, before me, the subscriber, a Notary Public for the Commonwealth of Pennsylvania, residing in the County aforesaid, personally appeared Anthony M. Rufe, who acknowledged himself/herself to be the managing member of TR - III, LLC, as general partner of TR - Suburban, L.P., a Pennsylvania limited partnership, and that he/she as such member, being authorized to do so, executed the foregoing instrument for the purposes therein contained by signing his/her name on behalf of said partnership

Witness my hand and notarial seal the day and year aforesaid.

Violet A. Summa

Notary Public

My Commission Expires

COMMONWEALTH OF PENNSYLVANIA
Notarial Seal
Violet A. Summa, Notary Public
Conshohocken Boro, Montgomery County
My Commission Expires Nov. 8, 2007
Member Pennsylvania Association Of Notaries



JOINDER

This Joinder of Susquehanna/Patriot Bank, Mortgagee, for Lot C, is an acknowledgement that their encumbrance will be subordinate to this Easement.

Susquehanna/Patriot Bank

By James B. Erb, Jr.
James B. Erb, Vice President

4/2/06
Date



EXHIBIT "A"

ALL THAT CERTAIN lot or piece of ground with the buildings and improvements thereon erected, said lot being Premises 'C', Situate in the Borough of Conshohocken, County of Montgomery and Commonwealth of Pennsylvania, bounded and described according to a plan titled Record Plan - 401, 425 & 440 E Hector Street by Momenee and Associates, Inc , dated March 8, 2004, last revised October 26, 2005, as follows, to wit

BEGINNING at a point, said point being located the following course and distance from an iron pin to be set at the intersection of the easterly side of Cherry Street, (50 00 feet wide), and the northerly side of Elm Street, (50.00 feet wide), (1) along the northerly side of Elm Street North 85 degrees 00 minutes 00 seconds East 280 00 feet to a common corner with Lot 14 marked by a spike to be set, thence from said point of beginning leaving the northerly side of Elm Street and along a common line with Lot 14 North 05 degrees 00 minutes 00 seconds West 200.00 feet to a point marked by an iron pin to be set along the southern side of Hector Street (50 00 feet wide) a common corner with Lot 13, thence along the southern side of Hector Street North 85 degrees 00 minutes 00 seconds East 180 00 feet to a point at the intersection with the northerly side of Elm Street, thence along the northerly side of Elm Street the following four courses (1) South 05 degrees 11 minutes 00 seconds East 90 53 feet to a point, (2) South 84 degrees 49 minutes 38 seconds West 0.50 feet to a point, (3) along the arc of circle curving to the right with a radius of 110.00 feet and an arc length 172.38 feet to a point, (4) South 84 degrees 53 minutes 31 seconds West 70 00 feet to the first mentioned point and place of beginning

CONTAINING 33,455 SF (0 7680 acres) of land more or less

BEING Parcel #05-00-05904-00-4

ALL THAT CERTAIN lot or piece of ground with the buildings and improvements thereon erected, said lot being Lot 14, Situate in the Borough of Conshohocken, County of Montgomery and Commonwealth of Pennsylvania, bounded and described according to a plan titled Record Plan - 401, 425 & 440 E Hector Street by Momenee and Associates, Inc., dated March 8, 2004, last revised



October 26, 2005, and recorded in Montgomery County in Plan Book 25 page 276, as follows, to wit

BEGINNING at a point, said point being located the following course and distance from an iron pin to be set at the intersection of the easterly side of Cherry Street, (50.00 feet wide), and the northerly side of Elm Street, (50.00 feet wide), (1) along the northerly side of Elm Street North 85 degrees 00 minutes 00 seconds East 166 36 feet to a common corner with Lot 15, thence from said point of beginning leaving the northerly side of Elm Street and along a common line with Lot 15 North 05 degrees 00 minutes 00 seconds West 100 00 feet to a common corner of Lots 15, 8 and 9, thence along a common line with Lots 9, 10, 11, 12, and 13 North 85 degrees 00 minutes 00 seconds East 113 64 feet to a common corner with Lot 13 and along a common line with Premises C, thence along said line South 05 degrees 00 minutes 00 seconds East 100.00 feet to a point along the northerly side of Elm Street marked by a spike to be set, thence along said line South 85 degrees 00 minutes 00 seconds West 113.64 feet to the first mentioned point and place of beginning

CONTAINING 11,364 SF (0 2609 acres) of land more or less

BEING Parcel #05-00-05900-00-8

BEING as to part, the same premises which Edward A Comer and Elaine K Comer, his wife by Deed dated 6/10/1999 and recorded 7/19/1999 in the County of Montgomery in Deed Book 5279 page 1803, conveyed unto TR-Suburban, L P., a Pennsylvania limited partnership, in fee



EXHIBIT "B"



PROPOSED BUILDING

Area	1,000 sq. ft.
Volume	10,000 cu. ft.
Height	10 ft.
Setback	5 ft.
Other	...

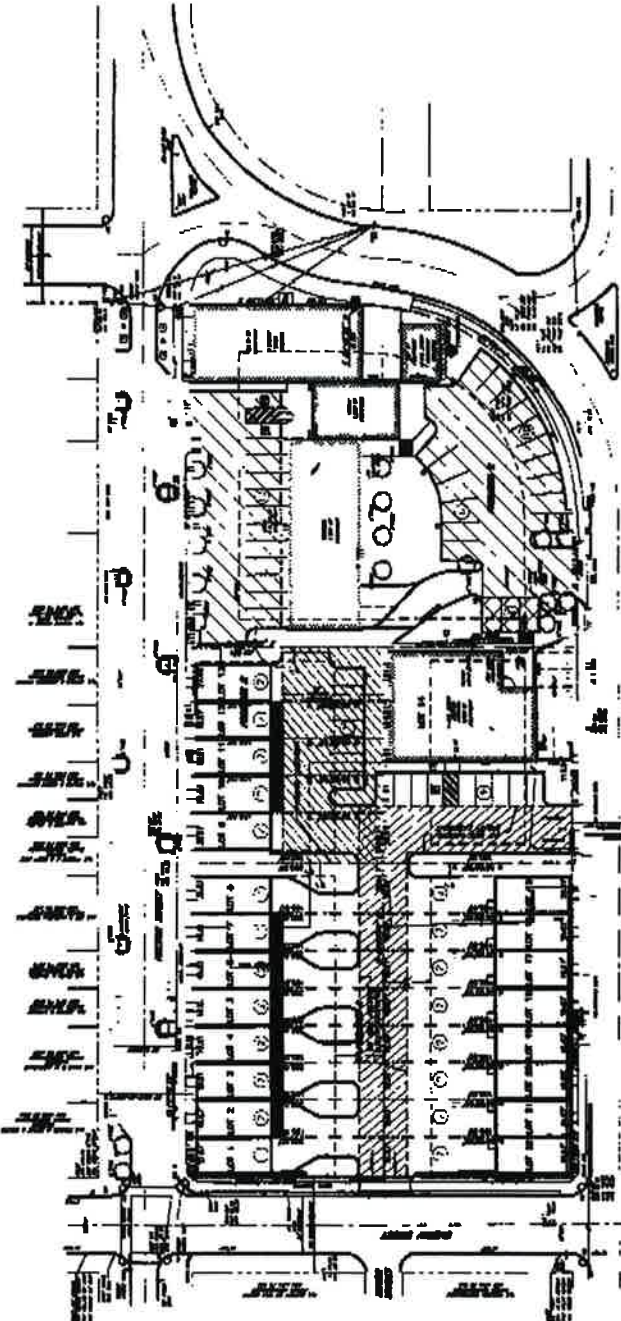
PROPOSED BUILDING

1. The proposed building is a single-story structure with a total area of 1,000 square feet. It is located on the east side of the lot, between the existing building and the street.

2. The building is designed to be a simple rectangular structure with a flat roof. It will be constructed of brick and will have a finished appearance.

3. The building is intended for use as a storage facility for the existing business. It will be used to store inventory and materials.

4. The building is designed to be in accordance with the applicable zoning regulations. It meets all the requirements of the zoning code.



KEY TO DIMENSIONS

1	100' x 100'
2	100' x 100'
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REQUIREMENTS FOR NEW BUILDING

SECTION 10.1.1.1. The proposed building shall be constructed in accordance with the applicable zoning regulations. It shall meet all the requirements of the zoning code.

SECTION 10.1.1.2. The proposed building shall be constructed of brick and shall have a finished appearance. It shall be designed to be in accordance with the applicable zoning regulations.

SECTION 10.1.1.3. The proposed building shall be constructed of brick and shall have a finished appearance. It shall be designed to be in accordance with the applicable zoning regulations.

SECTION 10.1.1.4. The proposed building shall be constructed of brick and shall have a finished appearance. It shall be designed to be in accordance with the applicable zoning regulations.

SECTION 10.1.1.5. The proposed building shall be constructed of brick and shall have a finished appearance. It shall be designed to be in accordance with the applicable zoning regulations.

SECTION 10.1.1.6. The proposed building shall be constructed of brick and shall have a finished appearance. It shall be designed to be in accordance with the applicable zoning regulations.

SECTION 10.1.1.7. The proposed building shall be constructed of brick and shall have a finished appearance. It shall be designed to be in accordance with the applicable zoning regulations.

SECTION 10.1.1.8. The proposed building shall be constructed of brick and shall have a finished appearance. It shall be designed to be in accordance with the applicable zoning regulations.

SECTION 10.1.1.9. The proposed building shall be constructed of brick and shall have a finished appearance. It shall be designed to be in accordance with the applicable zoning regulations.

SECTION 10.1.1.10. The proposed building shall be constructed of brick and shall have a finished appearance. It shall be designed to be in accordance with the applicable zoning regulations.

LEGEND

---	Proposed Building
---	Existing Building
---	Proposed Parking
---	Existing Parking
---	Proposed Driveway
---	Existing Driveway
---	Proposed Street
---	Existing Street
---	Proposed Sidewalk
---	Existing Sidewalk
---	Proposed Utility
---	Existing Utility
---	Proposed Fence
---	Existing Fence
---	Proposed Sign
---	Existing Sign
---	Proposed Landscaping
---	Existing Landscaping
---	Proposed Other
---	Existing Other

RECORDED PLAN

401 425 & 448 E. HICKORY STREET

MONTEGOMERY COUNTY, MONTGOMERY, MARYLAND

APPROVED AND ASSOCIATES, INC.

1000 CHERRY LANE, SUITE 200, ROCKVILLE, MARYLAND 20850

DATE: 10/15/10

SCALE: 1" = 30'

REQUIREMENTS FOR NEW BUILDING

SECTION 10.1.1.1. The proposed building shall be constructed in accordance with the applicable zoning regulations. It shall meet all the requirements of the zoning code.

SECTION 10.1.1.2. The proposed building shall be constructed of brick and shall have a finished appearance. It shall be designed to be in accordance with the applicable zoning regulations.

SECTION 10.1.1.3. The proposed building shall be constructed of brick and shall have a finished appearance. It shall be designed to be in accordance with the applicable zoning regulations.

SECTION 10.1.1.4. The proposed building shall be constructed of brick and shall have a finished appearance. It shall be designed to be in accordance with the applicable zoning regulations.

SECTION 10.1.1.5. The proposed building shall be constructed of brick and shall have a finished appearance. It shall be designed to be in accordance with the applicable zoning regulations.

SECTION 10.1.1.6. The proposed building shall be constructed of brick and shall have a finished appearance. It shall be designed to be in accordance with the applicable zoning regulations.

SECTION 10.1.1.7. The proposed building shall be constructed of brick and shall have a finished appearance. It shall be designed to be in accordance with the applicable zoning regulations.

SECTION 10.1.1.8. The proposed building shall be constructed of brick and shall have a finished appearance. It shall be designed to be in accordance with the applicable zoning regulations.

SECTION 10.1.1.9. The proposed building shall be constructed of brick and shall have a finished appearance. It shall be designed to be in accordance with the applicable zoning regulations.

SECTION 10.1.1.10. The proposed building shall be constructed of brick and shall have a finished appearance. It shall be designed to be in accordance with the applicable zoning regulations.

REQUIREMENTS FOR NEW BUILDING

SECTION 10.1.1.1. The proposed building shall be constructed in accordance with the applicable zoning regulations. It shall meet all the requirements of the zoning code.

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SECTION 10.1.1.10. The proposed building shall be constructed of brick and shall have a finished appearance. It shall be designed to be in accordance with the applicable zoning regulations.



EXHIBIT "C"

ALL THAT CERTAIN lot or piece of ground with the buildings and improvements thereon erected, said lot being Lot 14, Situate in the Borough of Conshohocken, County of Montgomery and Commonwealth of Pennsylvania, bounded and described according to a plan titled Record Plan - 401, 425 & 440 E. Hector Street by Momenee and Associates, Inc., dated March 8, 2004, last revised October 26, 2005, and recorded in Montgomery County in Plan Book 25 page 276, as follows, to wit

BEGINNING at a point, said point being located the following course and distance from an iron pin to be set at the intersection of the easterly side of Cherry Street, (50.00 feet wide), and the northerly side of Elm Street, (50.00 feet wide), (1) along the northerly side of Elm Street North 85 degrees 00 minutes 00 seconds East 166.36 feet to a common corner with Lot 15, thence from said point of beginning leaving the northerly side of Elm Street and along a common line with Lot 15 North 05 degrees 00 minutes 00 seconds West 100.00 feet to a common corner of Lots 15, 8 and 9, thence along a common line with Lots 9, 10, 11, 12, and 13 North 85 degrees 00 minutes 00 seconds East 113.64 feet to a common corner with Lot 13 and along a common line with Premises C, thence along said line South 05 degrees 00 minutes 00 seconds East 100.00 feet to a point along the northerly side of Elm Street marked by a spike to be set, thence along said line South 85 degrees 00 minutes 00 seconds West 113.64 feet to the first mentioned point and place of beginning.

CONTAINING 11,364 SF (0 2609 acres) of land more or less.

BEING Parcel #05-00-05900-00-8.

BEING as to part, the same premises which Edward A Comer and Elaine K. Comer, his wife by Deed dated 6/10/1999 and recorded 7/19/1999 in the County of Montgomery in Deed Book 5279 page 1803, conveyed unto TR-Suburban, L.P., a Pennsylvania limited partnership, in fee.



03023LD14
02-24-06



Exhibit 6

Parking Summary

Existing Parking - 49 Spaces

18 spaces on site
3 Elm Street (exclusive)
15 Elm Street (non-exclusive)
13 Elm Street (non-exclusive)
49 Total

Existing Parking Demand - 34 Spaces

17 spaces for Second Floor Office (4,200 sf office at 4/1,000 sf = 17)

17 spaces for Yoga Studio

84 students (20-50 sf per "student" 4,200sf /5 students = 84 maximum students)
-IBC Max capacity is 50 sf per student
-Industry standard is 20 sf per student
84 students / 5 = 17 spaces

Proposed Use Parking Demand –

17 spaces for Second Floor Office - No change proposed

16 spaces for First Floor

1,050 sf of service/storage/warehouse @ 1/450 sf = 2.3 spaces
3,200 sf of office @ 4/1000 sf = 12.8 spaces

Excerpts from § 27-2002 re Off-site Parking:

Studio for dance, art, music or photography - 1 space per 5 students, and/or 1 space per 300 square feet of gross floor area for nonstudent patrons.

Indoor sports facility -1 1/2 spaces per person for maximum court and exercise equipment capacity.

Business or administrative offices - 1 space per 250 square feet of gross floor area.

Laboratory or industry - The larger of 1 space per employee or per 450 square feet of gross floor area.

Exhibit 7

Excerpt from Chapter 10 Means of Egress, 2021 International Building Code



Section 1005.6, the *occupant load* from separate stories shall not be added.

Search Type

Title

Content

1004.3 Multiple function occupant load.

Where an area under consideration contains multiple functions having different *occupant load* factors, the design *occupant load* for such area shall be based on the floor area of each function calculated independently.

1004.4 Multiple occupancies. CDP

Where a building contains two or more occupancies, the *means of egress* requirements shall apply to each portion of the building based on the occupancy of that space. Where two or more occupancies utilize portions of the same *means of egress* system, those egress components shall meet the more stringent requirements of all occupancies that are served.

1004.5 Areas without fixed seating. CDP

The number of occupants shall be computed at the rate of one occupant per unit of area as prescribed in Table 1004.5. For areas without *fixed seating*, the *occupant load* shall be not less than that number determined by dividing the floor area under consideration by the *occupant load* factor assigned to the function of the space as set forth in Table 1004.5. Where an intended function is not *listed* in Table 1004.5, the *building official* shall establish a function based on a *listed* function that most nearly resembles the intended function.

Exception: Where *approved* by the *building official*, the actual number of occupants for whom each occupied space, floor or building is designed, although less than those determined by calculation, shall be permitted to be used in the determination of the design *occupant load*.

TABLE 1004.5 MAXIMUM FLOOR AREA ALLOWANCES PER OCCUPANT

FUNCTION OF SPACE	OCCUPANT LOAD FACTOR ^a
Accessory storage areas, mechanical equipment room	300 gross
Agricultural building	300 gross
Aircraft hangars	500 gross
Airport terminal	

Menu

DIGITAL
CODES

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Sign In



Title	Content
Waiting areas	15 gross
Assembly	
Gaming floors (keno, slots, etc.)	11 gross
Exhibit gallery and museum	30 net
Assembly with fixed seats	See Section 1004.6
Assembly without fixed seats	
Concentrated (chairs only—not fixed)	7 net
Standing space	5 net
Unconcentrated (tables and chairs)	15 net
Bowling centers, allow 5 persons for each lane including 15 feet of runway, and for additional areas	7 net
Business areas	150 gross
Concentrated business use areas	See Section 1004.8
Courtrooms—other than fixed seating areas	40 net
Day care	35 net
Dormitories	50 gross
Educational	
Classroom area	20 net
Shops and other vocational room areas	50 net
Exercise rooms	50 gross
Group H-5 fabrication and manufacturing areas	200 gross
Industrial areas	100 gross
Institutional areas	
Inpatient treatment areas	240 gross
Outpatient areas	100 gross
Sleeping areas	120 gross
Kitchens, commercial	200 gross
Library	
Reading rooms	50 net
Stack area	100 gross
Locker rooms	50 gross
Mall buildings—covered and open	See Section 402.8.2

FEEDBACK

LIVE CHAT

Menu

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CODES

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Sign In



	Search Type ?	
Residential		200 gross
Skating rinks, swimming pools	Title	Content
Rink and pool		50 gross
Decks		15 gross
Stages and platforms		15 net
Warehouses		500 gross

For SI: 1 foot = 304.8 mm, 1 square foot = 0.0929 m².

a. Floor area in square feet per occupant.

1004.5.1 Increased occupant load. COP

The *occupant load* permitted in any building, or portion thereof, is permitted to be increased from that number established for the occupancies in Table 1004.5, provided that all other requirements of the code are met based on such modified number and the *occupant load* does not exceed one occupant per 7 square feet (0.65 m²) of occupiable floor space. Where required by the *building official*, an *approved aisle*, seating or fixed equipment diagram substantiating any increase in *occupant load* shall be submitted. Where required by the *building official*, such diagram shall be posted.

1004.6 Fixed seating.

For areas having *fixed seats* and *aisles*, the *occupant load* shall be determined by the number of *fixed seats* installed therein. The *occupant load* for areas in which *fixed seating* is not installed, such as waiting spaces, shall be determined in accordance with Section 1004.5 and added to the number of *fixed seats*.

The *occupant load* of *wheelchair spaces* and the associated companion seat shall be based on one occupant for each *wheelchair space* and one occupant for the associated companion seat provided in accordance with Section 1109.2.3.

For areas having *fixed seating* without dividing arms, the *occupant load* shall be not less than the number of seats based on one person for each 18 inches (457 mm) of seating length.

The *occupant load* of seating booths shall be based on one person for each 24 inches (610 mm) of booth seat length measured at the backrest of the seating booth.

1004.7 Outdoor areas. COP

FEEDBACK

LIVE CHAT

Exhibit 8

Yoga Studio Schedule

about [schedule](#) events meditation privates * practice online * blog

Our schedule includes classes Online and Outdoors!

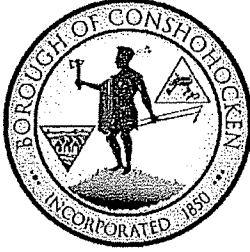
Our Summer Schedule is now LIVE! Please note: New schedule starts 6/1. Please click below to confirm Outdoor class location and teacher. *Join us for your first 5-Days on OMM, FREE!*

To register for online and outdoor classes, click [here](#).

MONDAY	Style	Teacher
7 – 8 am	Outdoor – All Levels @ Sutcliffe	Jenn/Steph (see Namastream for details)
12 – 12:45pm	Basics	Nicole
6 – 7pm	Power Flow	Kerri
7:30 – 8 pm	Live Monthly Meditation	Maura (1 st Sunday of month)
TUESDAY		
12 – 12:45pm	Community Care	Maura
6 – 7pm	Outdoor – All Levels @ A field	Kerri
6 - 7pm	Slow Flow	Alicia
7:30 – 8:30pm	Prenatal 4-Wk Series*	Allison
WEDNESDAY		
7 – 8 am	Outdoor – All Levels @ Sutcliffe	Kristin
12 – 12:45pm	Vinyasa	Gaby
8– 9pm	Yin	Maura
THURSDAY		
12 – 12:45 pm	Community Care	Kerri
5:45 – 6:45 pm	Outdoor – All Levels @ A field	Candace
8 – 9pm	Gentle	Meghan
FRIDAY		
12 – 12:45pm	Outdoor – All Levels @ B field	Maura
12 – 12:45pm	Vinyasa	Kerri
SATURDAY		
9 - 10am	Outdoor – All Levels @ A field	Kristie
9:30-10:45 am	Vinyasa & Meditation	Candace
SUNDAY		
9 – 10am	Outdoor – All Levels @ A field	Alicia thru 6/27, then Steph
10:15 – 11:15am	Gentle	Gaby/Rose (see Namastream for details)
8 – 9pm	Monthly Yoga Nidra or Restorative	*check schedule for dates & teachers

At Yoga Home, we believe yoga is for everyone and all should have access to yoga. We proudly offer community tiered pricing to make yoga more accessible & equitable for all.

EXHIBIT “A”



BOROUGH OF CONSHOHOCKEN
400 Fayette Street, Suite 200, Conshohocken, PA 19428
Phone (610) 828-1092 Fax (610) 828-0920

Zoning Application

Application: Z-2004-14

Date Submitted: 6-21-21

Date Received: 6-24-21

1. Application is hereby made for:

Special Exception Variance

Appeal of the decision of the zoning officer

Conditional Use approval Interpretation of the Zoning Ordinance

Other _____

2. Section of the Zoning Ordinance from which relief is requested:

Section 27-703B

3. Address of the property, which is the subject of the application:

424 East Elm Street, Conshohocken, PA

4. Applicant's Name: SK Elm LLC c/o Martin Klagholz

Address: 826 Dresher Way, Wayne PA 19087

Phone Number (daytime): &

E-mail Address: mck@360kbs.com>

5. Applicant is (check one): Legal Owner Equitable Owner ; Tenant

6. Property Owner: Jerónimo, LLC c/o Equitable Owner SK Elm LLC

Address: 424 East Elm Street, Conshohocken, PA

Phone Number: 610-337-5585

E-mail Address: ecampbell@campbellroccolaw.com

7. Lot Dimensions: irregular; 11,364 sq. ft. Zoning District: BR-2 Borough Residential 2

8. Has there been previous zoning relief requested in connection with this Property?

Yes No If yes, please describe.

Applicant is unaware of any prior zoning relief.

9. Please describe the present use of the property including any existing improvements and the dimensions of any structures on the property.

The site currently contains a two story non-conforming building. Each floor of the building is approximately 4,000 sf. The first floor is a yoga studio. The second floor is office space. The property has 18 parking spaces on site and additional spaces pursuant to an easement on an adjacent property.

10. Please describe the proposed use of the property.

The applicant proposes no change of use on the second floor, it will continue as office. The applicant proposes to convert the first floor yoga studio to a mix of warehouse/storage, equipment service/maintenance and related support and office space.

Please see addendum

11. Please describe proposal and improvements to the property in detail.

The Special Exception is requested in order to allow the change of a non-conforming use to a less intense non-conforming use. No change to the footprint of the building is proposed.

Please see addendum

12. Please describe the reasons the Applicant believes that the requested relief should be granted.

27-703 Change of Use.

B. (1) A nonconforming use may be changed to another nonconforming use which is equally appropriate or more appropriate to the district in which the property is located

13. If a Variance is being requested, please describe the following:

a. The unique characteristics of the property: _____

b. How the Zoning Ordinance unreasonably restricts development of the property:

c. How the proposal is consistent with the character of the surrounding neighborhood. _____

d. Why the requested relief is the minimum required to reasonably use the property; and why the proposal could not be less than what is proposed.

14. The following section should be completed if the applicant is contesting the determination of the zoning officer.

a. Please indicate the section of the zoning ordinance that is the subject of the zoning officer's decision (attach any written correspondence relating to the determination).

b. Please explain in detail the reasons why you disagree with the zoning officer's determination.

15. If the Applicant is requesting any other type of relief, please complete the following section.

a. Type of relief that is being requested by the applicant.

Special Exception

b. Please indicate the section of the Zoning Ordinance related to the relief being requested.

27-703 B. (1) A nonconforming use may be changed to another nonconforming use which is equally appropriate or more appropriate to the district in which the property is located.

c. Please describe in detail the reasons why the requested relief should be granted.

Such new use is equally appropriate or more appropriate to the district in which the property is located.

See Addendum

16. If the applicant is being represented by an attorney, please provide the following information.

a. Attorney's Name: Edmund J. Campbell, Jr. Esquire

b. Address: 2701 Renaissance Boulevard, Fourth Floor

c. Phone Number: 610-337-5585

d. E-mail Address: ecampbell@campbellroccolaw.com

I/we hereby certify that to the best of my knowledge, all of the above statements contained in this Zoning Application and any papers or plans submitted with this application to the Borough of Conshohocken are true and correct.

SK Elm LLC by Edmund B. Campbell, Jr. Esquire, its authorized representative

Applicant

SK Elm, LLC

Legal Owner

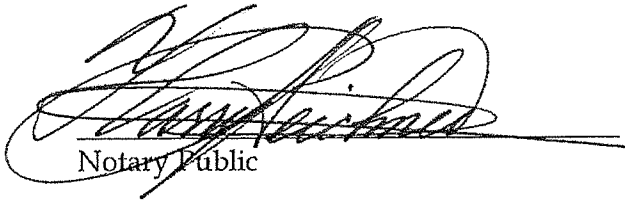
JUNE 18, 2021

Date

COMMONWEALTH OF PENNSYLVANIA

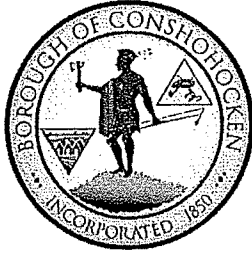
COUNTY OF MONTGOMERY

As subscribed and sworn to before me this 18TH day of JUNE, 2021.


Notary Public

(Seal)

Commonwealth of Pennsylvania - Notary Seal
Harry A. Reichner, Notary Public
Philadelphia County
My commission expires November 13, 2022
Commission number 1194882
Member, Pennsylvania Association of Notaries



BOROUGH OF CONSHOHOCKEN
400 Fayette Street, Suite 200, Conshohocken, PA 19428
Phone (610) 828-1092 Fax (610) 828-0920

Decision

(For Borough Use Only)

Application Granted

Application Denied

MOTION:

CONDITIONS:

BY ORDER OF THE ZONING HEARING BOARD

	Yes	No
_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>

DATE OF ORDER: _____

ADDENDUM TO ZONING APPLICATION

SK Elm LLC

Requesting a Special Exception

424 East Elm Street

The Applicant, SK Elm LLC intends to operate its related business, Key Business Solutions (KBS) at 424 East Elm Street in the Borough of Conshohocken (the "Property"). The Property is located in the BR-2 zoning district. There is a 2 story building located on the Property and it is currently used for office and a yoga studio. Those uses are not permitted in the BR-2 district.

KBS is in the business of providing mail room equipment supplies and support services. KBS proposes to move its current operations to the Property. There will be no change of use on the second floor as it will be used as office by KBS administration. The first floor will be used for storage of mail room equipment such as postage meters, scales, printers, etc. and supplies used with such equipment. The first floor will be used to prepare this equipment to be delivered to customers. The first floor will also be used to service this type of equipment. The first floor will also contain office space supporting these activities.

The service and maintenance of this mail room equipment does not involve any process that creates noise, dust or fumes. The service and maintenance of this mail room does not involve hazardous materials.

KBS employs approximately 20 full-time individuals, however only 10 employees will regularly work at the Property.

No changes are proposed to the footprint of the building or the exterior of the Property.

Deliveries to the KBS Elm Street facility are made by standard "fed-ex" style box trucks. Typically there are 1-2 such trips per day at KBS's existing facility and that is not expected to be any different at the Property. Other than the initial move in, no full size trailer deliveries are anticipated.

The exterior signage will be changed to reflect KBS. The size and location of the existing signage will not change.

EXHIBIT “B”

BEFORE THE BOROUGH OF CONSHOHOCKEN
ZONING HEARING BOARD

In Re: SK Elm, LLC
for the Property at 424 E. Elm Street

A Public Hearing was taken via
GoToMeeting video conferencing by and before
Edward T. McKenna, Professional Reporter, on
Monday, August 16, 2021, commencing at 7:12 p.m.

BEFORE:

RICHARD D. BARTON, Chairman
MARK S. DANEK
GREGORY SCHARFF
MARLOWE DOMAN
ALAN CHMIELEWSKI

APPEARANCES:

ALEXANDER M. GLASSMAN, ESQ., Solicitor
EDMUND J. CAMPBELL, JR., ESQ., for the Applicant
ERIC B. FREEDMAN, ESQ., for TRDS 441 Hector
Associates, LP
ERIC JOHNSON, Zoning Officer
BOBBI JO MYRSIADES, Administrative Assistant

COPY

ALL POINTS REPORTING
723 Erlen Road
Plymouth Meeting, PA 19462
(610) 272-6731

I N D E X

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Frank Tavani	41, 102
Michael Barrist	73
Anthony Rufo	88

E X H I B I T S

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P-2	Agreement of sale	4
P-3	Declaration of easement	4
P-4	Prior zoning hearing board decision	4
P-5	Jamison entry of appearance	4
P-6	TRDS entry of appearance	4
P-7	Zoning determination 7/9/21	4
P-8	Jamison entry of appearance	4
P-9	Kellerman entry of appearance	4
P-10	Talone entry of appearance	4
P-11	Zoning notice	4
A-1	Aerial site photographs	4
A-2	Ground level photographs	4
A-3	Site plan	4
A-4	2005 easement	4
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A-8	Yoga studio schedule	4
A-9	Letter dated 8/12/21	11

1 CHAIRMAN BARTON: So now we will
2 continue to the top of the agenda, and our first
3 application this evening is for 424 East Elm
4 Street in Conshohocken. This is Zoning Hearing
5 Z-2021-14.

6 The petitioner is SK Elm, LLC, of
7 826 Dresher Way, Wayne, PA 19087. Premises
8 involved is 424 East Elm Street, in Conshohocken,
9 and the property is zoned Borough Residential 2.
10 The owner of record is Jeronimos, LLC, 424 East
11 Elm Street, Conshohocken.

12 The applicant is seeking a special
13 exception from the zoning hearing board, per
14 Section 27-703.B to permit the change of a
15 nonconforming use, and we have a number of
16 exhibits that I will read into the record.

17 And we'll start with P-1, which is
18 the zoning application. That includes an
19 addendum and a deed for the property; P-2, the
20 agreement of sale; P-3, a declaration of
21 easement; P-4 is a copy of the prior zoning
22 hearing board decision; P-5 is an entry of
23 appearance as a party for Fiona Jamison of 442
24 East Elm Street; P-6 is an entry of appearance

1 for TRDS Hector Associates, LP, at 441 East
2 Hector Street. That is through their counsel,
3 Eric B. Freedman; P-7 is a zoning determination,
4 dated July 9th, 2021, by Eric P. Johnson, PE, to
5 Stephanie Cecco and Brittany Rogers of
6 Conshohocken Borough; P-8, an entry of appearance
7 by Fiona Jamison, dated August 16th; P-9, an
8 entry of appearance by Richard Kellerman of 414
9 East Elm Street; P-10, an entry of appearance by
10 Russell Talone. Once again, P-10 is an entry for
11 Russell Talone of 510 East Hector Street; P-11
12 will be the zoning notice.

13 And then we have the following
14 exhibits submitted by the applicant: A-1, aerial
15 photos of the site; A-2, ground level photos;
16 A-3, a site plan; A-4, a 2005 easement; A-5, 2006
17 easement; A-6, a parking summary; A-7, an excerpt
18 from Chapter 10, Means of Egress, 2021,
19 International Building Code; and A-8, a yoga
20 studio schedule.

21 (Exhibits P-1 through P-11 marked
22 for identification; Applicant's
23 Exhibits A-1 through A-8 marked
24 for identification.)

1 CHAIRMAN BARTON: And before we
2 speak about the entries of appearance, I'm going
3 to confirm with Mr. Johnson, have all of the
4 notices been mailed for this hearing tonight?

5 MR. JOHNSON: Yes, they have.

6 CHAIRMAN BARTON: Thank you.

7 And, Alex Glassman, if you would,
8 let's go over these entries of appearance --

9 MR. GLASSMAN: Yes.

10 CHAIRMAN BARTON: -- seeking party
11 status.

12 MR. GLASSMAN: Yes, Mr. Barton.
13 As you stated, there are five of them, although
14 two of them are for the same person. That was
15 P-5 and P-7 or P-8.

16 CHAIRMAN BARTON: P-8, yes.

17 MR. GLASSMAN: If you recall, last
18 month, before we continued the hearing, even
19 though we did not take any testimony, we did
20 discuss, I believe, an attorney protestant. The
21 next door neighbor was here, along with the
22 property owner of the subject property.

23 With that being said, I know
24 Mr. Campbell is going to mention that he is --

1 the application has been slightly tweaked in
2 terms of who his client is.

3 I would like to go through and
4 deal with the request for party status from
5 Mr. Kellerman, and we have marked that P-9.

6 CHAIRMAN BARTON: Please do.

7 MR. JOHNSON: So, Mr. Kellerman,
8 are you present? I'm not seeing you on my
9 screen.

10 MR. KELLERMAN: Yes, Mr. Kellerman
11 is present, 414 East Elm Street.

12 MR. GLASSMAN: Mr. Kellerman, I
13 just want to confirm that you are seeking to be a
14 party to this application, you have not simply
15 submitted your letter because you have some
16 questions or you want to listen into it.

17 You do, in fact, want to be a
18 party, and that you want to have the same rights
19 to cross-examine any witnesses, and have appeal
20 rights, if you believe you are aggrieved by the
21 decision?

22 MR. KELLERMAN: Yes.

23 MR. GLASSMAN: Okay. And
24 approximately how far is 414 East Elm Street from

1 the subject property that we're here for this
2 evening?

3 MR. KELLERMAN: It is directly
4 adjacent to the property. So it's essentially
5 the next door neighbor.

6 MR. GLASSMAN: And I'm assuming --

7 MR. KELLERMAN: So 15 feet.

8 MR. GLASSMAN: I'm assuming you
9 received notice of the hearing this evening?

10 MR. KELLERMAN: Yes.

11 MR. GLASSMAN: Mr. Campbell, any
12 objections to Mr. Kellerman? He's at 414, the
13 subject property is at 424.

14 MR. CAMPBELL: No objection.

15 MR. GLASSMAN: Okay.

16 MR. CAMPBELL: Given the proximity
17 to the property, no objection.

18 MR. GLASSMAN: Mr. Barton, I'd
19 recommend that we approve party status for
20 Mr. Kellerman as P-9.

21 CHAIRMAN BARTON: Okay.

22 MR. GLASSMAN: And if we move
23 forward to P-10, Russell Talone, T-a-l-o-n-e.

24 Mr. Talone, are you present?

1 Mr. Talone?

2 Mr. Barton, seeing that he has not
3 replied or responded, I'm not seeing his name on
4 the participant list, I would recommend that we
5 at this time do not grant party status, but if he
6 calls in later or if this hearing is continued to
7 another date, that we could revisit this issue
8 later.

9 CHAIRMAN BARTON: Understood.

10 Thank you.

11 MR. GLASSMAN: And I believe we
12 did, at the last hearing, although I'm not
13 positive on the exhibit number, since I didn't
14 see the transcript, but I believe we did allow
15 for party status of Eric Freedman, through his
16 client, TRDS 441 Hector Associates, LP.

17 And, Eric, you're present, I
18 believe?

19 MR. FREEDMAN: That's correct.
20 Yes, I'm here.

21 MR. GLASSMAN: And, Mr. Barton, if
22 we did not previously, I believe at the last
23 hearing, we did grant party status.

24 CHAIRMAN BARTON: I believe we

1 did, yes.

2 MR. CAMPBELL: They're a
3 neighboring property. No objection.

4 MR. GLASSMAN: And, Mr. Campbell,
5 I'll go back to you, if you want to explain the
6 change in who the applicant is?

7 MR. CAMPBELL: Sure. So I made an
8 application on behalf of SK Elm, LLC, the
9 equitable owner of the property, pursuant to an
10 agreement of sale.

11 When we filed the application,
12 Fiona Jamison, who is the sole member of the
13 owner of the property, entered her appearance on
14 her behalf, on behalf of the owner. So I wrote
15 to -- I've spoken with Ms. Jamison since that
16 time, and I wrote to Mr. Barton entering my
17 appearance on behalf of the owner, Jeronimos,
18 LLC. They have standing under the MPC, and I
19 would ask that the application be amended to
20 reflect Jeronimos as a co-app.

21 MR. GLASSMAN: And Jeronimos, LLC,
22 was listed as the owner of record on the zoning
23 hearing notice that was sent out and mailed out.

24 MR. CAMPBELL: Yes.

1 MR. GLASSMAN: And, Mr. Campbell,
2 to clarify, has any of the zoning relief changed
3 at all?

4 MR. CAMPBELL: No, it's the same
5 exact request. There is -- the property is
6 nonconforming, and the application is to change
7 the first floor use from a wellness/yoga center
8 to office, which was the use back in 2005. I
9 think Mr. Barton referenced in one of the
10 exhibits in the record is that prior special
11 exception.

12 MR. GLASSMAN: And, Mr. Chairman,
13 hearing that and reviewing documents, I would
14 feel comfortable proceeding with the applicant
15 now being Jeronimos, LLC, rather than SK Elm,
16 LLC.

17 CHAIRMAN BARTON: I will agree and
18 we should proceed.

19 So said that, Mr. Campbell, are
20 there any witnesses that you wish to introduce up
21 front or do you want to introduce the case at
22 this time?

23 MR. CAMPBELL: So, Mr. Barton,
24 I'll present two witnesses tonight. Fiona

1 Jamison is here, and Frank Tavani, who's a
2 traffic engineer, is here.

3 You reviewed the exhibits that
4 were submitted in anticipation of the last
5 hearing. I submitted a letter to Mr. Tavani --
6 from Mr. Tavani to the board earlier today. I
7 believe Bobbi Jo has it. So I'd like to refer to
8 that as Exhibit 9.

9 CHAIRMAN BARTON: Okay. So that
10 will be A-9.

11 (Exhibit A-9 marked for
12 identification.)

13 MR. CAMPBELL: And if I could give
14 a brief summary or overview, and then swear our
15 witnesses in, and we'll go through the exhibits?

16 CHAIRMAN BARTON: Before you begin
17 with that, the letter that we're calling A-9 is
18 from your engineer?

19 MR. CAMPBELL: Yes, Frank Tavani
20 and Associates. He's a traffic engineer. The
21 letter is dated August 12th.

22 CHAIRMAN BARTON: Thank you. Yes,
23 please proceed.

24 MR. CAMPBELL: Thank you.

1 So the property is located at 424
2 East Elm Street. The property is in
3 Residential -- it's BR-2 Residential Zoning
4 District. It is nonconforming. It is a
5 two-story office building. Each floor is
6 comprised of approximately 4,420 square feet.

7 I say approximately because the
8 records are slightly different whether or not you
9 include the stairwells or not. It's
10 approximately 4,000 square feet per floor.

11 This office -- this building was
12 previously an office on both floors. In 2005,
13 the board approved a special exception to change
14 that nonconforming use on the first floor to a
15 wellness center/yoga studio, and it's operated
16 like that since the last 16 years.

17 Candidly, probably because of
18 Covid and for other reasons that are sort of
19 beyond our relevance, it's -- the yoga studio and
20 wellness center are not viable, and the owner
21 would like to return to the office use.

22 The standard that the borough's
23 ordinance permits a change of nonconforming use
24 to another nonconforming use, so long as the

1 second nonconforming use is equal or no less
2 burdensome on the community, and I think the
3 testimony we will provide today will establish
4 that returning it to an office is equal or either
5 an improvement on the burden that this
6 nonconforming use has on the community.

7 There are currently 18 parking
8 spaces on the property. The property benefits
9 from an easement, which provides it with the
10 exclusive right to use three parking spaces on
11 the immediately adjacent building, and 29
12 non-exclusive parking spaces on the adjacent
13 building.

14 So the total number of spaces
15 available to the property is approximately 49. I
16 would note that the property -- the parking
17 spaces that are on the space are also subject to
18 an easement that the townhouse owners in the
19 immediate vicinity have a right to use on
20 non-office hours.

21 So what Bobbi Jo has just put up
22 is my Exhibit 6, which is sort of a parking
23 summary that I think is helpful to understand
24 what we're talking about, 18 spaces on-site,

1 three spaces on Elm Street. I think there's a
2 typo. It should be 16 on Elm and 13 on Hector
3 for a total 49 or 50 spaces.

4 The existing parking demand, if
5 you -- one way to calculate it would be to use
6 the borough's parking provisions, which require
7 four spaces per thousand, which would require 17
8 spaces for the second floor. The first floor is
9 a yoga studio. Depending on how you calculate
10 it, but aggressively calculating it, it's also 17
11 parking spaces.

12 So if you convert the first floor
13 from yoga to office, it's essentially no change
14 in the parking demand. There will be a
15 significant reduction in the number of trips that
16 come to the site by converting it from office to
17 a yoga studio. Fiona Jamison will testify to
18 that. That's a quick overview.

19 Bobbi Jo, can you go to Exhibit 1?

20 Exhibit 1 is actually two sheets
21 that show the location of the property from an
22 aerial perspective. There's 1.1 on the top and
23 1.2 on the bottom. The property is located with
24 a red dot on the building. That's simply to put

1 the location of this property in context.

2 Can you go to Exhibit 2?

3 These are photographs of the
4 building from the ground level, and they're
5 marked as the southern facade is 2.1. The west
6 facade is the bottom half of that page.

7 Go to the next page.

8 The northern facade and the
9 eastern facade. It's hard to see on my computer,
10 but if you had that picture physically in your
11 hand, in that photograph are the three exclusive
12 parking spaces available to this property that's
13 located on the adjacent property.

14 Can you go to Exhibit 3?

15 So Exhibit 3 is a site plan, and
16 it's actually recorded in the Montgomery County
17 Recorder of Deeds Office, and it was recorded as
18 part of a subdivision for the townhouses.

19 What I've done is marked in red
20 the 18 parking spaces that are on the site,
21 marked in green the three parking spaces, which
22 are exclusive to the site, for the site's
23 exclusive use on the adjacent property, and then
24 the yellow parking spaces are non-exclusive

1 parking spaces, 16 off of Elm and 13 off of
2 Hector, which are available to my client's
3 property, pursuant to the 2006 easement.

4 Go to Exhibit 4.

5 I just want to get in the record,
6 2005, this is the 2005 easement, which is the
7 easement that was recorded when the townhouse
8 development was built, and it provides the
9 townhouse owners with the right to park on the
10 spaces, on the subject property during off hours,
11 meaning from 6:00 p.m. in the evening until
12 8:00 a.m., the neighborhood townhouse residents
13 are allowed park there.

14 Go to exhibit -- what am I up to
15 now -- six. I'm sorry. Exhibit 5.

16 This is a 2006 exhibit, which
17 provides my client with the exclusive use of
18 three parking spaces on the adjacent, the Freeman
19 property, and 29, use of 29 spaces on the Freeman
20 spaces, non-exclusive. So three exclusive and 29
21 non-exclusive.

22 Go to the next exhibit.

23 So I forgot, I'll probably ask
24 Eric Johnson a simple question, whether or not

1 the borough adopts and uses the Internal Building
2 Code.

3 This is an excerpt from the
4 Internal Building Code, and the value is that it
5 shows the occupancy load of a yoga studio, and
6 that's one way to calculate the number of parking
7 spaces that would be available.

8 Can you go to the next exhibit?

9 So if you were to go online and
10 you were to look today at the yoga studio that's
11 there -- this is their website, and that's an
12 indication of their schedule, and that was posted
13 online, to give you, the board, a sense of,
14 essentially, before Covid, what the traffic in
15 and out was like, in terms of number of classes
16 per day and on the weekends.

17 Next exhibit. The next exhibit is
18 probably the parking -- yeah.

19 That's Mr. Tavani's letter. I
20 think the only exhibit is the parking summary,
21 which we have discussed.

22 So that's it. That's an overview
23 of the application, and a review of those
24 exhibits.

1 I would ask that Ms. Jamison and
2 Mr. Tavani be sworn in.

3 ---

4 FRANK TAVANI, having been duly
5 sworn, was examined and testified
6 as follows:

7 ---

8 FIONA JAMISON, having been duly
9 sworn, was examined and testified
10 as follows:

11 MR. CAMPBELL: I'm going to start
12 with Ms. Jamison.

13 BY MR. CAMPBELL:

14 Q. Ms. Jamison, what's your relationship to
15 Jeronimos?

16 A. I am the owner of Jeronimos.

17 Q. And as the owner of Jeronimos, you operate
18 your business at the property?

19 A. Jeronimos is a real estate holding company
20 that owns the building.

21 Q. Right, but you operate your -- your office is
22 on the second floor?

23 A. That's correct.

24 Q. And how long have you run your business on

1 the second floor?

2 A. Since 2007, I believe.

3 Q. Is that when you bought the property?

4 A. It is.

5 Q. So when you bought the property, was the
6 first floor already the wellness center and the
7 yoga studio?

8 A. It was a yoga studio/cafe.

9 Q. So you heard my summary of our application?

10 A. I did.

11 Q. And you heard me review the exhibits with the
12 board?

13 A. I did.

14 Q. Okay. So is there anything that you would
15 take issue with in terms of my summary? Anything
16 that I said incorrectly or anything that you
17 would want to supplement?

18 A. The only thing I would add is that the yoga
19 studio schedule that was displayed was for online
20 and outdoor classes, which is since they have
21 been closed. When they were indoor and operating
22 in the facility, they would have five to six
23 classes a day in both rooms, so significantly
24 more classes than they're currently operating.

1 So I think what was active in the
2 studio is different than how they're operating
3 now outside, in the parking lot and parks.

4 Q. So let's first talk about the actual on-site
5 parking. I indicated that there are 18 parking
6 spaces on-site; is that correct?

7 A. That's correct.

8 Q. And pursuant to the easement you have with
9 your adjacent neighbor, you have the right to use
10 three parking spaces exclusively on your
11 neighbor's property, correct?

12 A. That's correct.

13 Q. And also pursuant to that easement, you have
14 the right to use 29 parking spaces on that same
15 adjacent property owner's parking lots, correct?

16 A. That's correct.

17 Q. We have also discussed the fact that there's
18 an easement on your property, which allows your
19 neighbors to use the parking spaces on your
20 property, correct?

21 A. That's correct, during off hours. So after
22 6:00 p.m. and up until 8:00 a.m. in the morning.

23 Q. Has that ever been a problem from an
24 operation standpoint?

1 A. No, we operate normal business hours. So
2 once my employees and office workers leave, the
3 residents occasionally use those spots, but
4 they're never fully occupied.

5 Q. So it's never been a conflict or a problem
6 where you can't use spaces because they're full,
7 where neighbors come to you and complain that
8 you're --

9 A. No.

10 Q. -- staying late?

11 A. No.

12 Q. Let's talk about the yoga studio. So it was
13 in operation when you purchased the property in
14 2007?

15 A. It was, yes, and has been the entire time,
16 until June, the last week of June, 2020. Because
17 of Covid, they couldn't operate indoors with
18 sufficient people because of the use regulations.

19 Q. So during that six-year period, let's say
20 from 2000 -- sorry. More than six years. From
21 2007 to 2020, what would you describe the typical
22 weekday number of classes that were held on the
23 first floor for yoga?

24 A. So I would say typically there are at least

1 five or six classes, and they typically were
2 either early in the morning, before work, during
3 lunch hour and after work hours, because that's
4 when people do yoga.

5 They could fit up to 30 people in
6 each of the two yoga rooms. So at max capacity,
7 they would have maybe 60 people, but often those
8 rooms overlapped, and those were sort of every
9 hour. So every hour you may have somewhere
10 between 20 or 30 people coming in and out on the
11 hour to go into classes and do the various yoga
12 things.

13 Q. In addition to having two large yoga rooms on
14 the first floor, there's also a number of other
15 offices, correct?

16 A. There is. There's an office space, a kitchen
17 area, a private yoga studio, which was just a
18 small office space, and then the reception area
19 that had sort of a quasi cafe, where people could
20 sit and have a bottle of water, purchase a yoga
21 mat or T-shirt. So a gathering, yeah.

22 Q. Is it fair to say that at times, in addition
23 to the yoga studio holding classes, there was
24 other activities in those other offices?

1 A. Yes, they always have staff in there who were
2 either on the reception desk or in the back
3 office, and then there's two bathrooms in there,
4 too, for the showers, and, you know, changing.

5 Q. How about can -- you described the activity
6 during weekdays. What was the weekend activity
7 like?

8 A. So they usually had fewer classes on the
9 weekends. I think between three and four, but
10 they were operational seven days a week. So
11 there were cars there, you know, Saturdays and
12 Sundays as well.

13 Q. And you operate an office on the second
14 floor?

15 A. That's correct.

16 Q. If the first floor were to be converted to
17 office, and it were to be used at its full
18 capacity, based on your experience of occupying
19 the building as office, and observing the use as
20 a yoga studio, which has a greater intensity of
21 use?

22 A. Definitely a yoga studio. We have
23 approximately 12 people up there with the same
24 size space with 12 offices, and so basically you

1 have maybe -- right now we have four people
2 coming in and out because of the Covid.

3 But at max capacity we had
4 somewhere between 10 and 12 coming in in the
5 morning, and then leaving, you know, between 5:00
6 and 6:00, and I would estimate the same if
7 downstairs was office space, office hours.

8 Q. Since you've been there for 15 years, do you
9 think the change -- the first use from yoga
10 studio to office will have a negative impact on
11 the character of the neighborhood?

12 A. No, I don't think so. I think it would have
13 less impact, because there's less cars coming and
14 going. There's less public in and out, less
15 street parking, you know, less busyness, in
16 general. I mean, you'd have people come in,
17 work, and then people leave, which is different
18 than people coming in and out every hour.

19 Q. What type of deliveries does your office use
20 typically receive?

21 A. Other than like Grub Hub lunchtime, maybe
22 FedEx or an Amazon package, toilet paper.

23 Q. Would you expect the office use on the first
24 floor to be consistent or inconsistent with that

1 occasional type of delivery from an Amazon or
2 FedEx?

3 A. Yeah, I think it would be typical office
4 deliveries.

5 MR. CAMPBELL: Those are the
6 questions that I have for Ms. Jamison.

7 MR. GLASSMAN: Mr. Freedman, do
8 you want to ask any questions of this witness?

9 MR. FREEDMAN: Yes, please. Thank
10 you.

11 BY MR. FREEDMAN:

12 Q. Ms. Jamison, my name is Eric Freedman. I'm
13 just going to ask you a couple followup
14 questions.

15 Ms. Jamison, you represent --
16 you're a representative of the party that is
17 seeking to sell this property; is that correct?

18 A. That's correct, yes.

19 Q. And you're looking to lease the first floor
20 of the property to a company? Is it KBS360; is
21 that right?

22 A. We're looking to lease that office space.

23 Q. Right. To KBS360; is that right?

24 A. As of right now, that buyer has pulled out

1 because of this issue.

2 Q. Okay. Is there a new tenant that is already
3 lined up to occupy that space?

4 A. Other than my myself, I may take my own
5 office downstairs, Spring International to the
6 first floor, and potentially lease the upstairs.
7 So, again, for the same purpose as what I'm using
8 it now, which is an employee research company,
9 that's it.

10 Q. Okay. So since the July 19th hearing, the
11 proposed use has -- for the floor has changed
12 because KBS360 is no longer interested in leasing
13 the space?

14 A. Because of this zoning issue, yes. Correct.

15 Q. Because of the zoning issue being the
16 adjournment from July 19th?

17 A. That's correct.

18 Q. Okay. And you said it's your company that's
19 going to be leasing the first floor?

20 A. That is what I'm considering doing right now,
21 yes.

22 Q. Okay. And KBS360 has given you written
23 notice that they're no longer interested in this
24 space; is that correct?

1 A. Because of this issue, yes.

2 Q. Okay. Can you tell us about the office space
3 that's going to be occupying the first floor?

4 That's your business. Can you tell us about what
5 type of operations are going to be taking place
6 there?

7 A. So we are an employee research company. We
8 do large scale employee surveys online for a big
9 employer, like Walmart and Staples, and so we
10 have researchers and computer programmers, who
11 sit in offices on computers and work.

12 Q. Okay.

13 A. What else would you like?

14 Q. No, that's enough. And how many employees do
15 you have?

16 A. I have a dozen.

17 Q. You have 12, so it would be 12 employees
18 between the upstairs -- excuse me -- between the
19 first floor and the second floor, 12 employees
20 total?

21 A. Probably less than that, because half of my
22 team is remote. So they're working from home.

23 Q. Okay. And part of the employee research, it
24 doesn't involve anybody coming on-site to visit

1 your organization?

2 A. No, we do not have clients come to us. We go
3 to them.

4 Q. Okay.

5 A. Uh-huh. We do not have public access.

6 Q. Okay. And your current office space, it
7 doesn't have a loading dock on-site; is that
8 correct?

9 A. No.

10 Q. Okay. And there's no space for a dumpster in
11 the shared parking space or your designated
12 parking spaces?

13 A. There are two dumpsters on the property.

14 Q. Uh-huh.

15 A. One is on the back of my property, on the
16 property line, which is the recycle dumpster, and
17 right next to it.

18 Q. Okay.

19 A. That's been there since I purchased the
20 building in 2007, and that will not be changed.

21 Q. Now, you had indicated that there are one or
22 two FedEx deliveries a day. Is that still going
23 to be the case with this new proposed use?

24 A. We don't have that many.

1 Q. Okay.

2 A. We get them once a week or less.

3 Q. Okay. All right. I'm going to ask you a
4 little bit about the yoga studio and some of your
5 observations.

6 First of all, is there -- there's
7 nobody from the yoga studio here tonight; is that
8 correct?

9 A. Not that I'm aware of.

10 Q. Okay. And the yoga studio, you indicated,
11 operates seven days a week; is that right?

12 A. They did. I don't know if they still do, but
13 they're out.

14 Q. And the yoga studio leased the space directly
15 from you?

16 A. That's correct.

17 Q. And you were familiar with the terms of the
18 lease?

19 A. Yes.

20 Q. Okay. And when did the yoga studio vacate
21 the space?

22 A. It was the end of June.

23 Q. End of June of?

24 A. 2020.

1 Q. 2020. Okay. So the lease ended in June, at
2 the end of June of 2020. Do you know when the
3 classes at the yoga studio stopped?

4 A. Yeah. I mean, once -- their lease didn't
5 end. I mean, they exited. Their lease was for
6 another three years and they broke the lease.

7 Q. And why did they break the lease?

8 A. Because they could no longer operate because
9 of Covid. They couldn't -- due to the
10 restrictions, based on you had to be six feet
11 apart, they needed -- they couldn't fit enough
12 people in a room to generate enough income to pay
13 the rent.

14 Q. Okay.

15 A. They needed that occupancy of 30 people in a
16 room to generate the revenue in order to cover
17 the rent, so with the new rules they couldn't.
18 Does that make sense?

19 Q. Yes. So, effectively, they were unable to
20 bring enough people into the classes to
21 support -- to sustain the rent. Is that --

22 A. That's correct.

23 Q. -- an accurate statement?

24 A. Yes.

1 Q. Okay. Now, you had testified that you worked
2 on-site, that you do work on-site. Were you
3 there consistently throughout 2020?

4 A. No. So we were remote starting March.

5 Q. Okay.

6 A. I would go in maybe once a week or twice a
7 week, just to check on the building.

8 Q. Okay.

9 A. Then I went back when the rules -- I forget
10 what date the rules reopened Montgomery County,
11 but whenever the rules reopened, I went back into
12 the office full time, because I have teenagers at
13 home, and then my team came back, I think, in
14 like March of this year, at least half of them
15 did, approximately. Don't hold me to that.

16 Q. So you were there once a week until March of
17 this year, right?

18 A. Uh-huh.

19 Q. Okay.

20 A. Yes, just to check on the building and make
21 sure nothing was --

22 Q. And so when you say something along the lines
23 of there were 60 people at any given class, is
24 that based on your observations or is that based

1 on information that the yoga studio was conveying
2 to you?

3 A. I mean, that was based on when they were at
4 full capacity, pre-Covid, and people coming and
5 going every hour, right. I mean, I never counted
6 them. It wasn't my business.

7 Q. Right.

8 A. But I know that people were in and out all
9 day long.

10 Q. I'm just curious about where the figure 60
11 came from, if that's an estimate, I assume. And
12 that's per class; is that right?

13 A. So they informed me that they could have up
14 to 30 people in one studio, right. So they have
15 two big studios. So my assumption is, at max
16 capacity, they could have -- now, those classes
17 overlapped.

18 They were not necessarily
19 concurrent. So, you know, maybe there was 30
20 come in, and then they left, and, you know, there
21 was some overlap, but at busy times there were a
22 lot of people.

23 Q. So the figure 60 people per class or session,
24 that's based on their overall capacity, right?

1 A. Their capacity, yes.

2 Q. And you had confirmed, I believe, earlier
3 that as of March of 2020, most of their classes
4 were online or digital; is that right?

5 A. No. No.

6 Q. Online or outside. Excuse me.

7 A. No, June. When their lease ended is when
8 they stopped holding interior classes. I don't
9 know when they stopped. I don't know when
10 exactly they shifted from virtual to -- I just
11 know that when the lease ended, they no longer
12 had people coming in. It's been an empty space
13 since that July, '20, which is when I put the
14 property on the market.

15 Q. I'm calling -- I'm referring to the date that
16 they exited the lease as the end of their lease.
17 I understand that it extended longer, but did
18 they vacate prior to the end of the lease, as
19 they terminated?

20 A. They left the building the end of June, 2020.

21 Q. So the lease ran up to the end of the month
22 in June of 2020. Did they --

23 A. Yes.

24 Q. Did they remain in the property until the end

1 of June, 2020?

2 A. Yes.

3 Q. Okay.

4 A. Now, they were holding very small classes,
5 one-on-one at that point.

6 Q. And that's based on what? They told you that
7 or that's based on an observation?

8 A. A combination. So, I mean, part of their
9 reasoning for closing out the lease was they
10 couldn't have enough people in the building.

11 Q. Okay.

12 A. So.

13 Q. All right. You had indicated at one point
14 that you were there every day. Did you observe
15 individuals from the neighboring residences
16 walking to the studio rather than driving?

17 A. I'm not looking out the window at who's
18 coming in and out of the yoga studio. So they
19 may have had local residents using the studio.
20 I'm guessing they must have, but I'm not familiar
21 with their customer base.

22 Q. Okay. All right. So you weren't necessarily
23 sitting by the window looking outside, seeing
24 who's coming and going, right?

1 A. No, I was not.

2 Q. I got it. And by the same measure, you were
3 not sitting by the window, watching the yoga
4 studio to see how many people they had come into
5 each class, correct?

6 A. That is correct.

7 Q. Okay.

8 A. Those membership numbers you would have to
9 get from them.

10 Q. Right. You had testified that you did not
11 think converting this to office space would not
12 change the character of the neighborhood; is that
13 right?

14 A. Yes. I do not see how it would change the
15 impact or the nature of what is going on there
16 upstairs.

17 Q. Okay. And just to clarify, is it still
18 conditional that KBS360 could be a tenant on the
19 first floor or has that already been terminated?

20 A. The buyer of this property that was lined up
21 to purchase this property pulled out as a
22 function of this meeting being postponed last
23 month.

24 Q. Okay. And the new buyer would be leasing the

1 space back to you on the first floor; is that
2 right?

3 A. That would be the assumption, unless I have a
4 buyer who wants the whole building, and to use as
5 an office. I need a buyer. I cannot predict
6 what a future buyer will be, but it is being used
7 and it is being listed as an office space.

8 Q. So you're seeking this change in
9 nonconforming use today for your own use, not in
10 connection with a sale, right?

11 A. Not at this time, no.

12 Q. Okay. Got it. I'm just going to ask you
13 briefly about the parking easement, the 2006
14 easement. Your building at 424 East Elm Street
15 is referred to as lot -- I'm representing to you
16 it's referred to as Lot 14 in the 2006 easement.
17 Excuse me.

18 I just want to clarify the record.
19 You have 18 parking spaces that belong to your
20 property, correct?

21 A. Ed has that in front of him, I believe, so
22 yeah. I don't have the document in front of me,
23 but that sounds correct.

24 Q. And then there's three designated spaces in

1 addition, under the terms of the 2006 easement,
2 correct?

3 A. That is correct.

4 Q. And the remainder, all remaining parking
5 spaces are shared; is that right?

6 A. That's correct, with the property next door.

7 Q. So the tenants and occupants of 441 East
8 Hector Street also rely on the shared parking
9 spaces as well, correct?

10 A. I'm not sure which is the property you're
11 referring to. Is that the residential property?
12 I don't know the numbers. I'm sorry. Is that
13 the residential or the office building next door?

14 Q. It's 441 East Hector. It's next door.

15 A. That's the Freeman building? Yes, the office
16 building, they use that.

17 MR. FREEDMAN: Okay. All right.
18 Those are all of the questions I have. Thanks.

19 MR. GLASSMAN: Mr. Kellerman, do
20 you have any questions?

21 MR. KELLERMAN: No questions for
22 me. Thank you.

23 MR. GLASSMAN: Thank you.

24 Mr. Barton, I'll turn it over to

1 you for board questions.

2 CHAIRMAN BARTON: Thank you.

3 Turning to zoning board members,
4 starting with Mark Danek.

5 Mark, do you have any questions of
6 this witness?

7 MR. DANEK: Yes, just one.

8 Ms. Jamison, when the yoga studio
9 was in use, do you know how many of their
10 students, potentially, were, say, walkers, where
11 they didn't rely on cars or parking spots?

12 MS. JAMISON: I do not, I'm
13 afraid. I don't know how many were local. I
14 know that the owner -- all I know is the
15 pathways, because the yoga studio said they do
16 have walkers. That's all I know. I don't know
17 how many. That could have been one. I have no
18 idea.

19 MR. DANEK: Thank you.

20 Nothing further for me.

21 CHAIRMAN BARTON: Thank you.

22 Greg Scharff, do you have any
23 questions?

24 MR. SCHARFF: No further. No

1 questions. Thank you.

2 CHAIRMAN BARTON: Thank you.

3 Marlowe Doman, any questions for
4 Ms. Jamison? Marlowe?

5 MR. DOMAN: Sorry. No, not as of
6 right now.

7 CHAIRMAN BARTON: Thank you.

8 Alan Chmielewski, do you have any
9 questions for Ms. Jamison?

10 MR. CHMIELEWSKI: No, I do not.
11 Thank you.

12 CHAIRMAN BARTON: I do have a
13 question, Ms. Jamison. Pre-Covid, when the yoga
14 studio was working at full capacity, is it your
15 recollection that the parking lot was full or
16 were spaces available?

17 MS. JAMISON: I would say it was
18 probably full, because I know that some people
19 park along where the community garden is,
20 opposite the building. So there's free parking,
21 street parking, and I know that there -- I used
22 to watch or see people crossing the street
23 holding yoga mats. So I know that some people
24 parked in front. Now, they would only park there

1 if the lot was full. So, yes, I'm assuming.

2 CHAIRMAN BARTON: Okay. Thank
3 you.

4 That's all the questions I have.
5 Checking with staff, Eric Johnson,
6 do you have any questions?

7 MR. JOHNSON: I do not.

8 CHAIRMAN BARTON: And
9 Mr. Glassman?

10 MR. GLASSMAN: I do not. Thank
11 you.

12 CHAIRMAN BARTON: Okay. Bobbi Jo,
13 have you received any questions from the public?

14 MS. MYRSIADES: No, I have not.

15 CHAIRMAN BARTON: Thank you. And
16 those of you who may be viewing or listening to
17 this hearing, if you are a member of the public,
18 and you would like to ask a question, please
19 identify yourself, name and address, and you may
20 ask your question.

21 And, apparently, there are no
22 further questions.

23 So we'll turn it back to
24 Mr. Campbell, if you would like to present your

1 next witness.

2 MR. CAMPBELL: Thank you.

3 Frank Tavani.

4 MR. TAVANI: Hello.

5 ---

6 FRANK TAVANI, having been duly
7 sworn previously, was examined and
8 testified as follows:

9 BY MR. CAMPBELL:

10 Q. Frank, Mr. Tavani, you have been sworn in.

11 Can you, for the record, state your name?

12 A. My name is Frank Tavani, T-a-v-a-n-i.

13 Q. What do you do for a living?

14 A. I'm a traffic engineer.

15 Q. Have you provided testimony before to boards,
16 such as this zoning hearing board?

17 A. Yes.

18 Q. How about have you presented testimony to
19 this board before?

20 A. I believe I have.

21 Q. Are you a licensed engineer?

22 A. I am.

23 Q. Where did you get your college degree?

24 A. Rensselaer Polytechnic Institute in Troy, New

1 York.

2 MR. CAMPBELL: I can inquire
3 further, but I would offer Mr. Tavani as an
4 expert in traffic engineering.

5 MR. GLASSMAN: Mr. Freedman, do
6 you have any questions regarding Mr. Tavani's
7 qualifications?

8 MR. FREEDMAN: Has a copy of his
9 CV been submitted to the board or no?

10 MR. CAMPBELL: I think I have one.
11 I can submit one or I could ask to leave the
12 record open to do that. Mr. Tavani's -- I know
13 that he has offered testimony before for this
14 board and other boards in the borough, and he's
15 been accepted as an expert.

16 MR. GLASSMAN: For a complete
17 record, I would like a copy of his CV in the
18 record.

19 Mr. Freedman, pending receipt of a
20 CV, do you have any questions for him on his
21 qualifications or do you want to defer until you
22 receive a copy of the CV and we can --

23 MR. FREEDMAN: I would like to
24 defer, if there's one forthcoming.

1 MR. CAMPBELL: One moment.

2 MR. GLASSMAN: As this is a break,
3 and you're looking for this, Mr. Campbell, I
4 would like to take a quick recess of this case,
5 because the -- and ask if the applicant who's
6 present for 450 Colwell Lane Dryden Court
7 Development, LLC, if they would be interested in
8 continuing the case to September 13th, at
9 7:00 p.m., rather than sitting around and waiting
10 for us to finish this case and the other cases
11 that we have scheduled after this?

12 (Recess.)

13 ---

14 MR. GLASSMAN: Okay. So we're
15 back on the record on this case.

16 Mr. Campbell, were you able to
17 find a CV?

18 MR. CAMPBELL: I was, and I've
19 sent it to Mr. Freedman, I've sent it to you, and
20 I CC'd Mr. Johnson and Bobbi Jo via e-mail.

21 CHAIRMAN BARTON: Mr. Freedman,
22 have you received it?

23 MR. FREEDMAN: I have. May I
24 request a ten-minute recess, since I just

1 received this?

2 MR. GLASSMAN: As you've just
3 received it, I don't want to go any further.

4 Mr. Barton, I would be okay with a
5 quick ten-minute recess to allow him to quickly
6 review, so we can continue the hearing this
7 evening and continue to move forward.

8 CHAIRMAN BARTON: That's fine.
9 I'm seeing a time of 8:07, so we will take a
10 recess until 8:17 p.m.

11 (At 8:07 p.m., a recess was taken
12 until 8:17 p.m.)

13 ---

14 CHAIRMAN BARTON: So it is 8:17.
15 We'll resume the hearing for 424 East Elm Street.

16 And are you there, Mr. Freedman?

17 MR. FREEDMAN: I'm here. Thank
18 you for the -- thank you for indulging me.

19 CHAIRMAN BARTON: Mr. Glassman,
20 would you like to proceed?

21 MR. GLASSMAN: Yeah.

22 Mr. Freedman, so now that you've
23 had a few minutes to look at the CV that's been
24 provided, do you have any questions about his

1 qualifications or would you like to ask him any
2 questions?

3 MR. FREEDMAN: Just a few
4 questions to establish the record.

5 BY MR. FREEDMAN:

6 Q. Mr. Tavani, can you hear me?

7 A. Yes.

8 Q. Okay. I've had an opportunity to take a look
9 at your CV provided by counsel here.

10 Just real quick, have you been
11 terminated from any of the projects listed on
12 your CV here?

13 A. No.

14 Q. Okay. And taking a look at the projects that
15 you've listed on your CV, have you been
16 terminated from any projects that are not listed
17 on your CV with respect to your services as a
18 traffic engineer?

19 A. No.

20 Q. Okay. Have you testified on behalf of a
21 client represented by Mr. Campbell before?

22 A. By other clients represented by Mr. Campbell?

23 Q. Correct.

24 A. Yes.

1 Q. Okay. Have you ever testified in opposition
2 to a client represented by Mr. Campbell or one of
3 the members of his firm?

4 A. I'm not sure.

5 Q. Not that you recall?

6 A. Not that I recall.

7 MR. FREEDMAN: Okay. I have no
8 other questions.

9 I'm sorry. I have one more.

10 BY MR. FREEDMAN:

11 Q. Mr. Tavani, did you -- have you actually
12 visited the site that is the subject of this
13 report?

14 A. Yes.

15 MR. FREEDMAN: Okay. I have
16 nothing further then.

17 MR. GLASSMAN: Do any board
18 members -- sorry.

19 Mr. Kellerman, do you have any
20 questions on his qualifications?

21 MR. KELLERMAN: No questions for
22 me.

23 MR. GLASSMAN: Do any of the board
24 members have any questions about the

1 qualifications of Mr. Tavani?

2 CHAIRMAN BARTON: I have none.

3 MR. GLASSMAN: Mr. Barton, hearing
4 testimony and reviewing the CV, I'd recommend
5 that we approve Mr. Tavani as an expert in
6 traffic engineering.

7 CHAIRMAN BARTON: Yes. Let's do
8 that.

9 MR. GLASSMAN: Mr. Campbell, you
10 can go ahead and start with your direct
11 examination.

12 MR. CAMPBELL: Sure.

13 BY MR. CAMPBELL:

14 Q. Mr. Tavani, what were you hired to do in
15 relation to this application?

16 A. I was hired to investigate the potential
17 impacts of the proposal to substitute office
18 space for the first floor of 424 East Elm Street,
19 and, specifically, in substitution for the most
20 active use there, which was a yoga studio.

21 Q. And what did your investigation focus on in
22 terms of the impact?

23 A. Mainly traffic, also parking.

24 Q. Okay. Did you reach conclusions about what

1 the impact would be if the use was changed from
2 office to a yoga studio -- I'm sorry -- from a
3 yoga studio to office?

4 A. Yes.

5 Q. With regard to traffic, share with the board
6 what your analysis and what your conclusion is.

7 A. Certainly. So my analysis culminated into a
8 written report, which was dated 12 August, 2021.
9 I'm not sure if it's been marked as an exhibit
10 yet, but it is a four-page report, and I believe
11 it is on the screen right now. We would --

12 Q. It's Exhibit 9.

13 A. Thank you. So A-9 is four pages, and as we
14 heard from counsel, as well as the previous
15 witness, the subject property is approximately
16 8,400 square feet of the two stories. The top
17 story is currently occupied by an office, and the
18 bottom story was most recently occupied as a yoga
19 studio.

20 As the board members have probably
21 heard from other traffic engineers in the past,
22 one of the go-to resources that traffic engineers
23 use is a publication from ITE, which is not very
24 creatively titled "The Trip Generation Manual."

1 I'm holding it up right now, for purposes of the
2 record. It's actually one of the four volumes of
3 the current 10th Edition.

4 Although it is a long document, it
5 does not include every conceivable land use
6 category. While it does contain office, it does
7 not contain yoga studios.

8 Fortunately, this particular yoga
9 studio has been in operation at this site for a
10 good number of years, and the prior witness has
11 had some opportunity to observe not only the
12 space that the tenant was occupying, and has some
13 knowledge how many people can fit in the studio
14 space, but also has on occasion seen the
15 activities going to and from the site.

16 So as shown on Page 2 of A-9, in
17 bullet format, there were a number of things that
18 I highlighted from my conversations with the
19 first witness, and as the first witness also
20 testified during her direct previously, namely
21 that the first floor has two large rooms that are
22 each used as studio space, or was used as studio
23 space.

24 Each room could host up to 30

1 people. The studio was opened -- again, I'm
2 reading from the second page of the report right
3 now. The studio was open seven days a week,
4 typically had up to six classes per day, and
5 classes typically had 15 to 20 participants.

6 As you also heard from the
7 witness, the classes were offered at times that
8 were convenient to people, namely before work,
9 before the typical weekday workday, after work
10 and during lunch.

11 Oftentimes classes were scheduled
12 to be back to back, and since there were two
13 studios, there could also be an overlap to afford
14 maximum versatility to the clients of the studio.
15 So as indicated in a rather long footnote on the
16 bottom of this page, what that means is that, if
17 the first studio, for example, offered a class
18 from 5:00 to 6:00 p.m., and only had 20
19 participants, even though the capacity of the
20 room was 30, at around 6 o'clock those 20 people
21 might be leaving, and if another class was
22 offered in that same room for 6:00 to
23 7 o'clock during that approximate same timeframe,
24 another 20 people could be arriving. So that's

1 40 right there.

2 Now, traffic engineers tend to
3 focus on peak hourly flows. That's how all of
4 our computer programs are set up, and what I was
5 just talking about was literally a 10 or
6 15-minute period of time around 6 o'clock, when
7 one class ends and another class begins in one
8 studio.

9 If the second studio had a
10 30-minute stagger to it, so classes from 5:30 to
11 6:30, and then 6:30 to 7:30, and they were
12 equally occupied, there would be another 20
13 people coming and 20 people going at around 6:30.

14 So that means in the one-hour
15 period from, say, 5:45 to 6:45, there could be as
16 many as 80 people coming and going to patronize
17 the site of those two studios, and that's not
18 even at the capacity of the studios. That's
19 assuming about 66 percent of capacity. So
20 needless to say, there's a lot of traffic
21 activity that could be occurring at the studios.

22 If you turn to Page 3 of A-9, the
23 next thing I did was investigate what the
24 potential trip making of the office could be.

1 Now is not the greatest time to be making traffic
2 observations because of Covid, and a lot of
3 people in offices are working remotely.

4 But, fortunately, the Trip
5 Generation Manual has an abundance of data
6 regarding generic office sites, and as shown at
7 the top of Page 3 of A-9 in Table 1, the equation
8 for either peak hour, either the arriving peak
9 hour in the morning or the departing peak hour in
10 the afternoon is about 1.5 trips for every
11 thousand square feet of office space.

12 So a 4.2 thousand or 4,200 square
13 feet office footprint could generate about five
14 trips. That's total in and out, maybe four
15 arriving in the morning, and four leaving in the
16 afternoon, with one person going the other
17 direction for whatever reason.

18 Table 2 is where I summarize
19 everything that I just said, but I added some
20 conservative measure to provide some added
21 assurances from this analysis. So, mainly, what
22 I did here was, rather than relying on many as 80
23 people coming and going from the yoga studio, as
24 you can see in Table 2, in the fourth column, I

1 just cut that in half, and said that there could
2 be as many as 20 people entering and leaving
3 during either peak hour, for a total of 40 trips.

4 And then the office, even though
5 ITE data was very well documented and robust, and
6 suggests 4,000 square feet would only generate
7 five peak hour trips, as a measure of
8 conservativeness, I doubled that estimate to ten,
9 and even in doing so, we still have a tremendous
10 reduction in how much traffic -- how much less
11 traffic there may be at this site, if this
12 request is approved.

13 And the numbers speak for
14 themselves. It's a substantial reduction, and
15 this is just during one hour in the morning, and
16 one hour in the afternoon. Of course, there's
17 other times of the day where traffic may be
18 coming and going. It will be less than these
19 peak hours. There will be some traffic during
20 those hours as well.

21 So all told, you know, it's a
22 significant impact to go back to an office use,
23 which I understand had previously at one time
24 been in this building in 2005.

1 Another publication I looked at,
2 that I mentioned earlier or another investigation
3 I made was regarding parking. ITE, once again,
4 makes a publication, "The Parking Generation
5 Manual." According to it, an office generates a
6 peak parking demand of about 2.4 spaces per
7 thousand square feet.

8 Now, I know that's less than what
9 the ordinance requirement is, but it's worth
10 noting, because ITE data is always updated every
11 few years. My experience, a lot of township
12 ordinances can stagnate for decades, and might
13 not really reflect what's going on in the world
14 today, whereas ITE is constantly collecting real
15 world empirical data in deciding whether or not
16 to include it in subsequent editions of its
17 manuals.

18 And according to its data, which
19 is technically pre-Covid as well, the peak is
20 about 2.4 spaces per thousand. So that means
21 that the first floor would generate about ten
22 spaces of demand, and about ten spaces, that's
23 peak.

24 And second floor would be an

1 equivalent number. So that means about 20 spaces
2 would be required, although, unfortunately, "The
3 Parking Generation Manual," once again, does not
4 have the yoga studio land use category. We could
5 see from the traffic analysis that the parking
6 demand associated with the yoga studio is likely
7 significantly higher than the office. In fact,
8 it could be an order of magnitude greater at peak
9 times.

10 What's on the screen now is Page 4
11 of A-9, which really just summarizes that -- I
12 took a significantly higher than expected
13 approach to the office trip generation, as
14 recommended by ITE. I doubled it, and I took a
15 significant lower than expected potential yoga
16 studio peak trip generation. I cut it in half.

17 I also did not include any
18 potential reduction in traffic or parking, as it
19 may be associated with transit usage, bike trips.
20 There are sidewalks in the area. There are
21 nearby transit opportunities, including bus and
22 rail, and that could certainly have some effect
23 on traffic and parking. Of course, it would have
24 pretty much the same effect regardless of the

1 use, and that's it.

2 Q. Just a couple of questions, Mr. Tavani.

3 First, to the extent that your report includes
4 information that you received from Ms. Jamison,
5 is it your opinion that what's in your report is
6 consistent with what she testified to?

7 A. Yes.

8 Q. And so to summarize, doing your traffic
9 analysis, in terms of determining the number of
10 trips, you cut in half what the ITE manual would
11 expect an office to generate -- I'm sorry. You
12 doubled what the ITE manual would expect an
13 office would generate. You cut in half what
14 would -- what the testimony would demonstrate the
15 yoga studio would generate; is that correct?

16 A. Correct.

17 Q. And so you did that to come up to use more --
18 you used a more conservative estimate?

19 A. Yes.

20 Q. So based on those more conservative
21 parameters, do you have an opinion as to whether
22 or not change from a yoga studio to office would
23 have an effect or an impact, a detrimental effect
24 or impact on the site and the immediate

1 neighborhood?

2 A. I do have an opinion.

3 Q. And what's that opinion?

4 A. My opinion is that it would improve
5 conditions, and would be a benefit to the
6 community.

7 Q. Do you have an opinion as to how the change
8 of use from a yoga studio to office would impact
9 parking demand on the site and on the adjacent
10 properties in the immediate area?

11 A. Yes.

12 Q. What's that opinion?

13 A. The same as I just stated.

14 Q. To the extent that your opinions today are
15 within the purview of your expertise, are they to
16 a reasonable degree of scientific and
17 professional certainty?

18 A. They are.

19 MR. CAMPBELL: Those are the
20 questions I have for Mr. Tavani.

21 CHAIRMAN BARTON: Mr. Glassman,
22 would you like to question the parties to this
23 case please?

24 MR. GLASSMAN: Yes.

1 Mr. Freedman, do you have any
2 questions for cross?

3 MR. FREEDMAN: Yes. Thank you.

4 BY MR. FREEDMAN:

5 Q. Mr. Tavani, you indicated that you visited
6 the site in -- to aid in your preparation of this
7 report; is that right?

8 A. Yes, I drove by the site over the weekend.

9 Q. You drove by this weekend?

10 A. Yes.

11 Q. Okay. You didn't get out of the car?

12 A. Correct.

13 Q. Okay. Did you stop your car?

14 A. Yes.

15 Q. Okay. And how long did you sit there?

16 A. I do not know.

17 Q. Okay. Was it less than ten minutes?

18 A. Yes.

19 Q. Okay. Your report indicates that the
20 Institute of Transportation Engineers publication
21 compiles empirical data, which is collected on a
22 national basis. Is that correct? Did I state
23 that correctly?

24 A. Yes.

1 Q. Okay. So is the data that is collected and
2 used in your report, is that based on data that
3 has been consolidated from various regions across
4 the country?

5 A. For the office use, yes.

6 Q. Okay. And you also indicated in your report
7 that if local and empirical data can be gathered
8 for a particular proposed site, it is likely
9 comparable to national data in terms of
10 usefulness. Is that -- am I stating your report
11 correctly?

12 A. Yes.

13 Q. Was there any local empirical data that was
14 gathered or was that gathered from your car?

15 A. There was no empirical data that was gathered
16 because of the Covid pandemic. There was no
17 ability to collect, for example, traffic counts
18 or make parking observations relative to the
19 studio --

20 Q. You could not -- I'm sorry. Continue please.

21 A. Relative to the yoga studio or to the office
22 for that matter.

23 Q. I'm just confirming what you just said. You
24 said you were unable to make local -- collect

1 local empirical data as to the parking and
2 traffic flow because of Covid restrictions? Is
3 that correct?

4 A. And because the studio was not functioning.

5 Q. Right. Okay. So the observations you made
6 with respect to the yoga studio's traffic flow,
7 what you had just indicated, were long after the
8 yoga studio had ceased operations, correct?

9 A. False. I made no observations relative to
10 the yoga studio. The traffic analysis relative
11 to the yoga studio was based on my understanding
12 from conversations with Ms. Jamison.

13 Q. Okay. So all of the data that you collected
14 with respect to the yoga studio came from your
15 conversations with Ms. Jamison, correct?

16 A. Correct, and that was tempered with an
17 element of common sense and understanding of
18 space as well.

19 Q. Okay. Can you give me an example of this
20 common sense that -- something that you pieced
21 together in your report that was common sense
22 that you did not hear from Ms. Jamison?

23 A. Well, I did not say that it was something I
24 didn't hear. I said it was -- the conversation

1 was tempered with common sense, and I can
2 certainly give an example.

3 So I'm currently sitting in a room
4 that measures about nine by 12 feet. So it's
5 roughly 100 square feet. I'm currently by
6 myself, but I can certainly be here with more
7 than one person, and if I was having some sort of
8 a physical activity, I can probably fit two or
9 three people comfortably in here.

10 Knowing that the floor plan of the
11 building is over 4,000 square feet, which is
12 equivalent to practically 30 or 40 of these
13 rooms, I felt that the numbers that she relayed
14 to me made sense, that they passed the common
15 sense test, and, if anything, they would be
16 conservative.

17 Q. Got it. And you indicated in your report
18 here that yoga studios are not available?

19 There's no data in the ITE that pertains
20 specifically to yoga studios; is that right?

21 A. That's right.

22 Q. And am I reading your report correctly that
23 you did use the figures in the ITE to prepare
24 Tables 1 and 2 or am I misreading that?

1 A. For the office in Table 2.

2 Q. Okay. And what about for the yoga studio in
3 Table 2?

4 A. No, counselor. As I stated, it's not
5 available, and as you just stated, it's also not
6 available.

7 Q. So the figures that you used in Table 2 for
8 the yoga studio came from Ms. Jamison?

9 A. They came from my analysis, based on the
10 numbers that she supplied to me.

11 Q. Okay. Now, if I told you that the yoga
12 studio had between two and four classes per day,
13 would that have an impact on the ultimate
14 conclusion in your report?

15 A. It may.

16 Q. Okay. And that conclusion, presumably, would
17 be less perhaps decisive with respect to the
18 overall impact that a change in nonconforming use
19 would have; is that a fair assumption?

20 A. It would depend on more details relative to
21 whether it was two or four classes per day, what
22 days per week, and what times per day. There's
23 certainly the possibility that the conclusions
24 and the spirit of Table 2 would still be

1 satisfied.

2 Q. Okay.

3 A. More classes.

4 Q. And, again, hypothetically, if I told you
5 that there were fewer than 15 to 20 participants,
6 same results? It may change your analysis with
7 respect to your ultimate conclusion as to the
8 overall impact on the change in nonconforming
9 use, correct?

10 A. It could have an impact, yes.

11 Q. Okay. I want to make sure I heard your
12 testimony correctly. The empirical data that's
13 collected throughout the United States, that's
14 data that's collected from various regions, in
15 various cities and of different sizes across the
16 country; is that right?

17 A. Yes. My understanding is what typically
18 happens is a property owner or another traffic
19 engineer or any other qualified individual will
20 collect traffic data, traffic counts, and compare
21 that to some variable, like the number of
22 residential units or thousands of square feet of
23 gross floor area, put together a short report,
24 and offer it to ITE for consideration in future

1 publications.

2 So, essentially, Mr. Jamison could
3 offer her own observations of traffic data by
4 conducting traffic counts, comparing it to some
5 variable, and submitting it to ITE for
6 consideration.

7 Q. Got it. Based on the -- and I apologize if
8 I'm misstating your report here, but based on
9 your Table 2 here, on Page 3, when you're
10 referring to a trip, is that an individual
11 entering the property?

12 A. Or exiting the property, yes.

13 Q. Or exiting the property. And is the
14 presumption with respect to your report that
15 every individual that is listed as a, quote,
16 unquote, trip, that that individual is getting to
17 the property by car?

18 A. Yes.

19 Q. And is the presumption that every individual
20 that is getting to that property by car is taking
21 a separate car?

22 A. Yes.

23 Q. Okay. Have you had personal occasion to
24 prepare any expert reports with respect to yoga

1 studios before, prior to today?

2 A. No.

3 Q. No?

4 A. No.

5 Q. Okay. In general, do your traffic reports
6 account for any -- could you restate your
7 testimony with respect to -- let me just start
8 over. Sorry about that.

9 With respect to individuals
10 visiting the site in your traffic report, do you
11 account for individuals entering the property by
12 walking, biking or public transit?

13 A. No, that is made clear from Page 4 of A-9.

14 Q. Okay. So the numbers that you used account
15 for a certain percentage of individuals walking
16 to the property or not?

17 A. I think this is the third time you have
18 restated the same question. They do not.

19 Q. Okay. Got it now. In general, do you
20 typically -- do you typically prepare in these
21 reports your personal observations with respect
22 to traffic flow or is it common to do so, based
23 on information from third parties?

24 A. Whichever source gives the most reliable and

1 and knowledgeable set of data is typically used.

2 Q. Okay. And in this scenario, because the yoga
3 studio is no longer operational, you were relying
4 on the information from Ms. Jamison, correct?

5 A. Correct.

6 MR. FREEDMAN: Okay. I have
7 nothing further for this witness. Thanks.

8 MR. GLASSMAN: Mr. Kellerman, do
9 you have any questions?

10 MR. KELLERMAN: No questions for
11 me. Thank you.

12 MR. GLASSMAN: Mr. Campbell, any
13 redirect?

14 MR. CAMPBELL: Real quick.

15 BY MR. CAMPBELL:

16 Q. Mr. Tavani, the manuals that you referenced,
17 the ITE traffic manual and the ITE parking
18 manual, are they customarily used by traffic
19 engineers to perform traffic impact studies and
20 parking analyses?

21 A. Yes, they are customarily the first -- among
22 the first resources consulted.

23 Q. Have you had occasion to prepare reports and
24 analyzing traffic and parking or uses that aren't

1 called out in either of the ITE manuals?

2 A. Yes.

3 Q. Is that customarily done and accepted in your
4 industry?

5 A. In my experience, yes.

6 MR. CAMPBELL: Those are the
7 questions that I have. Thanks.

8 MR. GLASSMAN: Mr. Barton, if you
9 want to take over for any board questions?

10 CHAIRMAN BARTON: Yes, let's do
11 that.

12 And, Mr. Danek, do you have any
13 questions of this witness?

14 MR. DANEK: No, none for
15 Mr. Tavani. Thank you.

16 CHAIRMAN BARTON: Thank you.

17 Mr. Scharff?

18 MR. SCHARFF: No, none at this
19 time. Thank you.

20 CHAIRMAN BARTON: Thank you.

21 Mr. Doman, any questions?

22 MR. DOMAN: None. Thank you.

23 CHAIRMAN BARTON: Thank you.

24 And, Alan Chmielewski, do you have

1 any questions?

2 MR. CHMIELEWSKI: No questions for
3 me. Thank you.

4 CHAIRMAN BARTON: Mr. Tavani, if
5 ITE, as you say, does not have numbers for a yoga
6 studio, would it have had numbers, say, for an
7 indoor exercise studio, that type of use?

8 MR. TAVANI: There are
9 recreational uses, but there's not a use as you
10 described, indoor exercise studio.

11 CHAIRMAN BARTON: Thank you.

12 Bobbi Jo, have you received any
13 questions online for this witness?

14 MS. MYRSIADES: No, I have not.

15 CHAIRMAN BARTON: Thank you.

16 Any members of the public, if
17 viewing or listening, if you have a question for
18 Mr. Tavani, please identify yourself by name and
19 address and ask your question.

20 And seeing none.

21 Then I'll ask Mr. Campbell, is
22 there anything else that you would like to
23 present at this time?

24 MR. CAMPBELL: Mr. Barton, I did

1 want to ask Mr. Johnson one quick question as the
2 borough zoning officer, if that's permitted.

3 CHAIRMAN BARTON: Please do.

4 MR. CAMPBELL: Mr. Johnson, I
5 marked Exhibit 7, a chapter from the
6 International Building Code relating to building
7 occupancy and loads. Am I correct that the
8 borough has adopted the International Building
9 Code for use?

10 MR. JOHNSON: Yes, the
11 International Building Code has been adopted by
12 the borough.

13 MR. CAMPBELL: Thank you.

14 CHAIRMAN BARTON: Mr. Glassman,
15 would this be the time to ask for any statements
16 on the record for or against the application?

17 MR. GLASSMAN: Well, Mr. Freedman,
18 do you have any cross on what was just asked of
19 Mr. Johnson, I guess?

20 MR. FREEDMAN: I do not.

21 MR. GLASSMAN: Okay.

22 Mr. Campbell, do you have other witnesses?

23 MR. CAMPBELL: We do not.

24 MR. GLASSMAN: Okay.

1 Mr. Freedman, do you have any witnesses?

2 MR. FREEDMAN: I do. I have two
3 witnesses. I will also make a brief
4 introduction, and then have my witnesses sworn
5 in, if that's all right with the board and
6 Chairman.

7 MR. GLASSMAN: That is fine.

8 (Discussion off the record.)

9 ---

10 CHAIRMAN BARTON: Okay. Very
11 well.

12 So I believe then we can proceed
13 with Mr. Freedman.

14 MR. FREEDMAN: Thank you,
15 Mr. Chairman.

16 The objections of TRDS 441 Hector
17 Associates, LP, the neighboring property of 441
18 East Hector Street can effectively be divided
19 into two subcategories: One, the restrictions,
20 the special exception request here for the
21 nonconforming use violates the restrictions in
22 the code, and by extension Pennsylvania law, and,
23 two, it violates the terms of the 2006 easement.

24 Referring first to the

1 restrictions contained in the code, there is not
2 any authority that allows a transfer from one
3 nonconforming use to effectively any
4 nonconforming use. It can't be detrimental or
5 less appropriate to the character of the
6 neighborhood.

7 Here we have a yoga studio that is
8 low impact, it's non-retail, and now we're moving
9 into an office space with potentially full-time
10 employees, commuters, things of that nature.

11 The parking restrictions also do
12 not meet the requirements contained in the code.
13 I disagree with the applicant's assessment
14 contained in the revised parking summary found in
15 Exhibit 6.

16 What we have here are two separate
17 4,000 square foot units, one on the first floor,
18 one on the second floor, and they actually only
19 own 21 parking spaces. The remainder of the
20 parking spaces are shared. They're subject to
21 this 2006 easement that allows my client to have
22 equal access to these spaces during certain
23 periods of time.

24 And, last, but certainly not

1 least, but with respect to the code and law
2 issues, the current nonconforming use, as far as
3 we can tell, was abandoned, as that is defined
4 under Section 27-703, and I would offer to the
5 board that this would actually, in fact, require
6 an application for a variance.

7 The 2006 easement specifically
8 references at Paragraph 5 that it prohibits any
9 change that would interfere with the parking
10 easement. I'm going to offer some testimony as
11 to the relatively low impact that the yoga studio
12 has created in the parking easement, and will
13 allow the board to take that into consideration,
14 and I would just ask that I have the opportunity
15 to conclude, after my witnesses provide their
16 testimony, with some additional argument for
17 consideration.

18 So with that I'll call or I'll
19 have my witnesses sworn in, Michael Barrist and
20 Anthony Rufo.

21 MR. GLASSMAN: Let's have them
22 sworn in together please.

23 ---

24 MICHAEL BARRIST, having been duly

1 sworn, was examined and testified
2 as follows:

3 ---

4 ANTHONY RUFO, having been duly
5 sworn, was examined and testified
6 as follows:

7 MR. FREEDMAN: Okay. I'm going to
8 start with Michael Barrist.

9 BY MR. FREEDMAN:

10 Q. Mr. Barrist, could you tell the board what
11 your connection is to 441 East Hector Street?

12 A. Yes. I am the sole owner of TRDS 441 GP,
13 LLC, which is the general partner of TRDS 441
14 Hector Associates, LP, which is the owner of the
15 property at 441 East Hector.

16 Q. Okay. And what connection does -- I'm going
17 to call it TRDS for short. What connection does
18 TRDS have to 424 East Elm?

19 A. We are a party to a parking easement from
20 2006 that we inherited when we bought the
21 property in 2012.

22 Q. Okay. So you bought it in 2012, and you've
23 had occasion to visit the site prior to your
24 purchasing the property; is that right?

1 A. I did.

2 Q. Okay. And tell me about that. When you were
3 purchasing 441 East Hector Street, what steps did
4 you take to observe the parking conditions?

5 A. I visited the property the week prior
6 multiple times in early morning, midmorning,
7 afternoon, lunchtime and after hours, as well as
8 on the weekends to see what the parking condition
9 was, primarily in the back lot, because that's
10 where people from the yoga studio would park, but
11 the entire parking condition, because there's
12 limited parking at the property, as is. There's
13 a lot of street parking, but very little parking
14 at the property.

15 Q. And why did you do that? Why did you want to
16 observe the parking situation at the property?

17 A. Because I wanted to be sure that the yoga
18 studio and the office on the second floor would
19 not over-park the parking lot.

20 Q. Okay. And based on your observations in
21 2012, obviously, you moved forward with the
22 purchase, right?

23 A. Correct.

24 Q. And what were your observations at the time,

1 if you can remember? I know it's been some time.

2 A. There was very limited use of the parking
3 lot. There was, you know, five, six cars, maybe
4 ten on a rare occasion, but very limited use.
5 Many people -- it's a very young neighborhood
6 with lots of apartments. Many people actually
7 walk to the yoga studio.

8 So I was actually pleasantly
9 surprised there was not an over-parking of the
10 lot, and a lot of the cars that were there early
11 morning, in the evening and on the weekends.

12 Q. Okay. And since 2012 to present, how often
13 were you at the property?

14 A. I'm probably there, I would say, five or six
15 times a month, sometimes more, sometimes less,
16 depending if there's a tenant being put into a
17 space, but I'm there all different times for
18 meetings and other reasons.

19 Q. Okay. I'm going to ask you to recall back to
20 January of 2020, if you can, before the Covid
21 shutdowns. Do you have any recollection of
22 visiting the property in January of 2020?

23 A. I don't have specific recollection, but I'm
24 there all the time. So I would have been there.

1 Q. Let me rephrase. Did you have occasion to
2 visit the property shortly before the Covid
3 shutdowns?

4 A. Yes, before, during and after.

5 Q. Okay. And what were your general
6 observations with respect to the traffic flow and
7 parking that was required or utilized through the
8 yoga studio immediately preceding the Covid
9 shutdown?

10 A. The yoga studio was not adversely impacting
11 our parking lot at all. The condition really
12 didn't change from 2012, when I bought the
13 property through and just prior to shutdown from
14 the pandemic.

15 Q. And during that general area of time, during
16 that duration immediately preceding Covid, did
17 you observe individuals from the neighborhood and
18 community walking up and biking to the yoga
19 studio?

20 A. Yes. Primarily in the morning and the
21 evening, yes.

22 Q. Okay. Okay. And after -- I'm going to ask
23 you, after Covid, March of 2020 and later,
24 presumably there was even less of a use of the

1 parking easement; is that correct?

2 A. Correct.

3 Q. Okay. When was the last time you observed
4 individuals going to the yoga studio for its use?

5 A. I would have to say first to second quarter
6 of 2020.

7 Q. Okay.

8 A. I don't remember the exact date, you know,
9 but when everything shut down, everything shut
10 down. I think there was a mandate they had to
11 shut down, but I would observe people going in
12 and out and walking there prior to that.

13 Q. Okay. And throughout 2020 you observed
14 members of the community and neighborhood walking
15 up. Did you also observe elderly individuals
16 going to classes designed for the elderly?

17 A. I did not particularly notice that they were
18 young or old.

19 Q. Okay.

20 A. Yoga is a pretty -- my wife does it. It's a
21 pretty eclectic group. It ranges from young to
22 old.

23 Q. Okay. Now, you currently use the parking
24 area that is the subject of the 2006 easement,

1 correct?

2 A. The tenants of my building use it, yes.

3 Correct.

4 Q. And describe the makeup of those tenants.

5 A. The first floor of the building is the
6 Edwards-Freeman Nut Company, which is a retail
7 candy operation, and then the remainder of the
8 building is just general office use.

9 Q. Okay. And do patrons of the Freeman Nut
10 Company use that parking lot?

11 A. They do from time to time, yes.

12 Q. And the employees of Freeman use that parking
13 lot?

14 A. I think actually he has an arrangement with
15 the Polish-American Club across the street, where
16 he parks employee cars. I also have an
17 arrangement with them to cover Christmas and
18 Easter, to make sure that there's plenty of
19 parking for the store, so people don't have to
20 park in the parking lot, quite frankly.

21 Q. Okay. And aside from the Freeman Nut
22 Company, what are the other -- describe the other
23 tenants that use the parking lot as well.

24 A. There's been several tenants over the years.

1 The top floor is a health insurance brokerage
2 firm. The second and third floor is company that
3 manages and lends money to veterinarians. On the
4 first floor, other than the nut company, Mr. Rufo
5 has an office, a small office, and then there's
6 technology consulting that has a firm small
7 office.

8 Q. Okay. And do you know how many employees are
9 at the health insurance company, approximately?

10 A. I do not.

11 Q. Okay. How about the company that does the
12 loans to vets?

13 A. I'm sorry. I do not know the exact number of
14 them.

15 Q. Okay. But all four of these individual
16 tenants are permitted to use the parking lot
17 that's the subject of the 2006 easement, correct?

18 A. Correct. Correct.

19 Q. All right. Out of curiosity, do you have any
20 indication, any testimony you can offer as to how
21 many people appeared were going into any
22 individual yoga class?

23 A. I do not have specific testimony. I don't
24 think I ever saw 40 people walk in the door, but,

1 you know, again, I was there certain times, but I
2 don't have specific testimony.

3 MR. FREEDMAN: Okay. I have
4 nothing else for this witness.

5 THE WITNESS: Can you give me one
6 second? I have to plug in my computer. I'm
7 sorry.

8 MR. GLASSMAN: When he comes back,
9 Mr. Campbell, feel free.

10 THE WITNESS: My apologies. This
11 will just take me one second.

12 Okay. I'm back.

13 MR. CAMPBELL: Thanks.

14 BY MR. CAMPBELL:

15 Q. Good evening, Mr. Barrist.

16 A. Good to see you.

17 Q. Mr. Barrist, this is a four-story building,
18 right?

19 A. Yes.

20 Q. And if I look on LoopNet, it says that the
21 average floor size or floor plate says each floor
22 is about 7,000 square feet; is that right?

23 A. No. I don't know what LoopNet says about the
24 floor plate. The second, third and fourth floor

1 is a little shy of 4,500 feet each, and the first
2 floor has the candy store, which would be
3 approximately the same size, the lobby, and
4 approximately 4,000 feet that covers the
5 technology company and Mr. Rufo's office. So I
6 guess about 8,400 feet on the first floor.

7 Q. Okay. So if I do the math, about 22,000
8 square feet between the four floors; is that
9 right?

10 A. I'm adding it up right now. 2,160 I come up
11 with.

12 Q. And you purchased the property in 2012?

13 A. Yes, I did.

14 Q. And what was the tenant mix when you
15 purchased the property in 2012?

16 A. The tenant mix was similar. The space that
17 the technology consulting firm is in, it was
18 Rufo's office, and was a warehouse space at the
19 time.

20 Q. And was there any manufacturing relating to
21 the confectioner on the second, third and fourth
22 floor?

23 A. No, it was office space.

24 Q. And when did the warehouse space on the first

1 floor change over to office?

2 A. I don't know the exact dates. I know that
3 part of it turned to office several years ago. I
4 don't know the exact date, and a piece of it
5 turned into office space, I believe in either
6 late '20 or early '21.

7 Q. Did you get a special exception when you
8 converted that warehouse space to office?

9 A. I don't believe so. I believe it was the
10 whole building was office space at the time.

11 Q. If I were to tell you that warehouse space,
12 under the borough's code, requires less parking
13 than an office space, would you be surprised at
14 that?

15 A. I wouldn't be surprised, but, again, I'm not
16 so sure that space wasn't set up to be office
17 space originally. Maybe Mr. Rufo, who did the
18 original land development on the building, would
19 enlighten us on that.

20 Q. I guess I misunderstood. I thought you said
21 that in the last few years the first floor had
22 warehouse space that was converted to office.
23 Are you changing your testimony?

24 A. I'm not changing my testimony. I bought the

1 building. Mr. Rufo did the original land
2 development for this building, and for the 424
3 Elm Street building and for the townhouse
4 development. He may recall how the area of the
5 building was zoned. I do not have personal
6 knowledge.

7 Q. I'm not asking your personal knowledge about
8 the zoning when Mr. Rufo owned it. I'm asking
9 you about the tenant mix since you've owned the
10 property.

11 Is it your testimony that it's
12 always been office or some of it was once
13 warehouse when you owned it?

14 A. My testimony is that approximately 4,000 feet
15 of it was warehouse, and has since been converted
16 to office with township approval. I don't know
17 the specifics of that approval.

18 Q. Why do you say that? First of all, why do
19 you say that the borough approved for that
20 conversion?

21 A. Because we were issued permits and a U&O
22 after it was converted.

23 Q. But you don't recall coming to this board
24 asking for permission to do that, right?

1 A. I do not.

2 Q. Okay. We have talked about the easement
3 that's Exhibit 6, the easement from 2006. You
4 would agree that my client has the right to use
5 the 29 parking spaces that are on your property,
6 right?

7 A. Yes, as long as she does not interfere with
8 our parking.

9 Q. Understood. And that's the only parking you
10 have on-site, right, to support your 22,000
11 square feet of office?

12 A. Across the street parking on Hector Street,
13 and I pay the Polish-American Club, I think, \$200
14 a month to allow for overflow parking during busy
15 retail hours, primarily Christmas and Easter, so
16 that the people going to the candy store have a
17 place to park.

18 MR. CAMPBELL: Those are the
19 questions I have for Mr. Barrist. Thank you.

20 MR. GLASSMAN: Mr. Kellerman,
21 sorry. Do you have any questions?

22 MR. KELLERMAN: No questions for
23 me. Thank you.

24 MR. GLASSMAN: Any redirect,

1 Mr. Freedman?

2 MR. FREEDMAN: Just one last
3 question.

4 BY MR. FREEDMAN:

5 Q. Mr. Barrist, we just talked about whether
6 the -- we just talked about the 2006 easement
7 with respect -- with specific reference to
8 Paragraph 5, which you -- I'm sorry. I'm trying
9 to go down here. Am I clicking this? I guess I
10 don't have control.

11 Paragraph 5, which you paraphrased
12 something along the lines of, the neighboring
13 parcel cannot exacerbate the existing parking
14 conditions, right?

15 A. Yes, that's what I was referencing.

16 Q. Okay. And for the last, I believe, year and
17 a half, you said that there have been virtually
18 no yoga classes on-site; is that right?

19 A. Correct.

20 Q. So, effectively, for the past year and a
21 half, any -- up to present, the addition of any
22 new office space would exacerbate the existing
23 parking, right?

24 A. Correct.

1 MR. FREEDMAN: Okay. I have
2 nothing further. Should I call my next witness?

3 MR. GLASSMAN: Mr. Campbell, do
4 you have any recross --

5 MR. CAMPBELL: No.

6 MR. GLASSMAN: -- based on that?

7 Yes, please call your next
8 witness.

9 MR. FREEDMAN: Okay. I call --

10 MR. GLASSMAN: I apologize. I
11 forgot. I skipped over board questions.

12 Mr. Barton, if you want to take
13 over board questions?

14 CHAIRMAN BARTON: We'll check with
15 the board.

16 Alan Chmielewski, do you have any
17 questions of this past testimony of this witness?

18 MR. CHMIELEWSKI: No, I do not.

19 Thank you.

20 MR. GLASSMAN: Thank you.

21 Mr. Doman, any questions?

22 MR. DOMAN: No, I do not. Thank
23 you.

24 CHAIRMAN BARTON: Thank you.

1 Mr. Scharff, do you have any
2 questions?

3 MR. SCHARFF: No, none at this
4 time.

5 CHAIRMAN BARTON: And Mr. Danek?

6 MR. DANEK: No questions from me.
7 Thank you.

8 CHAIRMAN BARTON: And I have no
9 questions.

10 Bobbi Jo, have you received any
11 questions on the line for this witness?

12 MS. MYRSIADES: No, I have not.

13 CHAIRMAN BARTON: Okay. And,
14 again, members of the public, if you would like
15 to ask a question of Mr. Barrist, please identify
16 yourself, give us your name and address.

17 And we see no questions there.

18 So I believe we can go to the next
19 witness.

20 MR. FREEDMAN: Okay. I'm going to
21 call Mr. Rufo, who's been sworn in.

22 ---

23 ANTHONY RUFO, having been duly
24 sworn previously, was examined and

1 testified as follows:

2 BY MR. FREEDMAN:

3 Q. Can you hear me, Mr. Rufo?

4 A. Yes, sir. Yes, sir. Can you guys hear me?

5 My phone --

6 Q. We can hear you. We can hear you.

7 A. Okay. Okay.

8 Q. Okay. Mr. Rufo, what connection do you have
9 to 441 East Hector Street?

10 A. I'm a tenant.

11 Q. And what connection do you have to 424 East
12 Elm Street?

13 A. I have no connection currently.

14 Q. Okay. Were you ever the owner of either
15 property?

16 A. Yes, both.

17 Q. Okay. And were you the owner of the property
18 at the time that the 2006 easement was granted?

19 A. I was.

20 Q. Okay. Can you tell the board a little bit
21 about the underlying basis for that easement,
22 what the discussion was and what the need for it
23 was?

24 A. Sure. I think that, basically, that was

1 driven at the time because the buyer, when I was
2 in the midst of selling, were very concerned that
3 there be enough. I always assured them that
4 parking -- it didn't seem to be an issue.

5 I had commercial tenants in the
6 four-story building also, and I guess to fulfill
7 their wishes, we went through the steps of
8 creating cross-collateralization, and these
9 easements were necessary to entice them to
10 purchase the building.

11 I want to say there's three
12 premises, A, B and C. The townhomes down the end
13 also were able to use the space, which would be
14 on the west and the north side of 424 East Elm.
15 Does that answer your question?

16 Q. Yes. Now, even though you're no longer an
17 owner of either property, you've maintained
18 office space consistently; is that correct?

19 A. Yeah, up to -- excuse me -- maybe April of
20 2020 to about -- maybe for about ten months. I
21 moved across town temporarily. Of course, during
22 ten months, I also had to fit out the space we
23 now occupy, which would be on the first floor
24 space of 441 building.

1 Q. So you moved out -- so you were in the
2 property from 2006 to 2020 as a renter, and then
3 recently reentered the property as a tenant,
4 correct?

5 A. Correct.

6 Q. Okay. So how often were you in the office?

7 A. Let me go back a second.

8 Q. Sure.

9 A. Michael's company purchased in '12. So,
10 really, I was a tenant of -- I was the owner, so
11 in 2006 to 2012, I wasn't really a tenant. I
12 occupied the building with my offices. Once
13 Michael became owner, I rented off of him.

14 Q. But you were an occupant consistently from
15 2006 to 2020, correct?

16 A. Correct.

17 Q. And you've had occasion to observe the
18 traffic flow and parking needs at the yoga studio
19 during that time?

20 A. Correct.

21 Q. Now, let's just take the March and April of
22 2020 period out of the equation for a moment.

23 Can you describe how many parking spaces you
24 observed the yoga studio to be using on a regular

1 basis, just an estimate?

2 A. Really hard to say. I never felt it was a
3 problem. I'm in and out. Understand that I'm
4 contracting and developing. I'm in and out all
5 day long.

6 Q. Right.

7 A. The parking in front of 424 Elm Street side,
8 the driveway, which would be just east of that
9 building. I have never experienced a problem
10 trying to park. I've never not got a spot. I
11 will say one thing. You mentioned three spots
12 designated to 424. That's where I parked for
13 years. Nobody ever bothered me.

14 Q. Okay.

15 A. Playing games, I guess.

16 Q. And you've personally observed individuals
17 from the community walking up to it, to go to
18 yoga classes at the studio, prior to its ceasing
19 operations?

20 A. Absolutely.

21 Q. Okay.

22 A. A lot of walk-ups.

23 Q. You've also personally witnessed elderly
24 folks being driven to classes?

1 A. Yes.

2 Q. Okay.

3 A. Yes. It seemed like it was a woman's class.
4 I'd see them getting out of there about 6:30 at
5 night, maybe 7:00. I'm not sure what the
6 schedule was, but it seemed like younger
7 gentlemen were dropping their wives off, and they
8 would take off, and that would be about when I
9 would be leaving at the end of the day. That's
10 when I witnessed that.

11 But they would just pull into the
12 lot, turn around, drop them off, and I guess come
13 back in an hour. I'm not sure how long the yoga
14 classes lasted.

15 Q. Okay. If you can recall, when was the last
16 approximate time you saw somebody going to a
17 class at the yoga studio?

18 A. Good question. I would guesstimate maybe
19 January, February of 2020.

20 Q. Okay.

21 A. Really don't recall. That's a guesstimate.

22 Q. Okay. And you're currently using the parking
23 lot that is the subject of the 2006 easement by
24 virtue of your leasing a commercial unit there;

1 is that correct?

2 A. That's correct.

3 Q. And you have how many employees full time?

4 A. That work at the building?

5 Q. Yes, with you.

6 A. Five.

7 Q. Okay.

8 A. I'm one of those. I'm not there all the
9 time. I'm in and out all the time.

10 Q. Right. Okay.

11 A. There's about three people that stay there on
12 a daily basis, all day long.

13 Q. How many employees, total, do you have?

14 A. Inside of 40.

15 Q. What's that?

16 A. Short side of 40.

17 Q. Okay. And how many of them visit the office
18 ever?

19 A. One or two will stop by to maybe pick up a
20 set of prints or something. Very, very seldom.

21 Q. Okay.

22 A. Most of the action happens on our development
23 sites.

24 MR. FREEDMAN: Okay. I have

1 nothing further for this witness.

2 MR. GLASSMAN: Mr. Campbell, any
3 cross?

4 MR. CAMPBELL: Thank you.

5 BY MR. CAMPBELL:

6 Q. Mr. Rufo, you sold the property to
7 Mr. Barrist?

8 A. Yes, sir.

9 Q. And what was the tenant mix when you sold the
10 property?

11 A. I'm sorry. Are you referring to 441 or 424?

12 Q. How many properties -- well, how many
13 properties did you sell Mr. Barrist?

14 A. The one at 424, the bigger one. I'm sorry.

15 441 East Hector, the big one with the candy
16 store. 424 East Elm Street, the building that's
17 in question here, actually sold to the
18 bookstands, not Mike Barrist.

19 Q. So that's why I asked. I didn't realize
20 there was more than one property there. You sold
21 the --

22 A. There's three premises, A, B and C. Mike
23 Barrist only purchased A. I'm sorry. He
24 purchased C. I sold A to a developer, I sold B

1 to (inaudible.), I sold C to Mike Barrist.

2 Q. Right. So you sold the Freeman Nut building
3 to Mr. Barrist, right?

4 A. Correct.

5 Q. And that's where your office is, right?

6 A. Correct.

7 Q. My question was, what was the tenant mix when
8 you sold that to Mr. Barrist, if you recall?

9 A. Tenant mix? It was office space, and like
10 Michael had mentioned earlier, the 4,000 square
11 feet on the one-story building on the west side
12 of 441 was storage, was where I kept my
13 equipment.

14 Q. Okay.

15 A. And then it got changed. We split it in half
16 and we created two offices since Mike bought the
17 building.

18 Q. Okay.

19 A. Does that answer the question?

20 Q. Yeah. Were the second, third and fourth
21 floors ever used by Freeman Nut?

22 A. Prior to me buying the building, I understand
23 they were. But I believe it was Ed Comber
24 Corporation that were actually using those floors

1 to cook candy and stuff. Freeman Nuts, I think,
2 is just a retail store. Let me clear that up. I
3 don't think so. I think the retail store never
4 used the second, third or fourth. There was a
5 time -- hold on.

6 Q. There was a candy confectioner that occupied
7 and did things on the second, third and fourth
8 floor, right?

9 A. That's correct. Before my time, that's
10 correct.

11 Q. And they stopped doing that before you bought
12 it?

13 A. That's correct.

14 Q. They were never a tenant of yours?

15 A. No, sir.

16 MR. CAMPBELL: Thank you.

17 THE WITNESS: You're welcome.

18 MR. GLASSMAN: Ed, I'm assuming
19 you have no further questions then?

20 MR. CAMPBELL: I have no further
21 questions for Mr. Rufo. Thank you.

22 MR. GLASSMAN: Mr. Kellerman, do
23 you have any questions?

24 MR. KELLERMAN: No questions.

1 MR. GLASSMAN: Mr. Freedman, any
2 redirect?

3 MR. FREEDMAN: I have none. Thank
4 you.

5 MR. GLASSMAN: Okay. Mr. Barton,
6 if you want to take over board questions?

7 CHAIRMAN BARTON: Yes.

8 I'll ask Mr. Scharff, do you have
9 any questions of this witness?

10 MR. SCHARFF: I have no questions.
11 Thank you.

12 CHAIRMAN BARTON: Thank you.

13 Mark Danek, any questions?

14 MR. DANEK: You know, this is
15 probably more for Ed Campbell.

16 I was looking at Exhibit 3. You
17 have the color coded site plan of the parking.

18 MR. CAMPBELL: Yes.

19 MR. DANEK: You know, I don't know
20 if any witnesses really testified, you know, what
21 the colors are, what they represent, which ones
22 are shared, which are dedicated, as it relates to
23 your calculations, so.

24 MR. CAMPBELL: Yes. So I

1 summarized that, and then I asked Fiona if my
2 summary was correct. If you would like, I'm
3 happy to do that again or I'm happy to clarify
4 that. The red are --

5 MR. DANEK: Sorry. Just please
6 clarify. Thank you.

7 MR. CAMPBELL: Yes. The three
8 boxes in red reflect the 18 spaces that are on
9 the property. The area in green reflects the
10 three parking spaces that are on Mr. Barrist's
11 property that my client has the right to use
12 exclusively.

13 The spaces that are designated in
14 yellow, and are 13 off of Hector and 16 off of
15 Elm, are parking spaces that my client has the
16 right to use, but it's not exclusive, as
17 Mr. Barrist and Mr. Rufo, I think, both testified
18 that those spaces are available for the occupants
19 of 441 as well.

20 MR. DANEK: And then just to
21 clarify for me, the boxes in red, are they
22 exclusively for the use of the applicant's
23 building?

24 MR. CAMPBELL: They are

1 exclusively for use of the applicant's building
2 during business hours, from 8:00 a.m. to
3 6:00 p.m. The box to the north and the box to
4 the west, reflecting seven and nine parking
5 spaces, are available to the residents of the
6 townhouse development off-peak. Mr. Rufo
7 testified, he made that comment, so.

8 MR. DANEK: Okay.

9 MR. CAMPBELL: Those spaces are
10 available to the residents off-peak.

11 MR. DANEK: Great. Thank you.
12 That's all of the questions I have. Thank you.

13 CHAIRMAN BARTON: Thank you.

14 Marlowe Doman, do you have any
15 questions for this witness?

16 MR. DOMAN: No, I do not. Thank
17 you.

18 CHAIRMAN BARTON: Thank you.

19 Alan Chmielewski, any questions?

20 MR. CHMIELEWSKI: No questions.

21 Thank you.

22 CHAIRMAN BARTON: And I have no
23 questions.

24 I'll ask Bobbi Jo, have you

1 received any questions online for this witness?

2 MS. MYRSIADES: No, I have not.

3 CHAIRMAN BARTON: Thank you.

4 If any member of the public
5 viewing or listening to this proceeding has a
6 question for Mr. Rufo, please identify yourself
7 by name and address.

8 And there are no further
9 questions.

10 So I believe, Mr. Freedman, you
11 wanted to offer a final argument after your
12 witnesses?

13 MR. GLASSMAN: If we're going to
14 do closing argument, we should let Mr. Campbell
15 go first, before we allow Mr. Freedman, but --

16 MR. FREEDMAN: That's fine. I
17 just want to submit one more -- actually, at this
18 point, it's only one exhibit in support of the
19 objections, and which I alluded to in my
20 introduction, and I submitted them to Bobbi Jo.
21 It's marked Exhibit D.

22 Bobbi Jo, do you have access to
23 that, my exhibit D?

24 MS. MYRSIADES: Give me one second

1 and I will have that pulled up there. Bear with
2 me. The post from the yoga?

3 MR. FREEDMAN: That's it. Can you
4 scroll down to the third page, please? That's
5 good.

6 I wanted to submit this to the
7 board for the board's consideration in support of
8 my assertion that the applicant really should be
9 seeking a variance today. There has been
10 substantial testimony from my clients to support
11 an abandonment of this nonconforming use for a
12 period in excess of one year.

13 I'm offering this exhibit to the
14 board. It's a post by Ms. Hanlon, who is the
15 owner of Yoga Home, which is the yoga studio we
16 have been talking about for the last two and a
17 half hours, and these posts suggest that they
18 were vacating their lease at the end of June, and
19 my clients offered testimony that operations had
20 ceased months before that.

21 So with that, I'll just conclude,
22 and ask to reserve some time for closing
23 argument, after Mr. Campbell.

24 MR. GLASSMAN: Thank you.

1 Mr. Barton, are you still there?

2 CHAIRMAN BARTON: Yes. Yes, I am.

3 We're going to begin with final
4 arguments.

5 MR. CAMPBELL: I have one question
6 to ask Mr. Tavani in rebuttal, if I can.

7 CHAIRMAN BARTON: Why don't we
8 take that?

9 BY MR. CAMPBELL:

10 Q. Mr. Tavani, are you still with us?

11 A. Yes.

12 Q. And you heard the testimony of Mr. Barrist
13 and Mr. Rufo?

14 A. Yes.

15 Q. After hearing their testimony, did it change
16 the opinions that you shared with the board
17 earlier?

18 A. No, I believe what the board is considering
19 is what the potential traffic and parking
20 implication of the yoga studio are. Talking
21 about what's happened in the last year or even
22 different times is not particularly relevant.
23 It's what the potential is for any operator in
24 this space, and I think it's considerable, as

1 outlined in A-9.

2 MR. CAMPBELL: That's the only
3 question I have. If there is cross of
4 Mr. Tavani? Otherwise, I'll sum up.

5 MR. GLASSMAN: Before you do, I
6 would like to propose to the zoning hearing board
7 or ask if anyone wants to take a short exec
8 session to go over anything before we conclude?

9 CHAIRMAN BARTON: I believe we
10 should. This has been a lengthy hearing, and
11 actually a continuation of this hearing.

12 I'm going to propose that we take
13 between five and ten minutes for an executive
14 session, which the board will now participate in.
15 It's about 9:33 p.m., and if any board members
16 need the phone number or the password, please
17 text Mr. Glassman, and he'll get that to you.

18 So we are now going to break for a
19 brief executive session, from which we will
20 return.

21 MR. GLASSMAN: And it was sent by
22 my assistant, Eileen, middle of last week, but
23 shoot me a text if you need the info, and please
24 put your cameras on -- shut off your cameras and

1 turn yourself on mute before you call in.

2 (At 9:33 p.m., a recess was taken
3 until 9:53 p.m.)

4 ---

5 MR. GLASSMAN: We had a short
6 executive session to go over some legal questions
7 with the case that's been presented to us by
8 Mr. Campbell and Mr. Freedman.

9 After discussing further with the
10 board, it would be the board's preference to
11 request findings of fact and conclusions of law
12 to be submitted to me and CC'd to Eric Johnson
13 and to Bobbi Jo by September 7th, and then the
14 hearing will be continued to the 13th for closing
15 argument, public comment and a vote.

16 And I forgot to ask the court
17 reporter, but I'm assuming -- today is the
18 16th -- that you'll be able to get this back out
19 pretty quickly.

20 THE COURT REPORTER: No problem,
21 Mr. Glassman.

22 MR. GLASSMAN: Thank you.

23 Ed, Eric, are you okay with that?

24 MR. FREEDMAN: Fine with me.

1 MR. GLASSMAN: So that's all we
2 have on this case this evening.

3 If we could have a motion from the
4 board to continue the hearing to September 13th,
5 with findings of fact being submitted by the
6 parties by September 7th?

7 CHAIRMAN BARTON: Is there a
8 motion from board? Any board members ready to
9 make that motion?

10 MR. DANEK: It's Mark Danek. I'll
11 make the motion to continue the hearing until the
12 September 13th meeting, based upon the
13 representations of Alex Glassman.

14 CHAIRMAN BARTON: And is there a
15 second to that motion?

16 MR. SCHARFF: This is Greg
17 Scharff. I'll second that motion.

18 CHAIRMAN BARTON: Thank you.
19 We have a motion and a second.
20 And, Mr. Johnson, please take the
21 vote.

22 MR. JOHNSON: Mr. Danek?

23 MR. DANEK: Yes.

24 MR. JOHNSON: Mr. Scharff?

1 MR. SCHARFF: Yes.

2 MR. JOHNSON: Mr. Doman?

3 MR. DOMAN: Yes.

4 MR. JOHNSON: Mr. Chmielewski?

5 MR. CHMIELEWSKI: Yes.

6 MR. JOHNSON: Chairman Barton?

7 CHAIRMAN BARTON: Yes.

8 So that motion is approved, and
9 this hearing is being continued to September the
10 13th.

11 MR. GLASSMAN: And, Mr. Barton --
12 I'm sorry, Mr. Freedman, you were going to ask a
13 question?

14 MR. FREEDMAN: I didn't know you
15 were looking at me. I was going to just ask
16 about the Notes of Testimony. That's going to be
17 circulated sometime in the next couple of weeks?

18 MR. GLASSMAN: Yes, and you can
19 reach out to Bobbi Jo and Eric to inquire about
20 those.

21 MR. FREEDMAN: Okay. Got it.
22 Thank you, and thanks for everyone's time
23 tonight.

24 CHAIRMAN BARTON: Thank you.

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(At 9:56 p.m., proceedings were
concluded.)

1

2

CERTIFICATION

3

4

I, Edward T. McKenna, do hereby

5

certify that the testimony and proceedings in the

6

foregoing matter, taken on August 16, 2021, are

7

contained fully and accurately in the

8

stenographic notes taken by me, and that it is a

9

true and correct transcript of the same.

10

11

EDWARD T. MCKENNA

12

13

14

15

16

The foregoing certification of

17

this transcript does not apply to any

18

reproduction of the same by any means unless

19

under the direct control and/or supervision of

20

the certifying reporter.

21

22

23

24

EXHIBIT “C”

CAMPBELL **CR** ROCCO
L A W L L C

Edmund J. Campbell, Jr. Esquire
Direct Dial: (610) 992-5885
Email: ecampbell@campbellroccolaw.com

August 16, 2021

VIA EMAIL AND FIRST CLASS MAIL

Rick Barton, Chair
Conshohocken Zoning Hearing Board
400 Fayette Street
Suite 200
Conshohocken, PA 19428

Re: Application for Special Exception
424 East Elm Street
Revised Exhibits

Dear Mr. Barton,

As you will recall, I represent the applicant SK Elm LLC in the above captioned matter.

Please accept this letter as my entry of appearance on behalf of Jeronimo LLC, the owner of the subject property. Jeronimo previously entered its appearance via its owner Fiona Jamison. The owner has standing to participate in this matter. Please revise Jemonimo's status to reflect that it is now a co-applicant.

I previously provided the Board's staff with eight (8) exhibits for this matter. Please find attached a revised Exhibit 6 (parking summary) and Exhibit 9 (Letter from Frank Tavanie, P.E dated August 12, 2021).

Thank you for your time and consideration of this matter.

Respectfully submitted,
CAMPBELL ROCCO LAW, LLC
/s/ Edmund J. Campbell, Jr.
Edmund J. Campbell, Jr., Esquire

cc: Michael Clarke, Esquire
Eric Johnson
SK Elm LLC
Jeronimo, LLC

Revised - Exhibit 6

Parking Summary

Existing Parking - 49 Spaces

18 spaces on site
3 Elm Street (exclusive)
15 Elm Street (non-exclusive)
13 Elm Street (non-exclusive)
49 Total

Existing Parking Demand Based on IBC occupant load- 34 Spaces

17 spaces for Second Floor Office (4,200 sf office at 4/1,000 sf = 17)

17 spaces for Yoga Studio

84 students (20-50 sf per "student" 4,200sf /5 students = 84 maximum students)
-IBC Max capacity is 50 sf per student
-Industry standard is 20 sf per student
84 students / 5 = 17 spaces

Proposed Use Parking Demand Per Code –

17 spaces for Second Floor Office - No change proposed

17 spaces on First Floor Office

Excerpts from § 27-2002 re Off-site Parking:

Studio for dance, art, music or photography - 1 space per 5 students, and/or 1 space per 300 square feet of gross floor area for nonstudent patrons.

Indoor sports facility -1 1/2 spaces per person for maximum court and exercise equipment capacity.

Business or administrative offices - 1 space per 250 square feet of gross floor area.

Laboratory or industry - The larger of 1 space per employee or per 450 square feet of gross floor area.

EXHIBIT “D”

12

EP 2

DE BK05584-1955

ON-DEED MISCELLANEOUS

2005188921 12/28/2005 01 10:40 PM:1

RCD FEE \$81.00



MONTGOMERY COUNTY RCD

05-CONSHOHOCKEN BOROUGH 30 00 NANCY BECKER ROD

Prepared by:
Carl N Weiner, Esquire
Hamburg, Rubin, Mullin, Maxwell & Lupin

Return to:
Carl N Weiner, Esquire
Hamburg, Rubin, Mullin, Maxwell & Lupin
375 Morris Road, P O Box 1479
Lansdale, PA 19446-0773
215-661-0400

EXHIBIT A
2005 EASEMENT

19554 002cd102705

DECLARATION OF COVENANTS AND EASEMENTS

THIS DECLARATION OF COVENANTS AND EASEMENTS ("Declaration") made this 26th day of October, 2005 by TR-SUBURBAN, L.P., a Pennsylvania limited partnership, with offices at 424 E Elm Street, Conshohocken, Montgomery County, Pennsylvania (hereinafter referred to as the "Declarant")

Basis of Declaration

A Declarant is the owner of certain properties located in Conshohocken Borough, Montgomery County, Pennsylvania, more fully identified as Tax Parcel Identification Numbers 05-00-05896-003, Block 023 and Unit 038, and 05-00-05900-008, Block 023 and Unit 039 (collectively, the "Property"), and as depicted on a Record Plan prepared for Declarant by Momence and Associates, Inc, dated March 8, 2004, a true and correct copy of which is attached hereto as Exhibit A and made a part hereof (the "Plan")

B The said Property is being subdivided into twenty-one (21) townhouse lots ("Townhouse Lots") and a single one and one-half (1½) story office building lot ("Lot 14") The Townhouse Lots are identified as Lots 1 through 13 and Lots 15 through 22 on the Plan Hereinafter, the Townhouse Lots and Lot 14 are sometimes collectively referred to as the "Lots "

Plan see new count list attached



C Declarant desires that all of the Lots shall be developed and maintained in such manner so as to protect the value, attractiveness and desirability of the Property

D Declarant hereby further reserves for the benefit of any Owner, and such Owner's tenants, agents, employees and invitees, the right of full and uninterrupted use of the parking spaces located within Lot 14, as depicted on the Plan, for the purpose of parking of automobiles at all times other than Normal Business Hours

E Declarant or Declarant's Successor has created or intends to create a planned community which will govern the Townhouse Lots by recording a Declaration of Bella Square Townhomes Planned Community in the Office of the Recorder of Deeds of Montgomery County (the "Association Declaration")

SECTION 1. DEFINITIONS.

Unless otherwise expressly provided, the following words and phrases when used herein have the following meaning hereinafter specified

A "Association" shall mean and refer to the Bella Square Townhomes Community Association

B "Cherry Street Driveway" shall mean the common driveway located on the Property that runs from Cherry Street behind Townhouse Lots 1 through 9 and 15 through 22 and serves the Townhouse Lots and Lot 14 and is depicted on the Plan

C "Community Property" shall mean the portion of the Property which is subject to the terms of the Association Declaration

D "Declarant" shall mean and refer to TR-Suburban, L P

E "Declarant's Successor" shall mean and refer to Ava Landholding, Inc



F "Elm Street Driveway" shall mean the common driveway located on the Property that runs from Elm Street through Lot 14 and serves the Townhouse Lots and Lot 14 and is depicted on the Plan Hereinafter, the Cherry Street Driveway and the Elm Street Driveway shall sometimes be referred to collectively as the "Driveways "

G "Lot 14" shall mean and refer to the office building lot identified as Lot 14 and as shown upon the Plan

H "Lot 14 Owner" shall mean and refer to the person or persons or other legal entity or entities, including Declarant, holding fee simple interest of record to Lot 14, including sellers under executory contracts of sale, but excluding those having an interest merely as security for the performance of an obligation

I "Lot 14 Parking Easement" shall mean the parking easement located in the nine (9) parking spaces within Lot 14 as identified and shown on the Plan

J "Normal Business Hours" shall mean from seven (7) o'clock a m to six (6) o'clock p m , Monday through Friday

K "Owner" shall mean and refer to the person or persons or other legal entity or entities, including Declarant, holding fee simple interest of record to any Townhouse Lot, including sellers under executory contracts of sale, but excluding those having an interest merely as security for the performance of an obligation

L "Parking Easement" shall mean the Parking Easement located within the seven (7) parking spaces adjacent to Lot 14 and within the rear portions of Townhouse Lots 9 through 13, as identified and shown on the Plan

M "Person" shall mean a natural individual or any other entity with the legal right to hold title to real property



SECTION 2. RESERVATION OF EASEMENTS & MAINTENANCE OBLIGATIONS.

A Subject to the covenants set forth herein, Declarant hereby reserves for the benefit of the Lot 14 Owner, its tenants, agents, employees and invitees, a right-of-entry, full and uninterrupted use, right-of-way, liberty and privilege of and passage on and along all portions of the Cherry Street Driveway as shown on the Plan for the purposes of pedestrian and vehicular ingress and egress to and from Lot 14 and Cherry Street This easement area shall not be limited to the portion of the Cherry Street Driveway adjoining Lot 14 but shall extend throughout the entire Cherry Street Driveway

B Subject to the covenants set forth herein, Declarant hereby reserves for the benefit of any Owner, its tenants, agents, employees and invitees, a right-of-entry, full and uninterrupted use, right-of-way, liberty and privilege of and passage on and along all portions of the Elm Street Driveway as shown on the Plan for the purposes of pedestrian and vehicular ingress and egress to and from the Townhouse Lots and Elm Street This easement area shall not be limited to the portion of the Elm Street Driveway adjoining Lot 14 but shall extend throughout the entire Elm Street Driveway

C Declarant hereby further reserves for the benefit of the Lot 14 Owner, its tenants, agents, employees and invitees, the right of full and uninterrupted use and easement in and through the Parking Easement, as depicted on the Plan, for the purpose of pedestrian and vehicular access and the parking of automobiles in the seven (7) parking spaces shown on the Plan on that portion of the Property The Parking Easement is valid at all times, provided, however, that during Normal Business Hours, the Parking Easement shall be specifically reserved for the exclusive use of the Lot 14 Owner, its tenants, agents, employees and invitees



At all other times, the Parking Easement may be used by any Owner of Lots 9 through 13 and his, her or their tenants and invitees

D Declarant further reserves for the benefit of the Owners, their tenants, invitees, heirs, successors and assigns, the full right and uninterrupted use and easement in and to the nine (9) parking spaces located on Lot 14 for the purpose of parking automobiles in those nine (9) parking spaces in common with the owner, invitees, employees and tenants of Lot 14 except during Normal Business Hours (the "Lot 14 Parking Easement") The Lot 14 Parking Easement is valid at all times, provided, however, that during Normal Business Hours the Lot 14 Parking Easement shall be specifically reserved for the exclusive use of the Lot 14 owner and its tenants, invitees and employees At all other times, the Lot 14 Parking Easement may be used by the Owners and their invitees and tenants

E The Association and its successors or assigns, or anyone on its behalf, shall bear the exclusive responsibility for snow removal, maintenance and repair of the Driveways, Parking Easement and Lot 14 Parking Easement (the "Driveway and Parking Maintenance")

F The Lot 14 Owner will be responsible for reimbursing the Association for a proportionate share of the cost of the Driveway and Parking Maintenance (the "Reimbursement Obligation"), the balance of such costs shall be the responsibility of the Association Said Reimbursement Obligation shall be calculated as twenty-five percent (25%) of the total costs of the Driveway and Parking Maintenance as itemized in the annual budget of Association (the "Driveway and Parking Maintenance Share") The Association shall provide a copy of the annual budget of the Association every year, within thirty (30) days of its approval of same, to the Lot 14 Owner The Lot 14 Owner shall pay to the Association one-twelfth (1/12th) of the Driveway and Parking Maintenance Share on a monthly basis, payment to commence on the first



day of the first month following occupancy of the office building on Lot 14. In the event the amount for Driveway and Parking Maintenance itemized in the annual budget of the Association is insufficient to maintain the Driveways, Parking Easement and Lot 14 Parking Easement, the Association may assess the Lot 14 Owner for twenty-five percent (25%) of any additional costs for Driveway and Parking Maintenance.

G Further, in addition to the Driveway and Parking Maintenance Share, the Lot 14 Owner shall pay to the Association an annual contribution in the amount of twenty-five percent (25%) of the reserve for the replacement of the driveways and parking areas as itemized in the annual budget of the Association (the "Annual Contribution"). Such sum shall be paid within thirty (30) days of receipt by the Lot 14 Owner of the annual budget of the Association.

H Declarant hereby further reserves for the benefit of the Association, its successors and assigns, an easement of access, ingress and egress over such portions of the Townhouse Lots and Lot 14 as is necessary for the Driveway and Parking Maintenance.

I In the event that the Association fails to properly maintain the Driveways, Parking Easement or Lot 14 Parking Easement in a commercially reasonable manner, the Lot 14 Owner shall have the right to maintain that portion of the Driveways, Parking Easement and Lot 14 Parking Easement necessary for access to the public street, Elm Street, after written notice has been given to the Association and the Association has failed to cure the problem within thirty (30) days of said written notification, provided, however, that the Lot 14 Owner may proceed with reasonable diligence to correct any condition requiring immediate corrective action.

J In the event that the Lot 14 Owner shall fail or refuse to make payment to the Association pursuant to the Reimbursement Obligation and Annual Contribution, as described herein, the Association shall be deemed to have advanced funds on behalf of the Lot 14 Owner,



and shall be entitled to reimbursement from the Lot 14 Owner, including interest at the rate of fifteen percent (15%) per annum

K In the event that either the Association or the Lot 14 Owner undertake corrective action due to the failure of the respective responsible party to either properly maintain certain improvements or make required reimbursement payments as provided herein, the party taking corrective action shall be entitled to reimbursement from the defaulting party of all costs expended for corrective action including but not limited to reasonable attorney's fees and court costs

SECTION 3. CONSTRUCTION NOTICE AND ACCEPTANCE. These restrictions and easements shall be deemed covenants running with the land and shall bind and inure to the benefit of the Lot 14 Owner, any Owner and the Association and their respective assigns and successors in title Every person who owns, occupies or acquires any right, title, estate or interest in and to any of the Lots does and shall be inclusively deemed to have consented and agreed to every limitation, restriction, condition, and covenant contained herein, whether or not any reference to these restrictions is contained in the instrument by which such person acquired an interest in the Property, or any portion thereof

SECTION 4. ENFORCEMENT. This Declaration may be enforced by appropriate legal proceedings by any Owner, the Lot 14 Owner or by Conshohocken Borough Nothing herein shall be deemed, however, to require Conshohocken Borough or to indicate any intent on the part of Conshohocken Borough, to maintain the Driveways and the Parking Easement

SECTION 5. INTERPRETATION. The provisions of this Declaration shall be liberally construed in accordance with the laws of the Commonwealth of Pennsylvania The section headings have been inserted for convenience only and shall not be considered or referred to in



resolving questions or interpretation or construction Unless the context requires a contrary construction, the singular shall include the plural and the plural the singular, and the masculine, feminine, and neuter shall each include the masculine, feminine and neuter

Declarant has executed this Declaration on the date first above written

TR-SUBURBAN, L.P.,
a Pennsylvania limited partnership,
By its General Partner,
TR-III, L L C

Witness *Christy Gamber*

By *Anthony M. Rufo, Member*
Anthony M Rufo, Member




COMMONWEALTH OF PENNSYLVANIA

SS

COUNTY OF MONTGOMERY

On the 26th day of OCTOBER, 2005, before me, the subscriber, a Notary Public, personally appeared ANTHONY M RUFO, who acknowledges himself to be a Member of TR-III, L L C , and that he, as such Member, being authorized to do so, executed the foregoing instrument by signing the name of the Company by himself as and for the act and deed of said Company for the uses and purposes therein contained and that he desires the same might be recorded as such

IN WITNESS WHEREOF, I have hereunto set my official hand and seal



Notary Public

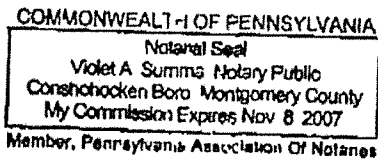
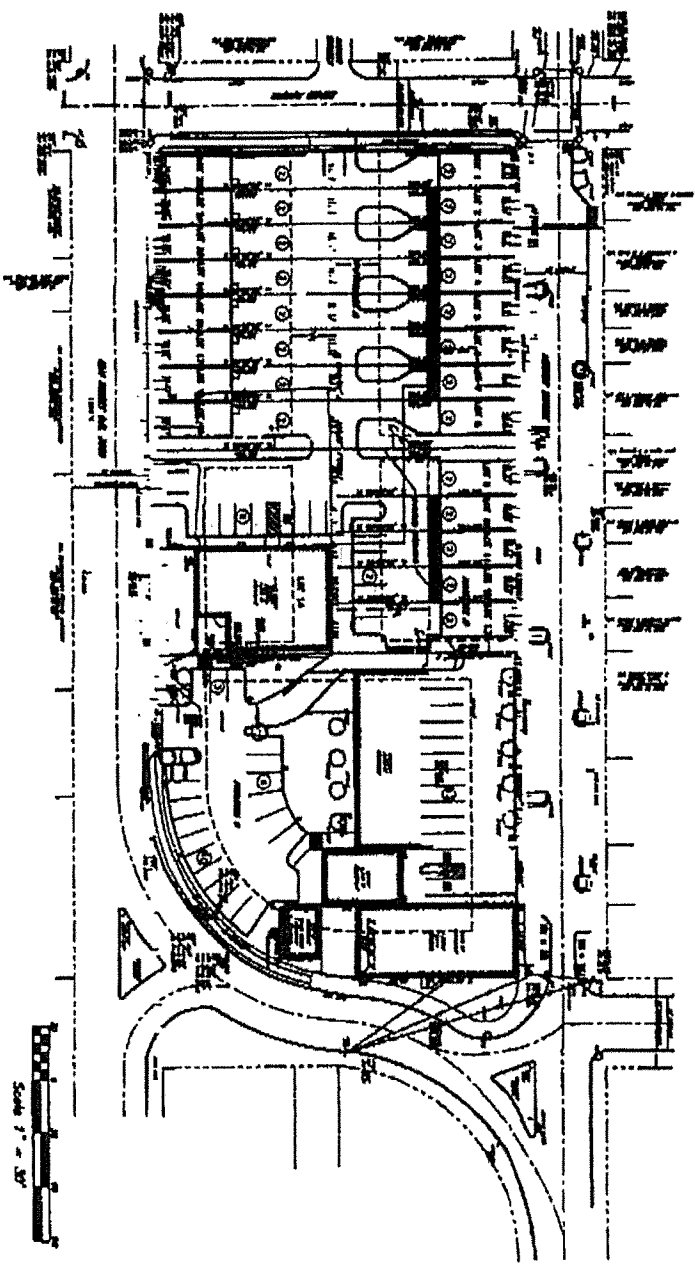


Exhibit A

THE PLAN





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

LEGEND

1. ALL DIMENSIONS ARE IN FEET AND INCHES UNLESS OTHERWISE NOTED.

2. FINISHES ARE AS NOTED OR AS SHOWN ON THE FINISH SCHEDULE.

3. ALL WORK SHALL BE IN ACCORDANCE WITH THE 2000 INTERNATIONAL BUILDING CODE AND THE 2000 INTERNATIONAL PLUMBING AND MECHANICAL CODES.

4. ALL WORK SHALL BE IN ACCORDANCE WITH THE 2000 INTERNATIONAL ELECTRICAL CODE.

5. ALL WORK SHALL BE IN ACCORDANCE WITH THE 2000 INTERNATIONAL FIRE AND SAFETY CODE.

6. ALL WORK SHALL BE IN ACCORDANCE WITH THE 2000 INTERNATIONAL MECHANICAL AND PLUMBING CODES.

7. ALL WORK SHALL BE IN ACCORDANCE WITH THE 2000 INTERNATIONAL CODES AND STANDARDS.

8. ALL WORK SHALL BE IN ACCORDANCE WITH THE 2000 INTERNATIONAL CODES AND STANDARDS.

9. ALL WORK SHALL BE IN ACCORDANCE WITH THE 2000 INTERNATIONAL CODES AND STANDARDS.

10. ALL WORK SHALL BE IN ACCORDANCE WITH THE 2000 INTERNATIONAL CODES AND STANDARDS.

NOTES

1. ALL WORK SHALL BE IN ACCORDANCE WITH THE 2000 INTERNATIONAL BUILDING CODE AND THE 2000 INTERNATIONAL PLUMBING AND MECHANICAL CODES.

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TABLE

NO.	DESCRIPTION	QTY	UNIT	PRICE	TOTAL
1	CONCRETE	100	CU YD	120.00	12000.00
2	STEEL	50	TON	200.00	10000.00
3	BRICK	200	1000	1.00	200.00
4	CEMENT	50	TON	100.00	5000.00
5	AGGREGATE	100	CU YD	40.00	4000.00
6	PAINT	100	GA	1.00	100.00
7	GLASS	100	SQ FT	1.00	100.00
8	DOORS	10	EA	100.00	1000.00
9	WINDOWS	20	EA	50.00	1000.00
10	ROOFING	100	SQ FT	1.00	100.00
11	MECHANICAL	100	EA	1.00	100.00
12	ELECTRICAL	100	EA	1.00	100.00
13	PLUMBING	100	EA	1.00	100.00
14	LANDSCAPE	100	EA	1.00	100.00
15	CONCRETE	100	CU YD	120.00	12000.00
16	STEEL	50	TON	200.00	10000.00
17	BRICK	200	1000	1.00	200.00
18	CEMENT	50	TON	100.00	5000.00
19	AGGREGATE	100	CU YD	40.00	4000.00
20	PAINT	100	GA	1.00	100.00
21	GLASS	100	SQ FT	1.00	100.00
22	DOORS	10	EA	100.00	1000.00
23	WINDOWS	20	EA	50.00	1000.00
24	ROOFING	100	SQ FT	1.00	100.00
25	MECHANICAL	100	EA	1.00	100.00
26	ELECTRICAL	100	EA	1.00	100.00
27	PLUMBING	100	EA	1.00	100.00
28	LANDSCAPE	100	EA	1.00	100.00
29	CONCRETE	100	CU YD	120.00	12000.00
30	STEEL	50	TON	200.00	10000.00
31	BRICK	200	1000	1.00	200.00
32	CEMENT	50	TON	100.00	5000.00
33	AGGREGATE	100	CU YD	40.00	4000.00
34	PAINT	100	GA	1.00	100.00
35	GLASS	100	SQ FT	1.00	100.00
36	DOORS	10	EA	100.00	1000.00
37	WINDOWS	20	EA	50.00	1000.00
38	ROOFING	100	SQ FT	1.00	100.00
39	MECHANICAL	100	EA	1.00	100.00
40	ELECTRICAL	100	EA	1.00	100.00
41	PLUMBING	100	EA	1.00	100.00
42	LANDSCAPE	100	EA	1.00	100.00
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53	MECHANICAL	100	EA	1.00	100.00
54	ELECTRICAL	100	EA	1.00	100.00
55	PLUMBING	100	EA	1.00	100.00
56	LANDSCAPE	100	EA	1.00	100.00
57	CONCRETE	100	CU YD	120.00	12000.00
58	STEEL	50	TON	200.00	10000.00
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63	GLASS	100	SQ FT	1.00	100.00
64	DOORS	10	EA	100.00	1000.00
65	WINDOWS	20	EA	50.00	1000.00
66	ROOFING	100	SQ FT	1.00	100.00
67	MECHANICAL	100	EA	1.00	100.00
68	ELECTRICAL	100	EA	1.00	100.00
69	PLUMBING	100	EA	1.00	100.00
70	LANDSCAPE	100	EA	1.00	100.00

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441, 437 & 410 E. MONTGOMERY STREET
 ANNE ARBOR, MI 48106
 (313) 963-1234
 WWW.AJAS.COM

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BEFORE THE ZONING HEARING BOARD OF CONSHOHOCKEN

IN RE: APPLICATION OF TR-SUBURBAN, LP.

REGARDING

424 EAST ELM STREET

DECISION OF THE BOARD

I. History of the Case:

By application dated November 21, 2005, the Applicant is seeking zoning relief from the Zoning Hearing Board (the "Board"), in the nature of a special exception (the "Special Exception") from Section 7.3.B.1 to the Conshohocken Borough Zoning Ordinance of 2001 (together with all amendments thereto, the "Zoning Ordinance") for the change of a non-conforming use of real property (the "Proposed Relief"), as said provision relates to real property located at 424 East Elm Street, Conshohocken (the "Property"). The Property is presently zoned Borough Residential -2 ("BR-2"). The Applicant is requesting that it be permitted to convert the first floor of a building which is a non-conforming contractor office and warehouse area into a fitness/wellness center and related offices at the Property (the "Proposed Use").

The Zoning Ordinance permits a non-conforming use to be changed to another non-conforming use "which is equally appropriate or more appropriate" and is "no more detrimental than the existing non-conforming use, as a special exception by the Zoning Hearing Board." Id. at Section 7.3.B.1.

A public hearing was held before the Board on the evening of January 9, 2006, at 7:00 pm, prevailing time, at the Borough Hall in Conshohocken, Pennsylvania. At the conclusion of the hearing, the Board discussed the issue and rendered a decision. Due notice was given for the public hearing.

After the conclusion of the hearing, the Board found as follows:

II. Findings of Fact:

1. The Applicant is TR-Suburban, LP, of 424 East Elm Street, Conshohocken. The Applicant is the owner of the Property. Said Applicant was represented by Carl Weiner, Esquire, at the hearing.

2. The property involved is 424 East Elm Street in Conshohocken, Pennsylvania. The Property is zoned BR-2 and is a non-conforming commercial office and warehouse in a residential area.

3. The Applicant, through its counsel, testified that it wished to convert the first floor from warehouse and office space to a fitness studio/wellness center and office area.

4. Mike Rufo, representative of the Applicant testified that it intended to convert area that had been office space and warehouse into a "wellness center" which would consist of a Yoga and Pilates fitness studio area, as well as offices for a dietician and massage therapist which would be affiliated with the wellness center. A nurse practitioner would also use the office area.

5. A proposed change in non-conforming use requires Board approval that the proposed change must be "equally appropriate or more appropriate" for, and no more detrimental to, the neighborhood. See Zoning Ordinance Section 7.3.B.

6. The Board asked numerous questions of the Applicant regarding the hours of operation, which the Applicant noted would be 6:30am until 10:00pm Monday through Saturday, as well as the size of the proposed classes, which would be 25-27 at peak times when classes were being taught. The Applicant also testified that no dumbbells or active workout equipment would be at the site.

7. The Board also asked about the availability of parking at the site, as the Proposed Use would appear to require a minimum of 55 parking spaces under the Zoning Ordinance. The

Applicant testified that the plans for the Proposed Use included providing 56 parking spaces over two adjoining lots. The Applicant agreed to enter into a cross-easement with the adjoining property (also presently owned by the Applicant) to preserve the right to use of the parking spaces in perpetuity.

8. The Applicant's counsel argued that the Proposed Use would be no more intrusive and equally appropriate for the surrounding neighborhood than the present use, and would likely not cause any significant change or impact to the surrounding community.

9. No one testified for or against the Application.

10. The Board finds that the matter was properly advertised pursuant to the Zoning Ordinance and the Pennsylvania Municipal Planning Code ("MPC").

III. Discussion:

The Applicant seeks the Special Exception in order to permit the Proposed Use pursuant to Section 7.3.B to allow the change in non-conforming use of the first floor of the building at the Property from office and warehouse to wellness center and related offices. See Zoning Ordinance Sections 7.3.B.

Section 7.3.B of the Zoning Ordinance permits a non-conforming use to be changed to another non-conforming use as a special exception by the Zoning Hearing Board when such non-conforming use is "equally appropriate or more appropriate to the district in which the property is located, and is no more detrimental than the existing non-conforming use." Id. Non-conforming uses are an anomaly in zoning law, as they permit a property owner rights that all others in the neighborhood are not permitted. This requires the Board to carefully and deliberately balance the competing interests of a property owner whose use rights pre-dates changes in the Zoning Ordinance with the interests of the rest of the community. Any change in non-conforming use must be equally as appropriate or more appropriate to the surrounding neighborhood in order to gain approval. See Zoning Ordinance at 7.3.B.

The Board has reviewed the Proposed Relief carefully in connection with the requirements of Sections 7.3.B as well as the MPC standards for granting the Proposed Relief. See MPC, at 53 P.S. §10910.2. The Board has been convinced that the Proposed Use, though still non-conforming, is equally appropriate for the surrounding neighborhood as the presently permitted use. Further, the Board is also persuaded by the testimony offered from the Applicant that the Proposed Relief will not cause a major increase in the number of cars seeking on-street parking, as it is generally small classes or one on one sessions, with parking (provided a cross easement is in place) that exceeds the requirements of the Zoning Ordinance. As a result, the Board is willing to approve the Proposed Relief subject to the requirement that the Applicant enter into a cross easement which permanently grants access to the parking adjacent to the Property so that at no point there are less than 56 parking spaces available for use by the Proposed Use (the "Condition"). Such Condition is required to be in place prior to the opening of the Proposed Use, and must remain in place at all times in order for the Proposed Use to continue at the site.

Therefore, the Board finds the Application meets the requirements of Zoning Ordinance Section 7.3.B that the Proposed Use is no less appropriate for the surrounding neighborhood. See id. As a result, the Board, upon thorough and deliberate review of the materials submitted and testimony offered, has determined that the Proposed Relief is proper, and hereby grants a the Special Exception pursuant to Zoning Ordinance Section 7.3.B subject to the Condition.

IV. Conclusions of Law:

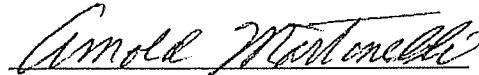
1. The matter was properly presented before the Board.
2. The matter was properly advertised and the hearing both timely and appropriately convened in accordance with the provisions of both the Zoning Ordinance and the MPC.

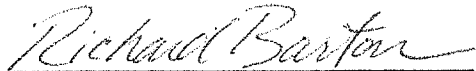
3. The Zoning Ordinance and the MPC both give the Board the necessary discretion to determine whether or not to grant the Proposed Relief as well as to qualify such grant of Proposed Relief subject to the Condition.

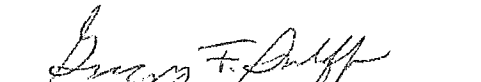
ORDER


The Board grants the Applicant's request for the Proposed Relief from Zoning Ordinance Sections 7.3.B to accommodate a change in non-conforming use for the first floor of the building. Such relief is granted subject to both the Condition and to the Applicant maintaining the Proposed Use in conformity with the information provided to the Board and all other regulations of the Borough.¹

CONSHOHOCKEN ZONING HEARING BOARD


Arnold Martinelli, Chairman


Richard Barton


Gregory F. Scharff


Jennifer Oehler

¹ Board member Vivian Angelucci was not present at the Hearing and did not vote on this matter.
4019595

EXHIBIT “E”

APR 24 2006

DECLARATION OF EASEMENTS

THIS DECLARATION, made this 21st day of April, 2006 by TR-Suburban, L.P., a Pennsylvania limited partnership whose mailing address is 424 E. Elm Street, Conshohocken, Pennsylvania ("Declarant").

WITNESSETH:

A. Declarant is the owner in fee of two parcels of land located in Conshohocken Borough, Montgomery County, Pennsylvania, and described by the metes and bounds description contained in Exhibit "A" attached hereto and made a part hereof (the "Entire Premises"). The Entire Premises is depicted on the Plan prepared by Momenee and Associates, Inc. and attached hereto as Exhibit "B".

B. Declarant intends to convey a portion of the Entire Premises denoted as Lot 14 on the Plan and described by metes and bounds on Exhibit "C" attached hereto ("Lot 14"). Prior to the conveyance of Lot 14, Declarant desires to create certain easements which will benefit Lot 14 and burden the parcel described by metes and bounds on Exhibit "C" attached hereto and depicted as "Premises C" on the Plan ("Lot C").

C. Declarant desires to create certain perpetual easements for the benefit of Lot 14 which will burden Lot C.

NOW, THEREFORE, for and in consideration of benefits accruing to Declarant by reason of this Declaration, and intending to be legally bound, Declarant for itself, its successors and assigns, hereby declares as follows:

1. Definitions.

(a) "Occupant" means any person entitled to the use, occupancy or enjoyment of all or any portion of Lot 14;

(b) "Owner" means the then current holder from time to time of fee simple title to any portion of the Entire Premises;

(c) "Parking Easement Parcel" means that certain portion of Lot C cross-hatched on the Plan.

(d) "Permittees" means the following persons:

i) an Occupant; and
ii) the officers, directors, employees, agents, contractors, subcontractors, customers, patrons, clients, visitors, licensees and invitees of any Occupant and/or of any Owner, its successors and assigns.

(e) "Person" means individuals, partnerships, firms, associations, corporations, trusts and any other form of legal entity.

2. Grant of Easements.

(a) Declarant hereby grants and declares that Lot C shall be held, sold, transferred, conveyed, leased, mortgaged and used subject to the following perpetual easements

which shall be appurtenant to Lot 14 and which are granted to and for the benefit of any Owner, his heirs and assigns, of all or any portion of Lot 14, and all Permittees with respect to Lot 14:

i) an easement to use the Parking Easement Parcel, in common with Permittees of Lot C, for the parking and passage of motor vehicles and passage by pedestrians. It is further provided that Permittees of Lot 14 shall have the exclusive right to post signs that designating the three (3) spaces denoted on Exhibit "B" with double hatch marks as "Reserved Parking Spaces" as parking spaces reserved for the Permittees of Lot C.

ii) an easement to use the Parking Easement Parcel for ingress and egress, by vehicle or on foot, in, to, upon and over the Parking Easement Parcel for all purposes for which roadways, driveways and walkways are commonly used.

3. Not Affected by Change in Use. The easements granted by this Declaration shall continue in full force and effect as perpetual easements and shall be unaffected by any change in the use, whether such change is in the nature of use or the intensity of use, of Lot 14 or any portion thereof.

4. Division of Lot C or Lot 14. If Lot C and/or Lot 14 are divided into multiple parts by separation of ownership or by lease, to the extent an easement hereby created benefits Lot 14, the benefits or the easements hereby created shall continue to attach to and run with, and benefit and burden, as the case may be, each part so divided.

5. Use of Parking Easement Parcel. Use of the Parking Easement Parcel is not confined to present uses of the Entire Premises, the present buildings thereon (if any) or present means of transportation. Declarant, its successors and assigns as Owner of Lot 14, expressly reserves the right to use the Parking Easement Parcel for the purposes set forth herein, and for any other use that does not unreasonably interfere with the use of the Parking Easement Parcel for the purposes set forth herein.

6. Maintenance. The Owner(s) of Lot C shall be responsible for, and shall bear all costs for the construction, cleanliness, upkeep, maintenance, snow removal and repair of the Parking Easement Parcel.

7. Running of Benefits and Burdens. It is intended that all provisions of this Declaration, including the benefits and burdens, shall attach to and run with the Entire Premises, and each portion thereof, and shall be binding upon and inure to the heirs, assigns, successors, tenants and personal representatives of Declarant and all Owners of any portion of the Entire Premises.

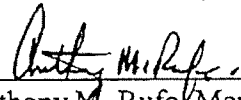
8. Rescission; Amendment. The provisions of this Declaration may be rescinded or amended in whole or in part only by the joinder of all Owners of all or any portion of the Entire Premises in such rescission or amendment. No other party or parties in interest shall have the right to rescind or amend, in whole or in part, this Declaration; nor shall the effectiveness of any rescission or amendment of this Declaration be dependent on the consent or approval of any other party or parties in interest.

IN WITNESS WHEREOF Declarant has caused this Declaration of Cross Easements to be executed as of the date and year first above written.

DECLARANT:

TR – SUBURBAN, L.P., a Pennsylvania limited partnership, by its general partner

BY: TR – III, L.L.C.

BY: 
Anthony M. Rufo, Member

COMMONWEALTH OF PENNSYLVANIA :

SS.

COUNTY OF Montgomery :

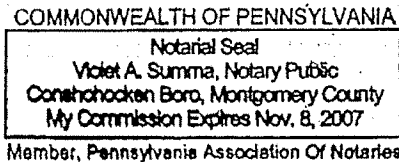
On the 21st day of April, 2006, before me, the subscriber, a Notary Public for the Commonwealth of Pennsylvania, residing in the County aforesaid, personally appeared Anthony M. Ruffo, who acknowledged himself/herself to be the managing member of TR - III, LLC, as general partner of TR - Suburban, L.P., a Pennsylvania limited partnership, and that he/she as such member, being authorized to do so, executed the foregoing instrument for the purposes therein contained by signing his/her name on behalf of said partnership.

Witness my hand and notarial seal the day and year aforesaid.

Violet A. Summa

Notary Public

My Commission Expires:



JOINDER

This Joinder of Susquehanna/Patriot Bank, Mortgagee, for Lot C, is an acknowledgement that their encumbrance will be subordinate to this Easement.

Susquehanna/Patriot Bank

By James B. Erb, Jr.
James B. Erb, Vice President

4/21/06
Date

EXHIBIT "A"

ALL THAT CERTAIN lot or piece of ground with the buildings and improvements thereon erected, said lot being Premises 'C', Situate in the Borough of Conshohocken, County of Montgomery and Commonwealth of Pennsylvania, bounded and described according to a plan titled Record Plan - 401, 425 & 440 E. Hector Street by Momenee and Associates, Inc., dated March 8, 2004, last revised October 26, 2005, as follows, to wit:

BEGINNING at a point, said point being located the following course and distance from an iron pin to be set at the intersection of the easterly side of Cherry Street, (50.00 feet wide), and the northerly side of Elm Street, (50.00 feet wide), (1) along the northerly side of Elm Street North 85 degrees 00 minutes 00 seconds East 280.00 feet to a common corner with Lot 14 marked by a spike to be set, thence from said point of beginning leaving the northerly side of Elm Street and along a common line with Lot 14 North 05 degrees 00 minutes 00 seconds West 200.00 feet to a point marked by an iron pin to be set along the southern side of Hector Street (50.00 feet wide) a common corner with Lot 13, thence along the southern side of Hector Street North 85 degrees 00 minutes 00 seconds East 180.00 feet to a point at the intersection with the northerly side of Elm Street, thence along the northerly side of Elm Street the following four courses (1) South 05 degrees 11 minutes 00 seconds East 90.53 feet to a point, (2) South 84 degrees 49 minutes 38 seconds West 0.50 feet to a point, (3) along the arc of circle curving to the right with a radius of 110.00 feet and an arc length 172.38 feet to a point, (4) South 84 degrees 53 minutes 31 seconds West 70.00 feet to the first mentioned point and place of beginning.

CONTAINING 33,455 SF (0.7680 acres) of land more or less.

BEING Parcel #05-00-05904-00-4.

ALL THAT CERTAIN lot or piece of ground with the buildings and improvements thereon erected, said lot being Lot 14, Situate in the Borough of Conshohocken, County of Montgomery and Commonwealth of Pennsylvania, bounded and described according to a plan titled Record Plan - 401, 425 & 440 E. Hector Street by Momenee and Associates, Inc., dated March 8, 2004, last revised

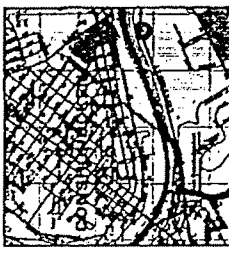
October 26, 2005, and recorded in Montgomery County in Plan Book 25 page 276, as follows, to wit:

BEGINNING at a point, said point being located the following course and distance from an iron pin to be set at the intersection of the easterly side of Cherry Street, (50.00 feet wide), and the northerly side of Elm Street, (50.00 feet wide), (1) along the northerly side of Elm Street North 85 degrees 00 minutes 00 seconds East 166.36 feet to a common corner with Lot 15, thence from said point of beginning leaving the northerly side of Elm Street and along a common line with Lot 15 North 05 degrees 00 minutes 00 seconds West 100.00 feet to a common corner of Lots 15, 8 and 9, thence along a common line with Lots 9, 10, 11, 12, and 13 North 85 degrees 00 minutes 00 seconds East 113.64 feet to a common corner with Lot 13 and along a common line with Premises C, thence along said line South 05 degrees 00 minutes 00 seconds East 100.00 feet to a point along the northerly side of Elm Street marked by a spike to be set, thence along said line South 85 degrees 00 minutes 00 seconds West 113.64 feet to the first mentioned point and place of beginning.

CONTAINING 11,364 SF (0.2609 acres) of land more or less.

BEING Parcel #05-00-05900-00-8.

BEING as to part, the same premises which Edward A. Comer and Elaine K. Comer, his wife by Deed dated 6/10/1999 and recorded 7/19/1999 in the County of Montgomery in Deed Book 5279 page 1803, conveyed unto TR-Suburban, L.P., a Pennsylvania limited partnership, in fee.



GENERAL NOTES:

1. THE PROPERTY IS LOCATED IN THE CITY OF PHOENIX, MARICOPA COUNTY, ARIZONA.
2. THE PROPERTY IS ZONED R-10 (RESIDENTIAL SINGLE-FAMILY).
3. THE PROPOSED DEVELOPMENT IS CONSISTENT WITH THE ZONING REGULATIONS.
4. THE DEVELOPMENT IS SUBJECT TO THE APPROVAL OF THE CITY OF PHOENIX AND MARICOPA COUNTY.
5. THE DEVELOPMENT IS SUBJECT TO THE APPROVAL OF THE ARIZONA DEPARTMENT OF TRANSPORTATION.
6. THE DEVELOPMENT IS SUBJECT TO THE APPROVAL OF THE ARIZONA DEPARTMENT OF WATER RESOURCES.
7. THE DEVELOPMENT IS SUBJECT TO THE APPROVAL OF THE ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY.
8. THE DEVELOPMENT IS SUBJECT TO THE APPROVAL OF THE ARIZONA DEPARTMENT OF LAND AND WATER MANAGEMENT.
9. THE DEVELOPMENT IS SUBJECT TO THE APPROVAL OF THE ARIZONA DEPARTMENT OF AGRICULTURE.
10. THE DEVELOPMENT IS SUBJECT TO THE APPROVAL OF THE ARIZONA DEPARTMENT OF MINES AND METALS.
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20. THE DEVELOPMENT IS SUBJECT TO THE APPROVAL OF THE ARIZONA DEPARTMENT OF WILDLIFE RESEARCH.

RECORD PLAN
 401, 425 & 440 E. HECTOR STREET
 MOHENE AND ASSOCIATES, INC.
 812 COUNTY LAK ROAD, BETH LEVINE, AZ 85010 (602) 317-2000
 250 STATE STREET, PHOENIX, AZ 85001 (602) 344-1111

COMPARISON PARKING ANALYSIS

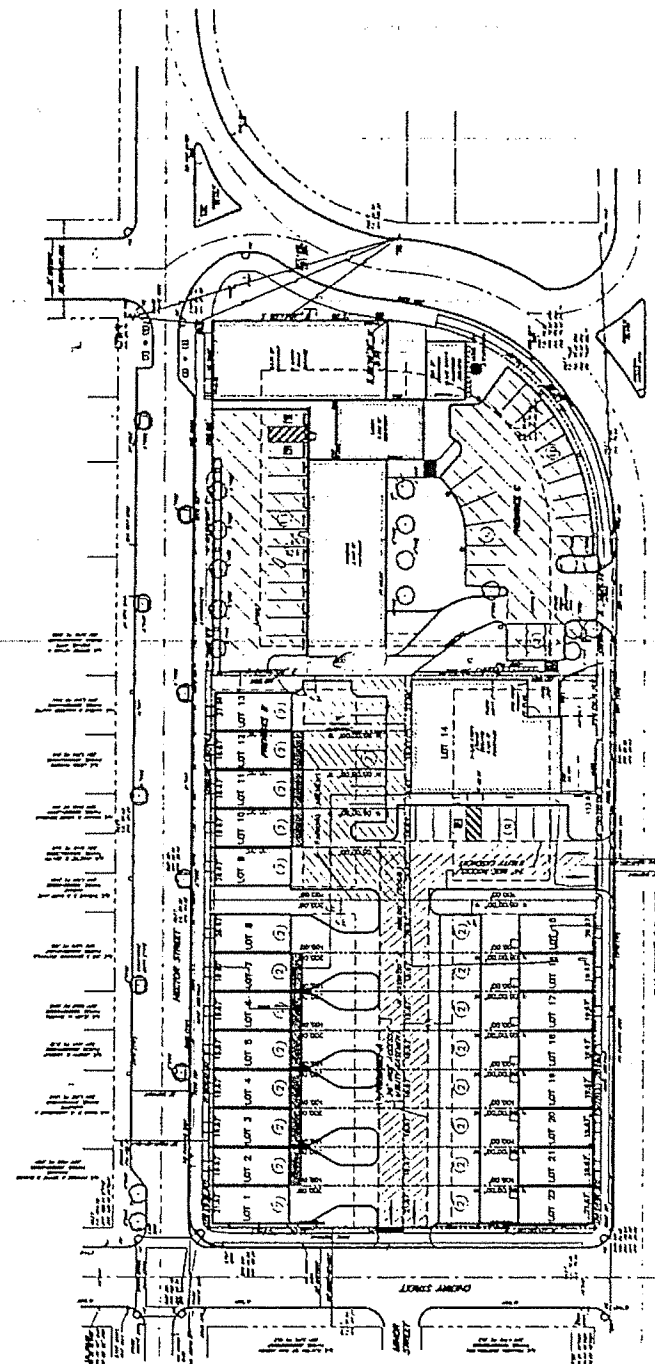
PROPOSED DEVELOPMENT:
 OFFICE = 20,000 SF (175/1000)
 MULTIFAMILY = 2,000 SF (175/1000)

EXISTING DEVELOPMENT:
 OFFICE = 20,000 SF (175/1000)
 MULTIFAMILY = 2,000 SF (175/1000)

ADDITIONAL PARKING ANALYSIS

TOURIST/COMMERCIAL:
 PARKING REQUIRED: 41 SPACES
 PARKING PROVIDED: 41 SPACES

RESIDENTIAL:
 PARKING REQUIRED: 41 SPACES
 PARKING PROVIDED: 41 SPACES



LOT AREA CALCULATION TABLE

LOT	AREA (SQ FT)	AREA (AC)
1	21,000	0.481
2	21,000	0.481
3	21,000	0.481
4	21,000	0.481
5	21,000	0.481
6	21,000	0.481
7	21,000	0.481
8	21,000	0.481
9	21,000	0.481
10	21,000	0.481
11	21,000	0.481
12	21,000	0.481
13	21,000	0.481
14	21,000	0.481
15	21,000	0.481
16	21,000	0.481
17	21,000	0.481
18	21,000	0.481
19	21,000	0.481
20	21,000	0.481
21	21,000	0.481
TOTAL	441,000	10.091

NOTES:

1. THE PROPOSED DEVELOPMENT IS SUBJECT TO THE APPROVAL OF THE CITY OF PHOENIX AND MARICOPA COUNTY.
2. THE DEVELOPMENT IS SUBJECT TO THE APPROVAL OF THE ARIZONA DEPARTMENT OF TRANSPORTATION.
3. THE DEVELOPMENT IS SUBJECT TO THE APPROVAL OF THE ARIZONA DEPARTMENT OF WATER RESOURCES.
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LEGEND

- PROPOSED LOT LINE
- EXISTING LOT LINE
- PROPOSED DRIVEWAY
- EXISTING DRIVEWAY
- PROPOSED SIDEWALK
- EXISTING SIDEWALK
- PROPOSED PARKING SPACE
- EXISTING PARKING SPACE
- PROPOSED EASEMENT
- EXISTING EASEMENT
- PROPOSED SETBACK
- EXISTING SETBACK
- PROPOSED CURB
- EXISTING CURB
- PROPOSED STREET LIGHT
- EXISTING STREET LIGHT
- PROPOSED SIGN
- EXISTING SIGN
- PROPOSED FENCE
- EXISTING FENCE
- PROPOSED WALL
- EXISTING WALL
- PROPOSED GROUND COVER
- EXISTING GROUND COVER
- PROPOSED TREES
- EXISTING TREES
- PROPOSED SHRUBS
- EXISTING SHRUBS
- PROPOSED GRASS
- EXISTING GRASS
- PROPOSED ASPHALT
- EXISTING ASPHALT
- PROPOSED CONCRETE
- EXISTING CONCRETE
- PROPOSED BRICK
- EXISTING BRICK
- PROPOSED STONE
- EXISTING STONE
- PROPOSED METAL
- EXISTING METAL
- PROPOSED GLASS
- EXISTING GLASS
- PROPOSED WOOD
- EXISTING WOOD
- PROPOSED PLASTER
- EXISTING PLASTER
- PROPOSED STUCCO
- EXISTING STUCCO
- PROPOSED TILE
- EXISTING TILE
- PROPOSED CARPET
- EXISTING CARPET
- PROPOSED PAINT
- EXISTING PAINT
- PROPOSED FINISH
- EXISTING FINISH

REFERENCE PLANS

ALL LOCATIONS OF UTILITIES ARE SHOWN AS APPROXIMATE. THE LOCATION OF UTILITIES SHALL BE VERIFIED BY THE UTILITY COMPANIES PRIOR TO CONSTRUCTION.

ALL DIMENSIONS ARE IN FEET AND INCHES. DIMENSIONS SHALL BE TO THE CENTERLINE OF THE LOT OR TO THE CENTERLINE OF THE DRIVEWAY OR TO THE CENTERLINE OF THE SIDEWALK OR TO THE CENTERLINE OF THE CURB OR TO THE CENTERLINE OF THE STREET OR TO THE CENTERLINE OF THE ALLEY OR TO THE CENTERLINE OF THE EASEMENT OR TO THE CENTERLINE OF THE SETBACK OR TO THE CENTERLINE OF THE WALL OR TO THE CENTERLINE OF THE FENCE OR TO THE CENTERLINE OF THE GROUND COVER OR TO THE CENTERLINE OF THE TREES OR TO THE CENTERLINE OF THE SHRUBS OR TO THE CENTERLINE OF THE GRASS OR TO THE CENTERLINE OF THE ASPHALT OR TO THE CENTERLINE OF THE CONCRETE OR TO THE CENTERLINE OF THE BRICK OR TO THE CENTERLINE OF THE STONE OR TO THE CENTERLINE OF THE METAL OR TO THE CENTERLINE OF THE GLASS OR TO THE CENTERLINE OF THE WOOD OR TO THE CENTERLINE OF THE PLASTER OR TO THE CENTERLINE OF THE STUCCO OR TO THE CENTERLINE OF THE TILE OR TO THE CENTERLINE OF THE CARPET OR TO THE CENTERLINE OF THE PAINT OR TO THE CENTERLINE OF THE FINISH.

ADDITIONAL NOTES:

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EXHIBIT "C"

ALL THAT CERTAIN lot or piece of ground with the buildings and improvements thereon erected, said lot being Lot 14, Situate in the Borough of Conshohocken, County of Montgomery and Commonwealth of Pennsylvania, bounded and described according to a plan titled Record Plan - 401, 425 & 440 E. Hector Street by Momenee and Associates, Inc., dated March 8, 2004, last revised October 26, 2005, and recorded in Montgomery County in Plan Book 25 page 276, as follows, to wit:

BEGINNING at a point, said point being located the following course and distance from an iron pin to be set at the intersection of the easterly side of Cherry Street, (50.00 feet wide), and the northerly side of Elm Street, (50.00 feet wide), (1) along the northerly side of Elm Street North 85 degrees 00 minutes 00 seconds East 166.36 feet to a common corner with Lot 15, thence from said point of beginning leaving the northerly side of Elm Street and along a common line with Lot 15 North 05 degrees 00 minutes 00 seconds West 100.00 feet to a common corner of Lots 15, 8 and 9, thence along a common line with Lots 9, 10, 11, 12, and 13 North 85 degrees 00 minutes 00 seconds East 113.64 feet to a common corner with Lot 13 and along a common line with Premises C, thence along said line South 05 degrees 00 minutes 00 seconds East 100.00 feet to a point along the northerly side of Elm Street marked by a spike to be set, thence along said line South 85 degrees 00 minutes 00 seconds West 113.64 feet to the first mentioned point and place of beginning.

CONTAINING 11,364 SF (0.2609 acres) of land more or less.

BEING Parcel #05-00-05900-00-8.

BEING as to part, the same premises which Edward A. Comer and Elaine K. Comer, his wife by Deed dated 6/10/1999 and recorded 7/19/1999 in the County of Montgomery in Deed Book 5279 page 1803, conveyed unto TR-Suburban, L.P., a Pennsylvania limited partnership, in fee.

EXHIBIT “F”



F. Tavani and Associates, Inc.

Traffic Engineering and Planning

248 Beech Hill Road • Wynnewood • PA • 19096 • (215) 625-3821 Phone • (484) 792-9495 Fax

WWW.FTAVANIASSOCIATES.COM

12 August 2021

Ed Campbell, Esq.
Campbell Rocco Law, LLC
2701 Renaissance Boulevard, 4th Fl
King of Prussia, Pennsylvania 19406

VIA ELECTRONIC MAIL ONLY

**RE: Parking & Trip Generation Investigations,
424 E. Elm Street, Conshohocken**

FTA Job # 221-015

Mr. Campbell:

F. Tavani and Associates, Inc. (FTA) performed traffic and parking investigations of an existing 8,400 SF, two-story office building located at 424 East Elm Street, Conshohocken (the "Property"). I understand that this building is currently approved to operate a fitness/wellness center including yoga and pilates studios, offices for a dietician, nurse practitioner, massage therapists and a café on the first floor the ("Wellness Center") and an office on the second floor. I understand that the Wellness Center was approved pursuant to a Special Exception granted in 2005 (the "2005 Special Exception"). I further understand that consideration is being given to abandon the Wellness Center use on the first floor and instead returning that floor to office use as well, consistent with the top floor of the building. A question is whether or not the proposed conversion (to office) results in more intense traffic generation or parking demand which may be burdensome to the community.

EXISTING SITE CONDITIONS

The site includes one existing commercial building totaling approximately 8,400 SF over two floors, each floor being approximately equal in size. The site has its own parking supply amounting to 18 off-street parking spaces on the Property. In addition, pursuant to a 2006 easement agreement (the "2006 Easement"), the Property has the exclusive use of 3 spaces on an adjacent parcel. In addition, the 2006 Easement provides Property with the non-exclusive right to use 29 parking spaces on the adjacent parcel, 16 of which are off of Elm Street and 13 of which are off of Hector Street.. There is also available public street parking in the vicinity of the site. It should be noted that the site also has an agreement with neighboring townhomes which allows the townhomes use of "overnight" parking on the 16 of the 18 parking spaces located on the Property. (from 6 PM to 8 AM, weekdays).

TRIP GENERATION – EXISTING USE

Trip generation activity for many land uses can be investigated utilizing the Institute of Transportation Engineers' (ITE) publication entitled Trip Generation Manual (10th edition). This publication contains formulae which can be used to predict trip (traffic) generation for various proposed facilities. Not all land use possibilities are represented in the publication. The formulae in the publication are based on real-world

empirical data which is collected by others and shared with the Institute. The empirical data is collected throughout the United States. If *local* empirical data can be gathered for a particular proposed site, it is likely comparable to national data in terms of usefulness. yoga studios are not an available land use in the ITE publication, and the existing yoga studio at the site is no longer in operation, so direct measurement of its traffic activity cannot be made. However the studio operated for a number of years and insight into its activity was gathered from conversations with the building owner. The activity is summarized as follows:

- the studio space was 2 large rooms;
- each room could host up to about 30 people;
- the studio was open 7 days a week;
- the studio had up to 6 classes per day;
- classes typically had 15-20 participants;
- classes were early in the morning, lunchtime, and late afternoon/early evening; and
- classes sometimes partially overlapped and/or were “back to back”, meaning there could be overlap of arriving & departing participants¹.

Classes were essentially timed so that participants could take a class either just before work, just after work, or during lunch. Thus, the trip generation associated with the yoga studio occurred approximately contemporaneously with typical office weekday ‘rush hours’ or peak periods (i.e., 7-9 AM and 4-6 PM). As you can see from the summary, during certain times of the day, approximately 20 participants could be arriving and approximately 20 participants could be leaving within the same hour for each room, for a total potential trip generation of 80 or more cars at peak times¹.

This trip generation does not include trips created by the dietician, massage therapy and nurse practitioner uses also permitted at the Property pursuant to the 2005 Special Exception.

TRIP GENERATION – PROPOSED USE

As has been previously mentioned, trip generation activity for many land uses can be investigated utilizing Trip Generation Manual. For the proposed use, General Office, LUC 710 is available and appropriate. As also mentioned earlier, collecting local data can be as equally useful as national data, and the 2nd floor of the existing building *is* actively occupied by an office use. However, COVID is somewhat suppressing the trip-making characteristics of that space at this time, so making direct traffic measurements is not prescribed. From conversations with the existing tenant, that space currently has about 4 employees that report to the site on a quasi-regular basis at this time, though the space (as currently configured) could support about 10 employees. Of course, not all employees arrive (or depart) in one 60-minute window of time (i.e., the peak hour), though many do (some employees arrive/depart in the hour preceding and succeeding the peak hour, for example, but in those case the trip generation is still less than the “peak hour”). The tenant description of occupancy marries well with ITE-predicted numbers as summarized below:

¹ Classes at the end of the day, for example, could be offered from 5:00 to 6:00 PM & from 6:00 PM to 7:00 PM in the 1st room. Thus around 6:00 PM there could be about 20 participants leaving from the first class and 20 participants arriving for the second class *in the 1st room alone*. The 2nd room could be utilized as well, and with a short staggering of time (i.e., from 5:30 to 6:30 PM & 6:30 to 7:30 PM, or the like), to provide maximum flexibility / availability to clients. In this instance, at around 6:30 PM there could be about 20 participants leaving from the first class and 20 participants arriving for the second class *in the 2nd room alone*. Traffic engineers focus on peak *hourly* flows thus between, around 5:45 PM and 6:45 PM (for example) there could have been as many as 80 participants coming and going to/from the site in each of its 2 rooms.

TABLE 1
ITE TRIP GENERATION RATES - PROPOSED USE

Land Use	LUC #	Time Period	Equations/Rates	Resultant Total Trips (entering + exiting)
Office (4.2 KSF GLA)	710	A.M. Peak Hour	$T = 1.16(X)$	5
		P.M. Peak Hour	$T = 1.15(X)$	5

T = number of site-generated vehicular trips X = independent variable (KSF GLA)

With all these various trip generation methodologies and investigations established, **Table 2** summarizes trip generation potential (actual volumes/trips) of existing (yoga studio) and proposed (office) utilization of the first floor space.

TABLE 2
TRIP GENERATION SUMMARY

Description	Former Use (yoga) ²			Proposed Use (Office) ³			Difference		
	In	Out	Total	In	Out	Total	In	Out	Total
AM Peak Hour	20	20	40	8	2	10	-12	-18	-30
PM Peak Hour	20	20	40	2	8	10	-18	-12	-30

As shown, the proposed use (office) will result in substantially less traffic than the former use (yoga studio), even with conservative assumptions as described in the footnotes on this page.

PARKING DEMAND, EXISTING vs. PROPOSED USE

Peak parking demand for many land uses can be investigated utilizing the Institute of Transportation Engineers' (ITE) publication entitled Parking Generation Manual (5th edition). This publication is similar to Trip Generation, but instead of traffic activity it instead focuses primarily on predicted peak parking demands associated with a proposed use. Once again, yoga studio is not an available land use category in Parking Generation, but General Office (LUC 710) is. According to the publication, 4,200 SF of gross floor area of office translates to an expected weekday average peak parking demand equal to 10 spaces. As mentioned earlier, 17 parking spaces are provided on the site. Assuming another 10 spaces for the 2nd floor tenant, there is a small parking shortfall, but there is also 20+ parking spaces available elsewhere (in fact, immediately adjacent to the site) by easement, and even more publicly available on-street. Note also that this analysis assumes all office users/visitors utilize personal auto trips, whereas there is available nearby (within ½ mile of the site) mass transit opportunities both by rail (2 stations) and by bus. The site is also in a community which is increasingly residential, meaning that some trips to the site could even be made by walking or biking (the site is near the Schuylkill River Trail and the study area features ample sidewalks),

² Based on conversations described earlier, the weekday AM peak period yoga use was similar to the PM use as described on the previous page, so a similar trip generation is utilized in **Table 2**. Even though up to 80 trips could be reasonably expected, trip generation for either peak hour equal to half that activity was included in **Table 2**, to be conservative.

³ ITE trip generation amounts to 5 total trips during either peak hour using the formulae found in **Table 1**, but to be conservative as well as to reflect the floor space potential as explained by the existing tenant and as further described at the bottom of the previous page, ITE trip generation estimates were doubled in **Table 2**.

Ed Campbell, Esq.
12 August 2021
Page 4 of 4

further reducing parking impacts. Most importantly, the proposed use will result in considerably less parking demand than was associated with the yoga studio use, as indicated by the trip generation analysis above.

CONCLUSIONS

The proposed substitution of office space for yoga studio space on the 1st floor of 424 E. Elm Street will result in reduced trip generation (traffic) in the area surrounding the site as well as reduced parking demand in the community. The reduction in both traffic and parking is considerable, and it should be noted that the foregoing conclusions were reached using:

- a significantly-higher-than-expected office trip generation rate (doubled);
- a significantly-lower-than-expected yoga studio trip generation rate (halved);
- no assumed transit usage, despite nearby transit opportunities;
- no assumed ped or bike trips, despite some nearby bike opportunities & available sidewalks; and
- virtual non-reliance on available easement-granted parking supply in an adjacent lot as well as viable public on-street parking near the site.

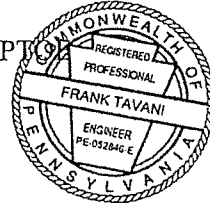
I hope this has been helpful. If you have any questions please contact me at your convenience.

Yours truly,

F. TAVANI AND ASSOCIATES, INC.

FRANK TAVANI, P.E., P.T.C.

Principal



cc: Fiona Jamison

EXHIBIT “G”



KERRI_HANLON
Posts

Follow



kerri_hanlon



🔗 yoga ouryogahome



75 likes

kerri_hanlon Beloveds,

We know that a community is a sanctuary that exists and expands beyond the boundaries of a physical space. That our hearts and intentions are always connected.

We have made the difficult decision to release the lease on our physical studio space at Yoga Home. (Deep breath.)

We know that for so many of you Yoga Home has





KERRI_HANLON

Posts

Follow

been a second home. The space has held so much for each of us – life's many milestones, the heartbreaks and the joys, the endings and beginnings of relationships and friendships, births and deaths. We've cried together and laughed together inside these walls. We've shared precious rituals, stepped into brave conversations together and maybe even had some memorable moments on the couch.

And we know that you've taken Yoga Home home with you and extended our community into your own. We hope to be able to continue to do that.

We've been lucky enough to have the opportunity to take our business online during these uncertain times. We know not every other small business has the same privilege. Having not been able to operate in the studio for almost three months and with more uncertainty ahead, we know it's the best decision for the health of the business to let go of our physical space. (Another deep breath.)

We also know that our community exists beyond 424 East Elm Street. Together, we've practiced and danced on rooftops, planted flowers in the Community Garden, helped build schools in other countries, traveled to places near and far. We've been together in your workplaces and at your children's schools. We've helped train your athletes, have been part of your birthdays and weddings, and most recently, you've now welcomed us into your homes through our online studio.

This will all continue. Yoga Home will still exist and be a part of the community and your lives. In the weeks and months to come, we hope to collaborate with some of our community partners to bring you special events and classes that are at the core of who we are, that will bring us together in a way that is both safe, connected and fun.

Full post is on our website, link in bio. Gratitude to all for your support.





KERRI_HANLON

Posts

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Full post is on our website, link in bio. Gratitude to all for your support. ❤️🙏❤️

View all 12 comments

May 29, 2020





KERRI_HANLON
Posts

Follow



kerri_hanlon
Conshohocken, Pennsylvania



ouryogahome



78 likes

kerri_hanlon Come say hi this Saturday and Sunday at @ouryogahome as we say farewell to 424 e elm st. It's served us well, but time for a shift. I'm teaching our Community Care class at noon (Free virtual offering) and will dedicate the practice to coming home to self. Links in bio. Hope to see you - live or on zoom!

June 19, 2020





KERRI_HANLON
Posts

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15 likes

kerri_hanlon Our @ouryogahome Instagram Sale is today 1-7! Head over to Yh's IG page for all the details. Scoop up some great gifts for you or someone you love - custom jewelry, candles, bath bombs, books and (of course) yoga gear. @mary_like_the_berries - THANK YOU for making this possible!

#teamworkmakesthedreamwork #shopsmall #conshy

June 23, 2020





18 likes

kerri_hanlon It's happening! DAILY outdoor classes through our partnership with Conshohocken Recreation Services.

Starts Monday, July 6 with classes at both Sutcliffe Park and The "B" Field.

I'll see you Wednesday at 6pm at Sutcliffe!

Grateful to have this incredible teaching team -
@mauramanzo @gabyborelli.yoga @steph.spangler
@jennifermc3

(SHARE / TAG YOU FRIENDS!)

As always, your safety is our top priority. Please read full details for social distancing guidelines, registration, etc. Plus, we're offering an UNLIMITED SUMMER PASS for a limited time only! 😊

<https://ouryogahome.com/outdoors/>

July 2, 2020





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Posts

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kerri_hanlon



🔗 [yoga home](#) ouryogahome



26 likes

kerri_hanlon So much to say as we say goodbye to 424 East Elm Street. Join @mauramanzo and me this weekend for a sweet farewell. Doors will be open Fri/Sat/Sun 9-1 to say hello, scoop up some @ouryogahome goodies and give our sacred space a send off. Hope to see you! (In a mask....from 6'...🤒). Xoxo

June 17, 2020



PROPOSED FINDINGS OF FACT

1. Jeronimos, LLC (“Jeronimos”) is the record owner of real property located at 424 East Elm Street, Conshohocken, Pennsylvania (the “Property”). NT p. 3
2. The Property is in the Borough’s R-2 zoning district. NT p. 3
3. On June 18, 2021, SK Elm, LLC, (“SK Elm”) submitted an application to the Zoning Hearing Board of the Borough of Conshohocken (the “Board”) requesting a special exception pursuant to Section 27-703.B to permit the change of a non-conforming yoga studio use on the first floor to an office use which is also non-conforming. Exhibit P-1.
4. The Application was submitted by SK Elm in its capacity as equitable owner of the Property. Exhibit P-1.
5. Jeronimos consented to the Application. Exhibit P-1.
6. On July 28, 2021, the Zoning Hearing convened a hearing on the Application.
7. The July 28, 2021 hearing was adjourned and reconvened on August 16, 2021 (the “Hearing”).
8. At the Hearing Jeronimos requested permission to assume the role as an applicant for the purpose of pursuing the Application. NT p. 9-10.
9. The Board granted this request. NT p. 10.
10. The Property contains a two story building of approximately 8,000 sf. Each floor is approximately 4,000 sf. (the “Building”) NT p. 12.
11. The Building contains two uses, one on each floor.
12. The first floor is occupied by a as a wellness center and yoga studio with a café (the “Yoga Studio”)

13. The Yoga Studio is a non-conforming use authorized pursuant to a special exception granted by the Board in 2005.
14. The second floor of the Building is used as office.
15. There are currently 18 parking spaces on the Property. NT p. 13, Exhibit A-3 & A-6.
16. The 18 on-site parking spaces are subject to an easement that permits neighboring residents to use those spaces on non-business off-peak hours.
17. The Property benefits from an easement that provides an additional 3 exclusive and 29 non-exclusive parking spaces on an adjacent property. NT. P. 13, Exhibit A-3 & Exhibit A-5.
18. The Property therefore has the benefit of a total of 50 parking space:
 - a. 18 spaces located on the Property.
 - b. 3 exclusive spaces located on an adjacent property pursuant to an easement.
 - c. 29 non-exclusive spaces located on an adjacent property pursuant to an easement.
19. Jeronimos purchased the Property in 2007.
20. At the time Jeronimos purchased the Property in 2007, the first floor was used as a wellness center and yoga studio with a café (the “Yoga Studio”). NT p. 19.
21. The Yoga Sudio was in operation until the end of June, 2020 when its lease expired. NT p. 21, 30.
22. On typical week day, the Yoga Studio held five or six classes and each class had a capacity of up to 30 people, plus staff. NT p. 22.
23. The Yoga Studio classes overlapped and it would not be unusual for 20 to 30 individuals to be coming and or leaving the Yoga Studio in a single hour. NT p. 22.

24. The Applicant provided testimony from Frank Tavani, a licensed professional engineer specializing in traffic engineering.
25. The Board accepted Mr. Tavani as an expert in traffic engineering. His expert testimony can be summarized as follows:
 - a. The conversion of the first floor office space from a Yoga Studio to office use would result in a tremendous reduction in traffic trips to and from the Property. Exhibit A-9, Table 2, NT p. 52-53.
 - b. The conversion of the first floor office space from a Yoga Studio to an office use would result in substantially lower parking demand. Exhibit A-9, p. 4, NT p. 54-55.
 - c. Mr. Tavani used conservative estimates in order to draw his conclusions regarding traffic and parking. Exhibit A-9, NT p. 56.
 - d. The conversion of the Yoga Studio to office would improve traffic and parking conditions at the Property and therefore be a benefit to the community. NT p. 57.
26. Mr. Tavani's expert testimony was un rebutted.

Conclusions of Law

27. The Yoga Studio use was not abandoned.
28. The Property has 50 parking spaces available to it.
29. The conversion of the first floor of the Property from a Yoga Studio to an office use will result in a decrease in the number of traffic trips coming to and from the Property.
30. The conversion of the first floor of the Property from a Yoga Studio to an office use will result in a reduced parking demand.

31. The proposed conversion of the Yoga Studio to office use on the first floor is equally appropriate to the district in which the Property is located.
32. The conversion of the first floor of the Property from a Yoga Studio to an office use will not result in a more detrimental use at the site.
33. The conversion of the first floor of the Property from a Yoga Studio to an office use will not result in a use that is less appropriate for the site.
34. The Property is suitable for an office use.
35. The conversion of the first floor of the Property from a Yoga Studio to an office use is not inconsistent with the spirit, purpose and intent of the Zoning Ordinance.
36. The conversion of the first floor of the Property from a Yoga Studio to an office use will not substantially injure or detract from the use of neighboring property nor from the character of the neighborhood and the use of adjacent properties will be adequately safeguarded.
37. The conversion of the first floor of the Property from a Yoga Studio to an office use is in the best interest of the Borough, the convenience of the community and the public welfare.

**SILVERANG, ROSENZWEIG
& HALTZMAN, LLC**

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Attorneys for Objector,
TRDS 441 Hector Associates, LP

In Re:

**SK Elm LLC's Application For a Special
Exception for the Property at 424
E. Elm Street, Conshohocken, PA 19428**

:
: BOROUGH OF CONSHOHOCKEN
: ZONING HEARING BOARD
:
: No. z-2021-14
:

**PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW
SUBMITTED ON BEHALF OF OBJECTOR, TRDS 441 HECTOR ASSOCIATES, LP**

Objector, TRDS 441 Hector Associates, LP ("Objector"), by and through its undersigned attorney, submit these Proposed Findings of Fact and Conclusions of Law as requested by the Borough of Conshohocken's Zoning Hearing Board (the "Board") at the hearing on August 16, 2021.

PROPOSED FINDINGS OF FACT

I The Parties.

1. The original applicant in this matter was SK Elm, LLC ("SK Elm"), as the equitable owner pursuant to an agreement of sale by and between SK Elm, as buyer, and the current owner Jeronimo, LLC ("Jeronimo"), as seller, for the purchase of real property located at 424 East Elm Street, Conshohocken, PA (the "Property"). The "SK Elm Application" is attached hereto as Exhibit "A."

2. Jeronimo's representative, Fiona Jamison, testified that Jeronimo was no longer under contract with SK Elm. See August 16, 2021 Hearing Transcript ("Tr.") at 36:8-11, a true and correct copy of which is attached hereto and incorporated herein as Exhibit "B."

3. On August 16, 2021, Jeronimo submitted an application for special exception seeking approval for Jeronimo, independent of SK Elm, to continue the Property's prior nonconforming use (the "Jeronimo Application"). A true and correct copy of the Jeronimo Application is attached hereto and incorporated herein as Exhibit "C."

4. Objector, TRDS 441 Hector Associates, LP ("Objector") is the owner of the neighboring parcel located at 441 E Hector Street, Conshohocken, PA 19428 (the "Objector's Property"), and was granted party status to participate in this matter. See Tr. at 8:21-23.

II. Background.

5. The SK Elm Application was filed on or about June 24, 2021 by SK Elm, LLC (the "SK Elm Application"). See Ex. "A."

6. The SK Elm Application provides that it intends to purchase the Property and lease the space to its related business, Key Business Solutions ("KBS"). See Ex. "A" at Zoning Application and Addendum to Zoning Application.

7. On July 19, 2021, the parties attended the public hearing.

8. At the July 19, 2021, Objector requested, and was granted, a continuance until August 16, 2021.

9. On August 16, 2021, the Jeronimo Application was filed, which substantially altered the Property's proposed use. See Ex. "C."

10. Jeronimo did not, however, correspondingly amend the information pertaining to the proposed use as originally contained in the SK Elm Application. See Exhibits "A" and "C."

11. Virtually, the only similarity between the SK Elm Application and the Jeronimo Application is that each requests a special exception to resume the Property's prior nonconforming use. *See id.*

12. Jeronimo presented no testimony that is consistent with the proposed use detailed in the SK Elm Application. *See* Ex. "B," generally.

13. At the August 16, 2021 hearing, Jeronimo's representative, Fiona Jamison, testified that Jeronimo was no longer under contract to sell the Property to SK Elm and that, as a result, KBS would not be renting the space. *See* Tr. 25:19-27:1.

14. Consistent with the above, the Board's solicitor, Alexander Glassman, Esquire, indicated that the matter would be "proceeding with the applicant now being Jeronimos, LLC rather than SK Elm, LLC." *See* Tr. 10:12-16.

15. The Board accepted this change. *See* Tr. 10:17-18.

16. In effect, the SK Elm Application was withdrawn. *See* Exhibits A, B, C, and Tr. 10:12-18; 25:19-27:1.

17. The Jeronimo Application, which was filed on August 16, 2021, is the only application at issue.

18. By way of background, the Property falls in a BR-2 Residential Zoning District, where office use is not permitted by right. *See* Ex. "A" at Addendum; *see also*, Tr. 12:3-4.

19. The Property is comprised of two floors, each containing approximately 4,420 square feet, for a total of approximately 8,840 square feet. *See* Tr. 12:5-6.

20. The Property has 18 parking spaces for its exclusive use. *See* Ex. "A" at ¶ 9.

21. At the August 16, 2021 hearing, it was noted that in 2005, the Board granted a special exception to allow the first floor of the Property to be used as a yoga studio, a

nonconforming use, upon the condition that an easement agreement be put in place to address the potential parking issue. *See* Tr. 12:12-14; *see also*, Ex. “E” at November 21, 2005 “Decision of the Board.”

22. Jeronimo did not present any witnesses, evidence, or testimony from the Property’s prior tenant, the yoga studio, pertaining to its parking needs, clientele, or the date the prior use was discontinued. *See* Tr. 29:6-9.

23. The Property shares a parking lot (the “Parking Easement Parcel”) with Objector’s Property, the terms of use for which are governed by easements recorded in 2005 and 2006, which are attached hereto as Exhibits “D” and “E,” respectively.

24. The 2005 and 2006 easements, collectively, provide that Jeronimo owns or has exclusive right to use, a total of 21 parking spaces, with conditional rights to 28 additional parking spaces owned by Objector. *See id.*

25. The 2006 Easement specifically provides that Jeronimo may not take any measures that “unreasonably interferes with the use of the Parking Easement Parcel.” *See* Ex. “E” at ¶ 6.

26. Ms. Jamison, Jeronimo’s representative, testified that the yoga studio provided outdoor and online classes after March of 2020. *See* Tr. 19:20-21.

27. Ms. Jamison testified that, with the Property’s prior use as a yoga studio, there had never been a conflict or a problem with parking spaces being fully occupied. *See* Tr. 20:23 – 21:11.

28. Ms. Jamison testified that the yoga studio could not operate indoors “because of Covid.” *See* Tr. 21:16-18.

29. Ms. Jamison testified that she did not know when the classes went from in-person to virtual. *See* Tr. 33:7-13.

30. Ms. Jamison testified that she did not list the Property for sale until July of 2020. *See* Tr. 33:12-14.

31. Ms. Jamison testified that the Property has been an empty space the yoga studio vacated the space. *See id.*

32. Ms. Jamison testified that she had no firsthand knowledge as to the number of individuals attending classes at the yoga studio. *See* Tr. 34:13-35:7.

33. Ms. Jamison testified that SK Elm and, therefore, KBS, pulled out of the agreement of sale as a result of the hearing being postponed from July 19, 2021 until August 16, 2021. *See* Tr. 35:20-23.

34. Ms. Jamison testified that the application was being made on Jeronimo's behalf, and that the SK Elm Application was, in effect, withdrawn. *See* Tr. 36:8-11.

35. Ms. Jamison testified that she did not know how many yoga students walked, rather than drove, to the yoga studio. *See* Tr. 38:8-13.

36. At the hearing, Jeronimo offered as its expert traffic engineer, Frank Tavani, who had prepared a report dated August 12, 2021 (the "Tavani Report"). A true and correct copy of the Tavani Report is attached hereto and incorporated herein as Exhibit "F."

37. The Tavani Report was produced at the August 16, 2021 hearing.

38. Mr. Tavani testified that he has served as an expert in support of Jeronimo's counsel's other clients. *See* Tr. 45:20-24.

39. Mr. Tavani testified that he does not recall that he has ever been an expert adverse to Jeronimo's counsel's clients. *See* Tr. 46:1-6.

40. Based on his analysis, Mr. Tavani concluded that Jeronimo's proposed use "will result in reduced trip generation (traffic) in the area surrounding the Property" *See* Ex. "F" at p. 4.

41. Mr. Tavani based his analysis on the assumption there was no pedestrian or bike trips under its prior use as a yoga studio or the proposed use. *See id; see also*, Tr. 55:17-19.

42. Mr. Tavani testified that his opinions were based largely upon a "publication from the ITE . . . titled 'The Trip Generation Manual,'" (the "TGM"). *See* Tr. 48:23-24.

43. Mr. Tavani testified that the TGM does not contain any data or research relating to yoga studios. *See* Tr. 49:6-7.

44. Mr. Tavani testified that the facts upon which he relied in applying the TGM analysis to the matter before the Board, came exclusively from Jeronimo's representative, Ms. Jamison. *See* Tr. 49:8-15.

45. Mr. Tavani testified that his analysis was based upon the assumption that there were classes six days a week with each class having 15-20 participants. *See* Tr. 50:1-5.

46. Mr. Tavani's opinion centered on the number of individuals going to and leaving the Property. *See* Tr. 53:13-20.

47. Mr. Tavani's opinion as to a yoga studio's parking demand is not based on any data contained in TGM but, rather, based on the numbers generated and provided by Jeronimo's representative, Ms. Jamison. *See* Tr. 54:18-55:9.

48. Mr. Tavani's Report is dated August 12, 2021. *See* Ex. "F."

49. Mr. Tavani testified at the August 16, 2021 hearing, that the only time he visited the Property was during the weekend *after* the Tavani Report was prepared, more than a year after the yoga studio had vacated the Property. *See* Tr. 58:5-10.

50. Accordingly, Mr. Tavani's written report is not based on any of his observations of the Property or the Parking Easement Parcel. *See id.*

51. Mr. Tavani testified that he visited the Property for less than ten minutes, more than a year after the yoga studio had vacated the Property. *See* Tr. 58:17-18.

52. Mr. Tavani testified that the parking figures provided for office use in the TGM were based on consolidated data compiled from all parts of the country. *See* Tr. 59:13-19.

53. Mr. Tavani testified that he did not use any "local empirical data" in preparing his analysis. *See* Tr. 59:15-19.

54. Mr. Tavani testified that the conclusions reached in the Tavani Report could be manipulated simply by modifying the number of classes scheduled per day and the number of attendees at each class. *See* Tr. 62:11-64:6.

55. Mr. Tavani testified that, prior to the August 12, 2021 Tavani Report, he never conducted a traffic analysis involving a yoga studio. *See* Tr. 64:23-65:2.

56. Michael Barrist testified on behalf of the Objector in opposition to the application. *See* Tr. 73.

57. In contrast to the purview of information upon which Mr. Tavani based his analysis, Mr. Barrist spent considerable time on numerous different days observing the Objector's Property's parking specifically to determine whether the Parking Easement Parcel was strained. *See* Tr. 73:5-19

58. Mr. Barrist testified that during the periods he observed the Parking Easement Parcel, "he typically saw five or six cars, and rarely ten cars at most." *See* Tr. 75:2-7.

59. Mr. Barrist testified that he was “pleasantly surprised there was not an over-parking of the [Parking Easement Parcel]” and, based on his observations of such, decided to purchase Objector’s Property. *See* Tr. 74:20-23; 75:8-10.

60. Mr. Barrist testified that, between 2012 to present, he visited Objector’s Property, on average, “five or six times a month.” *See* Tr. 75:14-15.

61. Mr. Barrist testified that, between acquiring Objector’s Property in 2012 through the beginning of March of 2020, predating any COVID-19-related occupancy shutdowns, “the yoga studio was not adversely impacting [the Parking Easement Parcel] at all.” *See* Tr. 76:10-11.

62. Mr. Barrist testified that he personally observed individuals from the neighborhood and community walking and biking to the yoga studio. *See* Tr. 76:15-21.

63. Mr. Barrist testified that he did not see the yoga studio being used after the COVID-19-related shutdowns. *See* Tr. 77:3-12.

64. Mr. Barrist testified that he rents separate office and retail space within Objector’s Property to separate companies, each with their own employees and customers, each of whom possess the right to use the Parking Easement Parcel. *See* Tr. 78:2-79:18.

65. Mr. Barrist testified that Objector’s Property contains approximately 22,000 square feet of office and retail space. *See* Tr. 81:7-11.

66. Mr. Barrist testified that, for the last year and a half, there have been virtually no yoga classes on site. *See* Tr. 85:16-19.

67. Anthony Rufo, a tenant in and former owner of Objector’s Property, testified in opposition to Jeronimo’s Application. *See* Tr. 87.

68. Mr. Rufo testified that he has occupied space in Objector's Property and used the Parking Easement Parcel consistently from 2006 through April of 2020, and that he never had a problem with parking. *See* Tr. 90:9-91:10.

69. Mr. Rufo testified that, during the periods the yoga studio was in operation, he personally observed "a lot of walk-up" yoga students that were not driving or using the shared parking lot. *See* Tr. 91:16-22.

70. Mr. Rufo testified that he often saw yoga students being dropped off or picked up by someone else. *See* Tr. 91:23-92:10

71. Mr. Rufo testified that the last time he saw someone attending a yoga class was January or February of 2020. *See* Tr. 92:15-19.

72. Mr. Rufo testified that his employees also use the shared parking lot. *See* Tr. 92:22-93:2.

PROPOSED CONCLUSIONS OF LAW

I. Introduction

Jeronimo has altogether failed to meet its burden of proving that its proposed nonconforming use, whatever that may be, would not be more detrimental than the prior nonconforming use.¹ Jeronimo's Application for a special exception is untimely, and the relief requested therein may only be obtained through applying for a variance to resume its prior nonconforming use. Jeronimo's derogation of its duty to provide substantive, relevant facts in Jeronimo's Application is suggestive of a subterfuge between Jeronimo and SK Elm to obtain the grant of special exception by having the application subjected to less stringent off-street parking requirements.

¹ All terms defined in Objector's Proposed Findings of Fact shall apply herein unless otherwise defined herein.

On August 16, 2021, Jeronimo submitted the Jeronimo Application that substantively deviated from SK Elm Application filed in June 202. Specifically, Jeronimo's Application, which is completely devoid of the factual background contained in the SK Elm Application, substituted the party seeking relief from SK Elm, a prior equitable owner, for the current owner, Jeronimo. Jeronimo's submission as "co-applicant" without any effort to modify the abandoned substantive facts contained in the SK Elm Application suggests Jeronimo's intended subterfuge with SK Elm to obtain the grant of special exception through disingenuous means. In perpetrating this subterfuge, Jeronimo is attempting to reduce its off-street parking requirements under the Borough Code.

Moreover, Jeronimo's Application for a special exception is untimely, as it was filed more than a year after Jeronimo discontinued its prior nonconforming use as a yoga studio. Because the Jeronimo Application was filed more than a year after the prior use was discontinued, Jeronimo's only recourse to resume its prior nonconforming use or to change from the prior nonconforming use to a new nonconforming use, would be to apply for a variance. Accordingly, Jeronimo's untimely Application for a special exception must be denied as a matter of law.

Lastly, Jeronimo has failed to meet its burden to establish that the proposed nonconforming use would be less detrimental to the district than the proposed used, or that it would not unreasonably interfere with Objector's use of the Parking Easement Parcel. Accordingly, under the Borough Code and the terms of the 2006 Easement, Jeronimo's Application must be denied.

II. **The Prior Use Was Discontinued More Than a Year Before the Application Was Filed And, Therefore, Under the Borough Code, A Variance is Required To Resume the Nonconforming Use.**

73. Applicant Jeronimo's Application for a special exception should be denied because it was filed more than a year after the Property's existing nonconforming use was discontinued.

74. Section 27-703(C) of the Borough Code provides in pertinent part:

"A nonconforming use, when discontinued, may be resumed any time **within one year** from such discontinuance, but not thereafter, unless a variance is granted by the Zoning Hearing Board in accordance with Part 6 of this Chapter."

75. In general, under Pennsylvania law, the party asserting abandonment of a nonconforming use has the burden to prove intent to abandon. *See Pappas v. Zoning Bd. Of Adjustment*, 589 A.2d 675 (Pa. 1991).

76. Absent any evidence to the contrary, the lapse of the designated time will be sufficient to establish an intent to abandon the use." *See id.* (McDermott, J., dissenting).

77. Where there is an intent to abandon "depends upon examination of all the various factors presented in a particular case." *See Epting v. Marion Township Zoning Hearing Bd.*, 532 A.2d 537, 542 (Pa. Commw. Ct. 1987).

78. The Borough Code's plain language is consistent with the Honorable McDermott's definition of intent to abandon the use, insofar as the Borough Code does not require proving an intent to abandon. *See Pappas*, supra at 676.

79. The aforementioned cases involve municipalities with zoning provisions requiring showing "an intent to abandon."

80. The Borough Code does not require proving an "intent to abandon" but, rather, just a discontinued use. *See* section 27-703(C) of the Borough Code

81. The application presented for the Board's consideration is Jeronimo's Application for a special exception to resume a prior nonconforming use, which was submitted to the Board on August 16, 2021.

82. The cumulative testimony indicates that the prior nonconforming use was discontinued some time after February of 2020, but not later than June of 2020.

83. Ms. Jamison testified that SK Elm's Application was withdrawn. *See* Tr. 36:8-11.

84. Jeronimo did not present any witnesses, evidence, or testimony from the Property's prior tenant, the yoga studio, pertaining to when its nonconforming use was discontinued. *See* Tr. 29:6-9.

85. Ms. Jamison testified that the yoga studio ended its lease early because nobody was going to the studio. *See* Tr. 34:8-10.

86. Mr. Barrist testified that he did not see anybody attending classes after the first or second quarter of 2020. *See* Tr. 77:3-6.

87. Mr. Rufo testified that he did not see anybody attending classes after February of 2020. *See* Tr. 92:15-19.

88. Objector submitted to the Board for review screenshots of the yoga studio's social media pages, which detail that the nonconforming use *within the space* had been discontinued several months prior, and that they were officially vacating in May or June of 2020. A true and correct copy of the screenshots are attached hereto as Exhibit "G."

89. The yoga studio indicated on social media that they were moving out of the Property on or before June 19, 2020. *See* Ex. "G."

90. The only competent evidence before the Board originating from the yoga studio itself confirms that the yoga studio discontinued its nonconforming use within the Property prior to June 19, 2020. *See id.*

91. Even assuming the Board accepts June 19, 2020 as the date Jeronimo discontinued its prior nonconforming use, the August 16, 2021 filing date for Jeronimo's Application would, nonetheless, be deemed filed more than a year after Jeronimo discontinued its prior nonconforming use.

92. Even if the Board applies SK Elm's filing date of June 24, 2021, which it should not in light of its withdrawal of same, with a discontinuance of use date prior to June 19, 2020, Jeronimo's Application for a special exception still would have been filed more than a year after it discontinued its prior nonconforming use.

93. Because Jeronimo's Application for a special exception to resume its prior, discontinued nonconforming use was filed more than a year after the yoga studio discontinued operations in the space, Jeronimo's Application for a special exception is untimely.

94. Under the Borough Code, Jeronimo would only be entitled to resume its prior, discontinued nonconforming use through a grant of variance. *See* Section 27-703(C) of the Borough Code.

95. For this reason, Jeronimo's Application for a special exception is untimely and must be denied.

III. Jeronimo's August 16, 2021 Application Is a Subterfuge Designed to Reduce The Amount of Required Off-Street Parking.

96. Jeronimo's derogation of its duty to provide the substantive facts analogous to those provided in the SK Elm Application suggests a subterfuge between the two parties, with

the desired effect of coordinating efforts to obtain a grant of special exception by reducing the number of off-street parking spaces required under the applications' proposed uses.

97. Jeronimo's Application was substituted for SK Elm's Application. *See* Exhibits "A" and "C."

98. Ms. Jamison testified that SK Elm is no longer an equitable owner and, therefore, its application is not pending before the Board. *See* Tr. 36:8-11.

99. Under section 27-2002 of the Borough Code, retail stores require 1 space per 150 square feet, while administrative offices require 1 space per 250 square feet.

100. SK Elm's Application, therefore, contains a proposed use with less favorable off-street parking requirements than the proposed use vaguely described in the Jeronimo Application. *See* Exhibits "A" and "C."

101. Under SK Elm's Application, the Property would be rented to KBS. *See* Ex. "A."

102. KBS is a company providing "Mailroom Solutions," which involves the sale, warehousing, and repair of mail room postage meters, folder inserters, desktop folders and printers available for purchase.²

103. According to the SK Elm Application, the yoga studio space would be "used to prepare equipment and deliver to customers." *See* Ex. "A."

104. KBS's business operations, unequivocally, contain a retail component, which would result in increased traffic flow with deliveries and drive up customers.

105. Rather than subjecting the SK Elm Application to the Board's analysis of the off-street parking requirements found in the Borough Code, Jeronimo instead assumed the role of the applicant, vaguely asserting that the Property would be used for office space.

² *See* <https://360kbs.com>

106. Upon information and belief, members of SK Elm and KBS were invited and continued to attend the Zoning Hearing Board's proceedings in this matter, confirming their ongoing interest in the Property contrary to Ms. Jamison's testimony.

107. Jeronimo's Property only has 21 exclusive parking spaces.

108. Regardless of the Property's actual square footage, Jeronimo's Application stands a better chance of denial due to exacerbating the Parking Easement Parcel due to its removal of the retail component.

109. SK Elm's Application contains specific details relating to its proposed use. *See* Ex. "A."

110. Jeronimo's Application contains absolutely no details as to its proposed use, presumably because Jeronimo has no legitimate intent to use the Property as described at the hearing.

111. With Jeronimo's Application devoid of any detail or specific intended use, the Board should infer that Jeronimo's Application is the product of SK Elm and Jeronimo's subterfuge, perpetrated for the intent of reducing its off-street parking requirements under illegitimate pretenses.

112. Jeronimo's Application should, therefore, be denied.

IV. **Applicant Failed to Meet Its Burden of Proof to Establish That the Prior Use Would be More Detrimental Than the Proposed Nonconforming Use.**

113. Jeronimo altogether failed to meet its burden under both the Borough Code and the 2006 Easement to establish that the proposed use would not be "more detrimental than the existing nonconforming use" or that it does not "reasonably interfere with the Parking parcel."

114. Section 27-703(B) of the Borough Code provides that a nonconforming use “*shall not be changed to another nonconforming use that is less appropriate to the district in which the property located, and/or is more detrimental than the existing nonconforming use.*”

115. Paragraph 5 of the 2006 Easement provides that Applicant and Objector may only use the Parking Easement Parcel for such “use that does not unreasonably interfere with the use of the Parking Easement Parcel for the purposes set forth herein.” See Ex. “E” at ¶ 5.

116. Aside from Applicant Jeronimo’s representative, Ms. Jamison, who strongly seeks relief under Jeronimo’s Application, Jeronimo offered no other witnesses, testimony, or evidence as to the yoga studio’s use of the Parking Easement Parcel.

117. Applicant’s expert, Mr. Tavani, did not have any firsthand knowledge upon which to base his recommendation.

118. Applicant’s expert, Mr. Tavani, did not even observe the Parking Easement Parcel until after he prepared the Tavani Report.

119. Applicant’s expert, Mr. Tavani, based his opinions solely upon information supplied to him by Jeronimo.

120. Applicant’s expert, Mr. Tavani, based his opinions upon criteria established by TGM in the ITE, which contain no data as to the traffic produced by a yoga studio.

121. Prior to this matter, Mr. Tavani himself has never prepared an opinion as to the traffic or parking produced by a yoga studio, on either a national or a local level.

122. The opinion reached within the Tavani Report is based on information that can be manipulated to achieve a desired result.

123. The opinion set forth in the Tavani Report should be disregarded.

124. In contrast, Mr. Rufo and Mr. Barrist testified that the yoga studio never caused an interference with the Parking Easement Parcel.

125. With the exception of Ms. Jamison's opaque description of Jeronimo's intended use, the Jeronimo Application is entirely devoid of any specific details as to the proposed use.

126. In submitting the Jeronimo Application devoid of detail as to the proposed use, Jeronimo has unjustifiably shifted the burden to the Board to determine whether the proposed nonconforming use would more detrimental to the zoning district than the prior nonconforming use.

127. For this reason, Jeronimo has altogether failed to meet its burden under both the Borough Code and the 2006 Easement.

128. Accordingly, the Jeronimo Application should be denied.

Respectfully submitted,

**SILVERANG, ROSENZWEIG
& HALTZMAN, LLC**

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September 8, 2021



BOROUGH OF CONSHOHOCKEN

Office of the Borough Manager

Zoning Administration

BOROUGH COUNCIL

Colleen Leonard, President
Tina Sokolowski, Vice-President
Robert Stokley, Member
Anita Barton, Member
James Griffin, Member
Jane Flanagan, Member
Karen Tutino, Member

Yaniv Aronson, Mayor

Stephanie Cecco, Borough Manager

The Borough of Conshohocken Zoning Hearing Board Entry of Appearance as a Party

I/We Fiona Jamison

Request to be granted party status in Application Z-2021-14.

Applicant: 424 E. Elm St - SK Elm, LLC. - Special Exception

Please print name:

Fiona Jamison

Please print address:

424 E. Elm St. Suite 200 - Building Owner
Conshohocken

Please print email:

fjamison@spring.itl.com

Please Sign Below:



Please return form via mail or e-mail to the below:
(Entry must be received no later than July 14th, 2021)

MAIL:

Borough of Conshohocken
Attn: Bobbi Jo Myrsiades
400 Fayette St. - Suite 200
Conshohocken, PA 19428

E-MAIL:

zoning@conshohockenpa.gov



BOROUGH OF CONSHOHOCKEN

Office of the Borough Manager

Zoning Administration

BOROUGH COUNCIL
Colleen Leonard, President
Tina Sokolowski, Vice-President
Robert Stokley, Member
Anita Barton, Member
James Griffin, Member
Jane Flanagan, Member
Karen Tutino, Member

Yaniv Aronson, Mayor

Stephanie Cecco, Borough Manager

The Borough of Conshohocken Zoning Hearing Board Entry of Appearance as a Party

I/We TRDS 441 HECTOR ASSOCIATES LP

Request to be granted party status in Application Z-2021-14.

Applicant: 424 E. Elm St - SK Elm, LLC. - Special Exception

Please print name:

Through its counsel, Eric B. Freedman

Please print address:

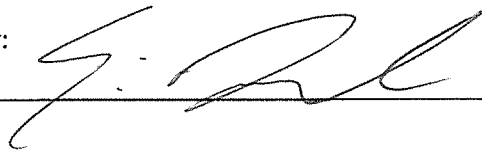
441 E Hector Street

Conshohocken, PA 19428

Please print email:

Counsel's email: efreedman@sanddlawyers.com

Please Sign Below:



Please return form via mail or e-mail to the below:
(Entry must be received no later than July 14th, 2021)

MAIL:

Borough of Conshohocken
Attn: Bobbi Jo Myrsiades
400 Fayette St. - Suite 200
Conshohocken, PA 19428

E-MAIL:

zoning@conshohockenpa.gov



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Stephanie Cecco, Borough Manager

The Borough of Conshohocken Zoning Hearing Board Entry of Appearance as a Party

I/We Fiona Jamison - Building Owner + Petitioner

Request to be granted party status in Application Z-2021-14.

Applicant: 424 E. Elm St - SK Elm, LLC. - Special Exception

Please print name:

Dr. Fiona Jamison

Please print address:

424 E. Elm St., Conshohocken

Please print email:

fjamison@springit1.com

Please Sign Below:

F Jamison

Please return form via mail or e-mail to the below:
(Entry must be received no later than August 11th, 2021)

MAIL:

Borough of Conshohocken
Attn: Bobbi Jo Myrsiades
400 Fayette St. - Suite 200
Conshohocken, PA 19428

E-MAIL:

zoning@conshohockenpa.gov



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Yaniv Aronson, Mayor

Stephanie Cecco, Borough Manager

The Borough of Conshohocken Zoning Hearing Board Entry of Appearance as a Party

I/We Richard Kellerman

Request to be granted party status in Application Z-2021-14.

Applicant: 424 E. Elm St - SK Elm, LLC. - Special Exception

Please print name:

Richard Kellerman

Please print address:

414 E Elm St

Conshohocken PA 19428

Please print email:

rskellerman@gmail.com

Please Sign Below:



Please return form via mail or e-mail to the below:
(Entry must be received no later than August 11th, 2021)

MAIL:

Borough of Conshohocken
Attn: Bobbi Jo Myrsiades
400 Fayette St. - Suite 200
Conshohocken, PA 19428

E-MAIL:

zoning@conshohockenpa.gov



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Karen Tutino, Member

Yaniv Aronson, Mayor

Stephanie Cecco, Borough Manager

The Borough of Conshohocken Zoning Hearing Board

Entry of Appearance as a Party

I/We Russell Talone

Request to be granted party status in Application Z-2021-14.

Applicant: 424 E. Elm St - SK Elm, LLC. - Special Exception

Please print name:

Russell Talone

Please print address:

510 E. Hector Street

Please print email:

russ@taloneinsurance.com

Please Sign Below:

Russell Talone

Please return form via mail or e-mail to the below:
(Entry must be received no later than August 11th, 2021)

MAIL:

Borough of Conshohocken
Attn: Bobbi Jo Myrsiades
400 Fayette St. - Suite 200
Conshohocken, PA 19428

E-MAIL:

zoning@conshohockenpa.gov

APR 24 2006

DECLARATION OF EASEMENTS

THIS DECLARATION, made this 21st day of April, 2006 by TR-Suburban, L.P., a Pennsylvania limited partnership whose mailing address is 424 E. Elm Street, Conshohocken, Pennsylvania ("Declarant").

WITNESSETH:

A. Declarant is the owner in fee of two parcels of land located in Conshohocken Borough, Montgomery County, Pennsylvania, and described by the metes and bounds description contained in Exhibit "A" attached hereto and made a part hereof (the "Entire Premises"). The Entire Premises is depicted on the Plan prepared by Momenee and Associates, Inc. and attached hereto as Exhibit "B".

B. Declarant intends to convey a portion of the Entire Premises denoted as Lot 14 on the Plan and described by metes and bounds on Exhibit "C" attached hereto ("Lot 14"). Prior to the conveyance of Lot 14, Declarant desires to create certain easements which will benefit Lot 14 and burden the parcel described by metes and bounds on Exhibit "C" attached hereto and depicted as "Premises C" on the Plan ("Lot C").

C. Declarant desires to create certain perpetual easements for the benefit of Lot 14 which will burden Lot C.

NOW, THEREFORE, for and in consideration of benefits accruing to Declarant by reason of this Declaration, and intending to be legally bound, Declarant for itself, its successors and assigns, hereby declares as follows:

1. Definitions.

(a) "Occupant" means any person entitled to the use, occupancy or enjoyment of all or any portion of Lot 14;

(b) "Owner" means the then current holder from time to time of fee simple title to any portion of the Entire Premises.

(c) "Parking Easement Parcel" means that certain portion of Lot C cross-hatched on the Plan.

(d) "Permittees" means the following persons:

i) an Occupant; and

ii) the officers, directors, employees, agents, contractors, subcontractors, customers, patrons, clients, visitors, licensees and invitees of any Occupant and/or of any Owner, its successors and assigns.

(e) "Person" means individuals, partnerships, firms, associations, corporations, trusts and any other form of legal entity.

2. Grant of Easements.

(a) Declarant hereby grants and declares that Lot C shall be held, sold, transferred, conveyed, leased, mortgaged and used subject to the following perpetual easements

which shall be appurtenant to Lot 14 and which are granted to and for the benefit of any Owner, his heirs and assigns, of all or any portion of Lot 14, and all Permittees with respect to Lot 14:

i) an easement to use the Parking Easement Parcel, in common with Permittees of Lot C, for the parking and passage of motor vehicles and passage by pedestrians. It is further provided that Permittees of Lot 14 shall have the exclusive right to post signs that designating the three (3) spaces denoted on Exhibit "B" with double hatch marks as "Reserved Parking Spaces" as parking spaces reserved for the Permittees of Lot C.

ii) an easement to use the Parking Easement Parcel for ingress and egress, by vehicle or on foot, in, to, upon and over the Parking Easement Parcel for all purposes for which roadways, driveways and walkways are commonly used.

3. Not Affected by Change in Use. The easements granted by this Declaration shall continue in full force and effect as perpetual easements and shall be unaffected by any change in the use, whether such change is in the nature of use or the intensity of use, of Lot 14 or any portion thereof.

4. Division of Lot C or Lot 14. If Lot C and/or Lot 14 are divided into multiple parts by separation of ownership or by lease, to the extent an easement hereby created benefits Lot 14, the benefits or the easements hereby created shall continue to attach to and run with, and benefit and burden, as the case may be, each part so divided.

5. Use of Parking Easement Parcel. Use of the Parking Easement Parcel is not confined to present uses of the Entire Premises, the present buildings thereon (if any) or present means of transportation. Declarant, its successors and assigns as Owner of Lot 14, expressly reserves the right to use the Parking Easement Parcel for the purposes set forth herein, and for any other use that does not unreasonably interfere with the use of the Parking Easement Parcel for the purposes set forth herein.

6. Maintenance. The Owner(s) of Lot C shall be responsible for, and shall bear all costs for the construction, cleanliness, upkeep, maintenance, snow removal and repair of the Parking Easement Parcel.

7. Running of Benefits and Burdens. It is intended that all provisions of this Declaration, including the benefits and burdens, shall attach to and run with the Entire Premises, and each portion thereof, and shall be binding upon and inure to the heirs, assigns, successors, tenants and personal representatives of Declarant and all Owners of any portion of the Entire Premises.

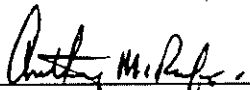
8. Rescission; Amendment. The provisions of this Declaration may be rescinded or amended in whole or in part only by the joinder of all Owners of all or any portion of the Entire Premises in such rescission or amendment. No other party or parties in interest shall have the right to rescind or amend, in whole or in part, this Declaration; nor shall the effectiveness of any rescission or amendment of this Declaration be dependent on the consent or approval of any other party or parties in interest.

IN WITNESS WHEREOF Declarant has caused this Declaration of Cross Easements to be executed as of the date and year first above written.

DECLARANT:

TR – SUBURBAN, L.P., a Pennsylvania limited partnership, by its general partner

BY: TR – III, L.L.C.

BY: 
Anthony M. Rufo, Member

COMMONWEALTH OF PENNSYLVANIA :
 :
 : SS.
COUNTY OF Montgomery :

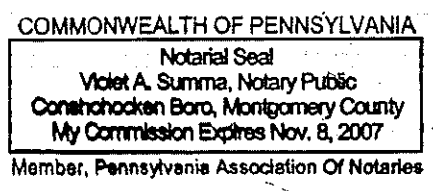
On the 21st day of April, 2006, before me, the subscriber, a Notary Public for the Commonwealth of Pennsylvania, residing in the County aforesaid, personally appeared Anthony M. Ruffo, who acknowledged himself/herself to be the managing member of TR - III, LLC, as general partner of TR - Suburban, L.P., a Pennsylvania limited partnership, and that he/she as such member, being authorized to do so, executed the foregoing instrument for the purposes therein contained by signing his/her name on behalf of said partnership.

Witness my hand and notarial seal the day and year aforesaid.

Violet A. Summa

Notary Public

My Commission Expires:



JOINDER

This Joinder of Susquehanna/Patriot Bank, Mortgagee, for Lot C, is an acknowledgement that their encumbrance will be subordinate to this Easement.

Susquehanna/Patriot Bank

By James B. Erb, Jr.
James B. Erb, Vice President

4/21/06
Date

EXHIBIT "A"

ALL THAT CERTAIN lot or piece of ground with the buildings and improvements thereon erected, said lot being Premises 'C', Situate in the Borough of Conshohocken, County of Montgomery and Commonwealth of Pennsylvania, bounded and described according to a plan titled Record Plan - 401, 425 & 440 E. Hector Street by Momenee and Associates, Inc., dated March 8, 2004, last revised October 26, 2005, as follows, to wit:

BEGINNING at a point, said point being located the following course and distance from an iron pin to be set at the intersection of the easterly side of Cherry Street, (50.00 feet wide), and the northerly side of Elm Street, (50.00 feet wide), (1) along the northerly side of Elm Street North 85 degrees 00 minutes 00 seconds East 280.00 feet to a common corner with Lot 14 marked by a spike to be set, thence from said point of beginning leaving the northerly side of Elm Street and along a common line with Lot 14 North 05 degrees 00 minutes 00 seconds West 200.00 feet to a point marked by an iron pin to be set along the southern side of Hector Street (50.00 feet wide) a common corner with Lot 13, thence along the southern side of Hector Street North 85 degrees 00 minutes 00 seconds East 180.00 feet to a point at the intersection with the northerly side of Elm Street, thence along the northerly side of Elm Street the following four courses (1) South 05 degrees 11 minutes 00 seconds East 90.53 feet to a point, (2) South 84 degrees 49 minutes 38 seconds West 0.50 feet to a point, (3) along the arc of circle curving to the right with a radius of 110.00 feet and an arc length 172.38 feet to a point, (4) South 84 degrees 53 minutes 31 seconds West 70.00 feet to the first mentioned point and place of beginning.

CONTAINING 33,455 SF (0.7680 acres) of land more or less.

BEING Parcel #05-00-05904-00-4.

ALL THAT CERTAIN lot or piece of ground with the buildings and improvements thereon erected, said lot being Lot 14, Situate in the Borough of Conshohocken, County of Montgomery and Commonwealth of Pennsylvania, bounded and described according to a plan titled Record Plan - 401, 425 & 440 E. Hector Street by Momenee and Associates, Inc., dated March 8, 2004, last revised

October 26, 2005, and recorded in Montgomery County in Plan Book 25 page 276, as follows, to wit:

BEGINNING at a point, said point being located the following course and distance from an iron pin to be set at the intersection of the easterly side of Cherry Street, (50.00 feet wide), and the northerly side of Elm Street, (50.00 feet wide), (1) along the northerly side of Elm Street North 85 degrees 00 minutes 00 seconds East 166.36 feet to a common corner with Lot 15, thence from said point of beginning leaving the northerly side of Elm Street and along a common line with Lot 15 North 05 degrees 00 minutes 00 seconds West 100.00 feet to a common corner of Lots 15, 8 and 9, thence along a common line with Lots 9, 10, 11, 12, and 13 North 85 degrees 00 minutes 00 seconds East 113.64 feet to a common corner with Lot 13 and along a common line with Premises C, thence along said line South 05 degrees 00 minutes 00 seconds East 100.00 feet to a point along the northerly side of Elm Street marked by a spike to be set, thence along said line South 85 degrees 00 minutes 00 seconds West 113.64 feet to the first mentioned point and place of beginning.

CONTAINING 11,364 SF (0.2609 acres) of land more or less.

BEING Parcel #05-00-05900-00-8.

BEING as to part, the same premises which Edward A. Comer and Elaine K. Comer, his wife by Deed dated 6/10/1999 and recorded 7/19/1999 in the County of Montgomery in Deed Book 5279 page 1803, conveyed unto TR-Suburban, L.P., a Pennsylvania limited partnership, in fee.

EXHIBIT "C"

ALL THAT CERTAIN lot or piece of ground with the buildings and improvements thereon erected, said lot being Lot 14, Situate in the Borough of Conshohocken, County of Montgomery and Commonwealth of Pennsylvania, bounded and described according to a plan titled Record Plan - 401, 425 & 440 E. Hector Street by Momenee and Associates, Inc., dated March 8, 2004, last revised October 26, 2005, and recorded in Montgomery County in Plan Book 25 page 276, as follows, to wit:

BEGINNING at a point, said point being located the following course and distance from an iron pin to be set at the intersection of the easterly side of Cherry Street, (50.00 feet wide), and the northerly side of Elm Street, (50.00 feet wide), (1) along the northerly side of Elm Street North 85 degrees 00 minutes 00 seconds East 166.36 feet to a common corner with Lot 15, thence from said point of beginning leaving the northerly side of Elm Street and along a common line with Lot 15 North 05 degrees 00 minutes 00 seconds West 100.00 feet to a common corner of Lots 15, 8 and 9, thence along a common line with Lots 9, 10, 11, 12, and 13 North 85 degrees 00 minutes 00 seconds East 113.64 feet to a common corner with Lot 13 and along a common line with Premises C, thence along said line South 05 degrees 00 minutes 00 seconds East 100.00 feet to a point along the northerly side of Elm Street marked by a spike to be set, thence along said line South 85 degrees 00 minutes 00 seconds West 113.64 feet to the first mentioned point and place of beginning.

CONTAINING 11,364 SF (0.2609 acres) of land more or less.

BEING Parcel #05-00-05900-00-8.

BEING as to part, the same premises which Edward A. Comer and Elaine K. Comer, his wife by Deed dated 6/10/1999 and recorded 7/19/1999 in the County of Montgomery in Deed Book 5279 page 1803, conveyed unto TR-Suburban, L.P., a Pennsylvania limited partnership, in fee.

BEFORE THE ZONING HEARING BOARD OF CONSHOHOCKEN

IN RE: APPLICATION OF TR-SUBURBAN, LP.

REGARDING

424 EAST ELM STREET

DECISION OF THE BOARD

I. History of the Case:

By application dated November 21, 2005, the Applicant is seeking zoning relief from the Zoning Hearing Board (the "Board"), in the nature of a special exception (the "Special Exception") from Section 7.3.B.1 to the Conshohocken Borough Zoning Ordinance of 2001 (together with all amendments thereto, the "Zoning Ordinance") for the change of a non-conforming use of real property (the "Proposed Relief"), as said provision relates to real property located at 424 East Elm Street, Conshohocken (the "Property"). The Property is presently zoned Borough Residential -2 ("BR-2"). The Applicant is requesting that it be permitted to convert the first floor of a building which is a non-conforming contractor office and warehouse area into a fitness/wellness center and related offices at the Property (the "Proposed Use").

The Zoning Ordinance permits a non-conforming use to be changed to another non-conforming use "which is equally appropriate or more appropriate" and is "no more detrimental than the existing non-conforming use, as a special exception by the Zoning Hearing Board." Id. at Section 7.3.B.1.

A public hearing was held before the Board on the evening of January 9, 2006, at 7:00 pm, prevailing time, at the Borough Hall in Conshohocken, Pennsylvania. At the conclusion of the hearing, the Board discussed the issue and rendered a decision. Due notice was given for the public hearing.

After the conclusion of the hearing, the Board found as follows:

II. Findings of Fact:

1. The Applicant is TR-Suburban, LP, of 424 East Elm Street, Conshohocken. The Applicant is the owner of the Property. Said Applicant was represented by Carl Weiner, Esquire, at the hearing.

2. The property involved is 424 East Elm Street in Conshohocken, Pennsylvania. The Property is zoned BR-2 and is a non-conforming commercial office and warehouse in a residential area.

3. The Applicant, through its counsel, testified that it wished to convert the first floor from warehouse and office space to a fitness studio/wellness center and office area.

4. Mike Rufo, representative of the Applicant testified that it intended to convert area that had been office space and warehouse into a "wellness center" which would consist of a Yoga and Pilates fitness studio area, as well as offices for a dietician and massage therapist which would be affiliated with the wellness center. A nurse practitioner would also use the office area.

5. A proposed change in non-conforming use requires Board approval that the proposed change must be "equally appropriate or more appropriate" for, and no more detrimental to, the neighborhood. See Zoning Ordinance Section 7.3.B.

6. The Board asked numerous questions of the Applicant regarding the hours of operation, which the Applicant noted would be 6:30am until 10:00pm Monday through Saturday, as well as the size of the proposed classes, which would be 25-27 at peak times when classes were being taught. The Applicant also testified that no dumbbells or active workout equipment would be at the site.

7. The Board also asked about the availability of parking at the site, as the Proposed Use would appear to require a minimum of 55 parking spaces under the Zoning Ordinance. The

Applicant testified that the plans for the Proposed Use included providing 56 parking spaces over two adjoining lots. The Applicant agreed to enter into a cross-easement with the adjoining property (also presently owned by the Applicant) to preserve the right to use of the parking spaces in perpetuity.

8. The Applicant's counsel argued that the Proposed Use would be no more intrusive and equally appropriate for the surrounding neighborhood than the present use, and would likely not cause any significant change or impact to the surrounding community.

9. No one testified for or against the Application.

10. The Board finds that the matter was properly advertised pursuant to the Zoning Ordinance and the Pennsylvania Municipal Planning Code ("MPC").

III. Discussion:

The Applicant seeks the Special Exception in order to permit the Proposed Use pursuant to Section 7.3.B to allow the change in non-conforming use of the first floor of the building at the Property from office and warehouse to wellness center and related offices. See Zoning Ordinance Sections 7.3.B.

Section 7.3.B of the Zoning Ordinance permits a non-conforming use to be changed to another non-conforming use as a special exception by the Zoning Hearing Board when such non-conforming use is "equally appropriate or more appropriate to the district in which the property is located, and is no more detrimental than the existing non-conforming use." Id. Non-conforming uses are an anomaly in zoning law, as they permit a property owner rights that all others in the neighborhood are not permitted. This requires the Board to carefully and deliberately balance the competing interests of a property owner whose use rights pre-dates changes in the Zoning Ordinance with the interests of the rest of the community. Any change in non-conforming use must be equally as appropriate or more appropriate to the surrounding neighborhood in order to gain approval. See Zoning Ordinance at 7.3.B.

The Board has reviewed the Proposed Relief carefully in connection with the requirements of Sections 7.3.B as well as the MPC standards for granting the Proposed Relief. See MPC, at 53 P.S. §10910.2. The Board has been convinced that the Proposed Use, though still non-conforming, is equally appropriate for the surrounding neighborhood as the presently permitted use. Further, the Board is also persuaded by the testimony offered from the Applicant that the Proposed Relief will not cause a major increase in the number of cars seeking on-street parking, as it is generally small classes or one on one sessions, with parking (provided a cross easement is in place) that exceeds the requirements of the Zoning Ordinance. As a result, the Board is willing to approve the Proposed Relief subject to the requirement that the Applicant enter into a cross easement which permanently grants access to the parking adjacent to the Property so that at no point there are less than 56 parking spaces available for use by the Proposed Use (the “Condition”). Such Condition is required to be in place prior to the opening of the Proposed Use, and must remain in place at all times in order for the Proposed Use to continue at the site.

Therefore, the Board finds the Application meets the requirements of Zoning Ordinance Section 7.3.B that the Proposed Use is no less appropriate for the surrounding neighborhood. See id. As a result, the Board, upon thorough and deliberate review of the materials submitted and testimony offered, has determined that the Proposed Relief is proper, and hereby grants a the Special Exception pursuant to Zoning Ordinance Section 7.3.B subject to the Condition.

IV. Conclusions of Law:

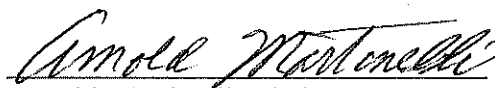
1. The matter was properly presented before the Board.
2. The matter was properly advertised and the hearing both timely and appropriately convened in accordance with the provisions of both the Zoning Ordinance and the MPC.


3. The Zoning Ordinance and the MPC both give the Board the necessary discretion to determine whether or not to grant the Proposed Relief as well as to qualify such grant of Proposed Relief subject to the Condition.


ORDER

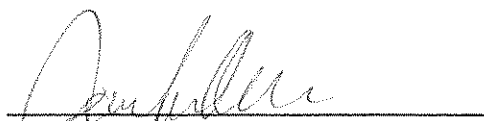
The Board grants the Applicant's request for the Proposed Relief from Zoning Ordinance Sections 7.3.B to accommodate a change in non-conforming use for the first floor of the building. Such relief is granted subject to both the Condition and to the Applicant maintaining the Proposed Use in conformity with the information provided to the Board and all other regulations of the Borough.¹

CONSHOHOCKEN ZONING HEARING BOARD


Arnold Martinelli, Chairman


Richard Barton


Gregory F. Scharff


Jennifer Oehler

¹ Board member Vivian Angelucci was not present at the Hearing and did not vote on this matter.
4019595



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Office of the Borough Manager

Zoning Administration

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Stephanie Cecco, Borough Manager

ZONING NOTICE

July 19th, 2021, ZONING HEARING BOARD MEETING TO OCCUR VIA REMOTE MEANS

ZONING HEARING Z-2021-13

NOTICE IS HEREBY GIVEN that the Conshohocken Zoning Hearing Board will conduct a public hearing on July 19th, 2021, at 7:00 p.m. prevailing time via remote means. The public is encouraged to participate as set forth below.

This meeting will be held using a Go-To-Meeting Platform. To the extent possible, members of Conshohocken Zoning Hearing Board and Borough staff/professionals will participate via both video and audio. (INSTRUCTIONS ON SECOND PAGE)

At this time, the Conshohocken Zoning Hearing Board will hear testimony and accept evidence on the following request.

PETITIONER: Millennium Waterfront Assoc., II, LP
2701 Renaissance Blvd. – 4th Fl. – King of Prussia, PA 19406

PREMISES INVOLVED: 200 Block Washington St, Conshohocken, PA 19428
Specially Planned District 2

OWNER OF RECORD: Same as Above

The applicant is seeking an extension of relief originally granted by the Zoning Hearing Board in 2014 and 2015 from §27-1509.2; -1504.D.5; -1705; -1503; -1505.B.2; and -1504.F.2 in connection with a proposed commercial development.

Persons who wish to become parties to the application must notify the Borough of their intent to ask for party status at least five (5) days prior to the scheduled hearing by emailing the attached entry of appearance form to zoning@conshohockenpa.gov. Said persons must be available to participate in the zoning hearing on the scheduled date and time. It is noted that submitting the attached entry of appearance form does not guarantee that you will be granted party status. The Zoning Hearing Board decides who may participate in the hearing before it as a party, subject to Section 908(3) of the Municipalities Planning Code (MPC). The MPC permits party status to any person “affected” by the application. Having taxpayer status alone is not enough to claim party status; however, a person whose property or business abuts the property that is the subject of the appeal is affected and should qualify as a party. Ultimately, the ZHB makes the party status determination after reviewing the request.

Thank you,
Zoning Hearing Board



BOROUGH OF CONSHOHOCKEN

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Karen Tutino, Member

Yaniv Aronson, Mayor

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ZONING HEARING REMOTE SESSION ACCESS INSTRUCTIONS

The public is encouraged to participate as follows:

Audio Feed Participation: You may dial-in to access the audio feed of the meeting. All participants (whether listening or providing comments) must use this method of audio participation, even those using Go-To-Meeting to access the video feed. To access audio, please use the below number and access code/ password information.

We ask that you please always keep your phones on mute, unless giving a public comment as set forth in the Public Comment section below.

Please join my meeting from your computer, tablet or smartphone.

<https://global.gotomeeting.com/join/972846509>

You can also dial in using your phone.

United States (Toll Free): [1 866 899 4679](tel:18668994679)

Access Code: 972-846-509

New to GoToMeeting? Get the app now and be ready when your first meeting starts:

<https://global.gotomeeting.com/install/972846509>

If you have already downloaded the Go-To-Meeting application, the link will redirect you to the application itself. Please follow the instructions.

It is recommended that you download the application in advance of the meeting time. If you attempt to sign in prior to the start of the meeting, the Go-To-Meeting application will inform you that the meeting has not started. Please close the application and log back in at the time of the meeting (7:00 PM).

Public Comment: There will be a designated time on the agenda for public comment. Those with public comment shall state their name and address. Prior to the start of the meeting, you may submit written comments by e-mailing them to Zoning@conshohockenpa.gov. Similarly, during the meeting, you may submit written comments by e-mailing them to Zoning@conshohockenpa.gov.

Public comments submitted in this manner will be read by a member of Borough Administration during the public comment period. Because the actual time of the public comment period is determined by the pace of the meeting, please submit all comments as soon as possible, whether before or during the meeting. Written comments shall include the submitting person's name, address, and property in question.

The Conshohocken Zoning Hearing Board thanks you in advance for your cooperation during the remote meeting. If you encounter problems participating during the meeting, or have questions regarding the above prior to the meeting, please contact the Borough at zoning@conshohockenpa.gov.



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Karen Tutino, Member

Yaniv Aronson, Mayor

Stephanie Cecco, Borough Manager

The Borough of Conshohocken Zoning Hearing Board Entry of Appearance as a Party

I/We _____

Request to be granted party status in Application Z-2021-13.

Applicant: 200 Blk Wash. St. – Millennium Waterfront Assoc. – Zoning Extension

Please print name:

Please print address:

Please print email:

Please Sign Below:

Please return form via mail or e-mail to the below:
(Entry must be received no later than July 14th, 2021)

MAIL:

Borough of Conshohocken
Attn: Bobbi Jo Myrsiades
400 Fayette St. – Suite 200
Conshohocken, PA 19428

E-MAIL:

zoning@conshohockenpa.gov

BEFORE THE ZONING HEARING BOARD OF CONSHOHOCKEN
IN RE: APPLICATION OF
MILLENNIUM WATERFRONT ASSOCIATES, LP
REGARDING
200 BLOCK OF WASHINGTON STREET
APPLICATION Z-2014-04; Z-2015-04
DECISION OF THE BOARD

I. HISTORY

On or about November 26, 2018, Millennium Waterfront Associates, LP (hereinafter “Applicant”) filed the within request for an extension of zoning relief granted in 2014 and 2015 from the terms of 27-1509.2- Building Bulk, 27-1504.D.5- Orientation of a Garage, 27-1705- Flood Proofing of Amenities in the Flood Way, 27-1503- Height, 27-1505.B.2- Minimum Building Setback from a Private or Internal Driveway and 27-1504.F.2- Impervious Coverage of the Conshohocken Borough Zoning Ordinance of 2001 (together with all amendments thereto, the “Zoning Ordinance”) for a property located at the 200 Block of Washington Street, Conshohocken, Pennsylvania (hereinafter called “Subject Property”). Applicant’s request for extension was submitted prior to the expiration of said relief. Said relief was set to expire on January 30, 2019. This hearing was continued numerous times based upon agreements of the parties and the COVID-19 pandemic. After notice was duly given and advertised, a hearing was held on said request using a Webex platform, pursuant to state law, on June 15, 2020 and continued to July 20, 2020. At the hearing on July 20, 2020, the following Exhibits were introduced and admitted:

P-9 – Letter dated 6/7/2020

P-10 – Letter dated 7/20/2020

P-11 – Site Plan

FINDINGS OF FACT

1. The Subject Property is located at the 200 Block of Washington Street, Conshohocken, Pennsylvania.

2. The Subject Property is owned by Millennium Waterfront Associates, LP.
3. The Applicant is represented by Edmund J. Campbell, Jr., Esquire.
4. Morgan Properties, who owns Millennium II and Millennium III, requested and was granted party status and was represented by Attorney Matt McHugh, Esquire.
5. The Applicant requests an extension of previously granted zoning relief granted in 2014 and 2015 with regard to the proposed development of the Subject Property.
6. A continuance was granted from the June 15, 2020 Zoning Hearing Board meeting to July 20, 2020. Applicant was asked to provide sketch plans and a synopsis of the relief requested; Applicant provided the documents prior to the July 20, 2020 meeting.
7. The Subject Property contains existing buildings called Millennium II and Millennium III.
8. At the time the initial relief was granted by the Zoning Hearing Board, Applicant's proposed development, referred to as Millennium IV, proposed to be connected to the two existing buildings.
9. Since the Applicant no longer controls Millennium II and Millennium III, Applicant's proposed development will no longer be connected to those existing buildings.
10. Attorney Campbell described Applicant's request as an extension of the 2014 and 2015 zoning relief excluding the relief granted under Section 1509.2, which previously allowed the building to be 540 ft. in length.

II. DISCUSSION

Section 27-613 of the Zoning Ordinance states:

“Unless otherwise specified by the Board, a special exception or variance shall expire if the applicant fails to obtain any and all permits within six months of the date of authorization thereof.”

In reviewing Section 613, the Zoning Hearing Board asserts that while zoning relief expires within six months, the Board also has the power to grant extensions of previously granted relief if said requests are submitted prior to the expiration of the six month, or subsequent extensions.

The Protestants disagree with this assessment and cite three (3) cases, *Chetmynd Associates v. Township of Radnor*, 21 Pa.Cmwlth. 493 (1975), *Lucia v. Zoning Hearing Board of the Township of Upper St. Clair*, 63 Pa.Cmwlth. 272 (1981), and *Omnivest v. Stewartstown Borough Zoning Hearing Board*, 163 Pa.Cmwlth. 415 (1994). The Board has reviewed these cases, but does not believe they are analogous to the request before the Board as explained below. In *Chetmynd Associates*, the applicant did not move to extend the six (6) month permitting deadline and the original approval expired in its entirety. In *Lucia*, the applicant again did not make a timely request for extension and was instead challenging the expiration of the conditional use permit on the grounds that the applicable code section had a written notice of expiration requirement. Finally, in *Omnivest*, the Commonwealth Court determined it was not an abuse of discretion to deny a second application following the granting of a variance which expired after six (6) months with no attempt to obtain an extension of relief by the applicant.

The situation before the Board regarding Applicant's request differs from the fact patterns of the provided case law. Applicant submitted a request for extension prior to the expiration of the granted zoning relief, whereas in the provided case law, requests were made after the relief expired. While a hearing was not held on Applicant's request until July 2020, the hearing was continued due to agreements of the parties and the COVID-19 pandemic.

III. CONCLUSIONS OF LAW

From the facts presented and pursuant to the Zoning Ordinance, it is the judgment of the Board that the Applicant shall be granted the requested extension of the previous granted relief for one (1) year.

ORDER

AND NOW, this 31st day of August 2020, the request of Millennium Waterfront Associates, LP, seeking an extension of relief previously granted in 2014 and 2015, from Section 27-27-1504.D.5, 27-1705, 27-1503, 27-1505.B.2, and 27-1504.F.2 of the Zoning Ordinance is hereby GRANTED the relief is extended for one (1) year.

The Applicant is directed to apply to the Borough Zoning Officer to obtain any appropriate permits.

CONSHOHOCKEN ZONING HEARING BOARD

Date Personally Delivered:

Richard D. Barton

Or Date emailed:

Mark S. Danek

9/3/20

Gregory Scharff

In accordance with :

- 1) Governor Wolf's March 6, 2020, proclamation of a disaster emergency under 35 Pa.C.S. §7301(c); and
- 2) Governor Wolf's Stay at Home Order of March 23, 2020; and

I, Alexander Glassman, the Solicitor of the Conshohocken Zoning Hearing Board, hereby certify that each member of said Board has read and approved this written opinion, which accurately reflects the actions and vote by said Board at its July 20, 2020, hearing in this matter. Said Board members have consented to their signatures to be affixed to this Decision as above.

Alexander M. Glassman

Alexander M. Glassman, Esquire

CAMPBELL **CR** ROCCO
L A W L L C

Edmund J. Campbell
Direct Dial: (610) 992-5885
Email: ecampbell@campbellroccolaw.com

May 21, 2021

VIA U.S. FIRST CLASS MAIL

Borough of Conshohocken
400 Fayette Street
Suite 200
Conshohocken, PA 19428
Attn: Bobbi Jo Myrsiades

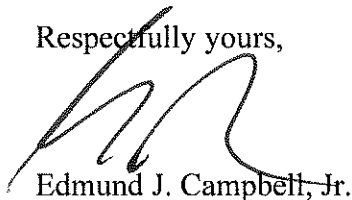
RE: Millennium Waterfront Associates, LP
Z-2014-04
Z-2015-04

Dear Ms. Myrsiades,

Millennium Waterfront Associates II, LP (“MWA”) is the owner of certain units of the Millennium Condominium (“Millennium”), and the successor to Washington Street Associates IV, L.P. Please accept the enclosed Zoning Application as a request on behalf of MWA to extend the above referenced zoning approvals.

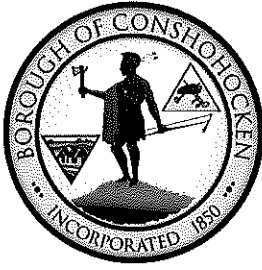
Thank you in advance for your time and attention to his matter.

Respectfully yours,



Edmund J. Campbell, Jr.

EJC/har
cc: Richard Heany (via e-mail)



BOROUGH OF CONSHOHOCKEN
400 Fayette Street, Suite 200, Conshohocken, PA 19428
Phone (610) 828-1092 Fax (610) 828-0920

Zoning Application

Application:	<u>2-20021-175</u>
Date Submitted:	<u>5-24-21</u>
Date Received:	<u>6-24-21</u>

1. Application is hereby made for:

Special Exception Variance

Appeal of the decision of the zoning officer

Conditional Use approval Interpretation of the Zoning Ordinance

Other Request Extension of Zoning Relief

- §27-1509.2 – Variance for building bulk
- §27-1604.D.5 – Variance for orientation of the parking garage
- §27-1705 – Variance for floodproofing of amenities in the floodway
- §27-1503 – Variance for building height
- §27-1505.B.2 – Variance for minimum setback from internal roadways
- §27-1504.F.2 – Variance for impervious coverage

2. Section of the Zoning Ordinance from which relief is requested:

3. Address of the property, which is the subject of the application:

200 Block of Washington Street Conshohocken, PA 19428

4. Applicant's Name: Millennium Waterfront Associates II LP et al c/o Edmund J. Campbell, Jr. Esquire

Address: 2701 Renaissance Boulevard, Fourth Floor, King of Prussia, PA 19406

Phone Number (daytime): 610.337.5585

E-mail Address: ecampbell@campbellroccolaw.com

5. Applicant is (check one): Legal Owner ; Equitable Owner ; Tenant

6. Property Owner: See attached site map.

Address: 2701 Renaissance Boulevard, Fourth Floor, King of Prussia, PA 19406

Phone Number: 610.337.5585

E-mail Address: ecampbell@campbellroccolaw.com

7. Lot Dimensions: See attached map. Zoning District: SP-2

8. Has there been previous zoning relief requested in connection with this Property?

Yes No If yes, please describe.

See attached Zoning Hearing Board decision.

9. Please describe the present use of the property including any existing improvements and the dimensions of any structures on the property.

Commercial Condominium

10. Please describe the ~~proposed~~ use of the property.

Office buildings with parking structure

11. Please describe proposal and improvements to the property in detail.

See attached Addendum I.

12. Please describe the reasons the Applicant believes that the requested relief should be granted.

See attached Addendum II.

13. If a Variance is being requested, please describe the following: See attached Addenda.

a. The unique characteristics of the property: _____

b. How the Zoning Ordinance unreasonably restricts development of the property:

c. How the proposal is consistent with the character of the surrounding neighborhood. _____

d. Why the requested relief is the minimum required to reasonably use the property; and why the proposal could not be less than what is proposed.

14. The following section should be completed if the applicant is contesting the determination of the zoning officer.

a. Please indicate the section of the zoning ordinance that is the subject of the zoning officer's decision (attach any written correspondence relating to the determination).

b. Please explain in detail the reasons why you disagree with the zoning officer's determination.

15. If the Applicant is requesting any other type of relief, please complete the following section.

a. Type of relief that is being requested by the applicant. • §27-1509.2 – Variance for building bulk
Extension of relief granted in PZ-2014-04 and 2015-04 • §27-1504.D.5 – Variance for orientation of the parking garage
• §27-1705 – Variance for floodproofing of amenities in the floodway
• §27-1503 – Variance for building height
• §27-1505.B.2 – Variance for minimum setback from internal roadways
• §27-1504.F.2 – Variance for impervious coverage

b. Please indicate the section of the Zoning Ordinance related to the relief being requested.

See above.

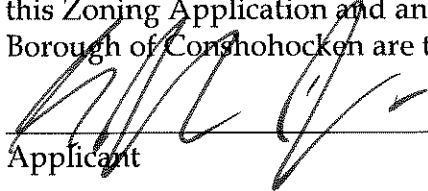
c. Please describe in detail the reasons why the requested relief should be granted.

See Addendum II.

16. If the applicant is being represented by an attorney, please provide the following information.

a. Attorney's Name: Edmund J. Campbell, Jr. Esquire
b. Address: 2701 Renaissance Boulevard, Fourth Floor, King of Prussia, PA 19406
c. Phone Number: 610.337.5585
d. E-mail Address: ecampbell@campbellroccolaw.com

I/we hereby certify that to the best of my knowledge, all of the above statements contained in this Zoning Application and any papers or plans submitted with this application to the Borough of Conshohocken are true and correct.


Applicant

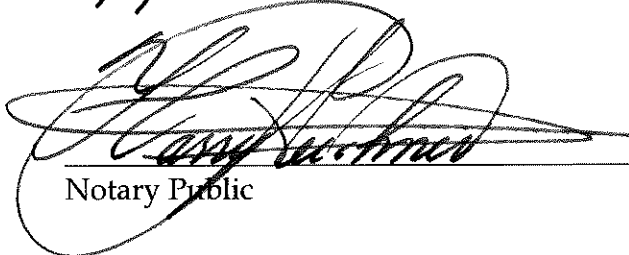
Millennium Waterfront Associates II LP et al
Legal Owner

MAY 21, 2021
Date

COMMONWEALTH OF PENNSYLVANIA

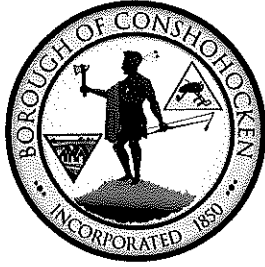
COUNTY OF MONTGOMERY

As subscribed and sworn to before me this 21st day of
MAY, 2021.


Notary Public

Commonwealth of Pennsylvania - Notary Seal
Harry A. Reichner, Notary Public
Philadelphia County
My commission expires November 13, 2022
Commission number 1194882
Member, Pennsylvania Association of Notaries

(Seal)



BOROUGH OF CONSHOHOCKEN
400 Fayette Street, Suite 200, Conshohocken, PA 19428
Phone (610) 828-1092 Fax (610) 828-0920

Decision

(For Borough Use Only)

Application Granted

Application Denied

MOTION:

CONDITIONS:

BY ORDER OF THE ZONING HEARING BOARD

	Yes	No
_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>

DATE OF ORDER: _____

ADDENDUM I

See attached.



BOROUGH OF CONSHOHOCKEN

Office of the Borough Manager

MAYOR

Yaniv Aronson

BOROUGH COUNCIL

Colleen Leonard, President
Tina Sokolowski, Vice-President
Robert Stokley, Senior Member
Anita Barton, Member
James Griffin, Member
Jane Flanagan, Member
Karen Tutino, Member

Stephanie Cecco
Borough Manager

July 21, 2020

Edmund J. Campbell, Jr., Esq.
Campbell Rocco Law, LLC
2701 Renaissance Blvd., 4th Floor
King of Prussia, PA 19406

Re: PZ-2014-04 and 2015-04: 200 Block of Washington Street Conshohocken, PA 19428

Dear Mr. Campbell,

The Conshohocken Zoning Hearing Board at its July 20, 2020 meeting approved an extension of the zoning relief originally granted in 2014 and 2015 for the referenced project. The following relief was extended for one (1) year through July 20, 2021:

- §27-1509.2 – Variance for building bulk
- §27-1504.D.5 – Variance for orientation of the parking garage
- §27-1705 – Variance for floodproofing of amenities in the floodway
- §27-1503 – Variance for building height
- §27-1505.B.2 – Variance for minimum setback from internal roadways
- §27-1504.F.2 – Variance for impervious coverage

Zoning relief will expire should any required permits not be obtained within the outlined time period. Compliance with all local, state, and federal laws and regulations is still required along with all representations and conditions of the original relief granted.

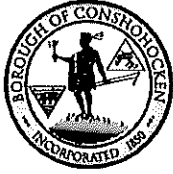
If you have any questions or concerns, please feel free to contact the undersigned.

Sincerely,

Eric P. Johnson, PE
Zoning Officer
PENNONI ASSOCIATES INC.

EPJ/

cc: Stephanie Cecco, Borough Manager
Ray Sokolowski, Executive Director of Operations
Michael Peters, Esq., Borough Solicitor
Alex Glassman, Esq., Zoning Hearing Board Solicitor
Matt McHugh, Esq.
Zoning Hearing Board



BOROUGH OF CONSHOHOCKEN

Office of the Borough Manager

MAYOR

Yaniv Aronson

BOROUGH COUNCIL

Colleen Leonard, President
Jane Flanagan, Vice-President
Robert Stokley, Senior Member
Anita Barton, Member
James Griffin, Member
Tina Sokolowski, Member
Karen Tutino, Member

Stephanie Cecco
Borough Manager

ZONING NOTICE

ZONING EXTENSION HEARING PZ-2014-04; Z-2015-04

NOTICE IS HEREBY given that the Conshohocken Zoning Hearing Board will conduct a public hearing on Thursday, January 17, 2019 at 7:00 p.m. prevailing time at the Conshohocken Borough Hall, 400 Fayette Street, Conshohocken, PA. At this time, the Conshohocken Zoning Hearing Board will hear testimony and accept evidence on the following request for an extension of zoning relief:

PETITIONER: Millennium Waterfront Associates, LP
c/o O'Neill Property Group
2701 Renaissance Blvd., 4th Floor
King of Prussia, PA 19406

PREMISES INVOLVED: 200 Block of Washington Street, Behind
225 and 227 Washington Street
Specially Planned 2 Zoning District

OWNER OF RECORD: Same as Petitioner

The Petitioner is requesting an extension of variances granted in 2014 and 2015 from the following sections of the Conshohocken Zoning Ordinance: 27-1509 B – Building Bulk, 27-1504 D. 5 – Orientation of a Garage, 27-1705 – Flood Proofing of Amenities in the Flood Way, 27-1503 – Height, 27-1505 B. 2 – Minimum Building Setback from a Private or Internal Driveway, and 27-1504 F. 2 – Impervious Coverage.

The Petitioner proposes to construct an office building, a parking garage, and public amenities along the Schuylkill River.

Interested parties are invited to participate in the hearing. Anyone requiring special accommodations to attend this hearing should contact Conshohocken Borough Administration Office at 610-828-1092 as soon as possible to make arrangements.

Borough of Conshohocken
Zoning Hearing Board

CAMPBELL **CR** ROCCO
L A W L L C

Edmund J. Campbell
Direct Dial: (610) 992-5885
Email: ecampbell@campbellroccolaw.com

November 26, 2018

VIA ELECTRONIC AND FIRST CLASS MAIL

Christine Stetler
1 West First Avenue
Suite 200
Conshohocken, PA 19428

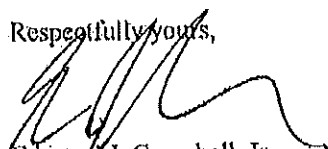
RE: Millennium Waterfront Associates, L.P.
Z-2014-04
Z-2015-04

Dear Ms. Stetler,

Millennium Waterfront Associates, L.P. ("MWA") is the owner of certain units of the Millennium Condominium ("Millennium"), and the successor to Washington Street Associates IV, L.P. Please accept this letter as a request on behalf of MWA to extend the above referenced zoning approvals through December 31, 2019.

Thank you in advance for your time and attention to his matter.

Respectfully yours,


Edmund J. Campbell, Jr.

EJC/aw

cc: Richard Heany



BOROUGH OF CONSHOHOCKEN

MEMORANDUM

MAYOR
Yaniv Aronson

BOROUGH COUNCIL
Colleen Leonard, President
Jane Flanagan, Vice-President
Robert Stokloy, Senior Member
Anita Barton, Member
James Griffin, Member
Tina Sokolowski, Member
Karen Tutino, Member

Stephanie Cecco
Borough Manager

Date: December 12, 2018

To: S. Cecco, B. Rogers, Zoning Hearing Board, Zoning Board Solicitor

From: C. Stetler

Re: 200 Block of Washington Street, Millennium Block A, Millennium IV
Request for Extension of Zoning Relief Granted in 2014 and 2015
Request Summary

History of the Site and Current Request:

Zoning relief remains in effect for six (6) months following the Zoning Hearing Board's approval. Petitioners are required to draw permits for their specific project within that time. However, complex projects such as that proposed on the 200 Block of Washington Street (Millennium IV) often take longer to go through the approval process and secure project financing. For that reason, Petitioners often request an extension of time to draw construction permits for a project.

With regard to the 200 Block of Washington Street, zoning relief was granted in 2014 and 2015. A one (1) year extension of the relief granted was approved January 30, 2018. This approval will expire in January 2019. A second extension of relief granted through December 31, 2019 has been requested.

In 2016, an amendment to the height requirement in the Specially Planned - 1 and 2 Zoning Districts was approved. The amendment permitted a height in those districts of 230 feet with Conditional Use approval by Conshohocken Borough Council. In June, 2017, the Developer of the site requested Conditional Use approval for a height of up to 230 feet. Hearings on the Conditional Use application have been continued since its submission through October, 15, 2018, at which time the application was withdrawn.

Because zoning relief for the project has not been completed, the project has not proceeded through the Land Development process. The overall project has not been approved by Borough Council, and therefore no permits have been secured.

At the present time, it is not known if the Developer will submit a new application for Conditional Use approval of a height increase for the office building and garage. It should be noted; that garages are not exempt from the height requirements of the Specially Planned - 2 Zoning District. Also, there is now indication if the size of the building will remain at 617,000 square feet, which is the remaining Floor Area Ratio allowable for Millennium Block A.

Following is a description of relief granted in 2014 and 2015 for the proposed project.

Z-2014-04: 200 Washington Street Block A. Decision May 5, 2014

Proposal: The Developer proposed a 300,000 square foot office building with a five (5) story parking garage, and public amenities including an amphitheater, public garden and improved public access. It should be noted that the design of the project was a direct result of the needs of the single tenant being sought to occupy the building.

Relief Requested and Granted:

1. §27-1509.2 Building Bulk: Relief was requested to increase the building bulk of the new proposed office building from 250 feet to 384 feet, and increasing the non-conforming building bulk of 227 Washington Street through connection to the proposed building, making the building bulk 543.8 feet. Variances were approved on condition that the connector between the existing building at 227 Washington Street and the new office building be used for the transient movement of employees only, and not for additional office space or gathering areas. Relief was approved for the building bulk of the proposed garage of 274.8 feet
2. §27-1504 D. 5: Interpretation and in the alternate a variance was requested regarding the proposed orientation of the parking garage parallel to the Schuylkill River. The Ordinance does not permit visible parking structures parallel to the river or between a principal building and the river. Despite arguments that there was intervening land between the proposed parking garage and the actual river bank, the Zoning Board granted a variance to orienting the parking garage parallel to the river, on condition that the structure be concealed in some way other than wire mesh so that it does not appear to be a parking structure when viewed from the river side of the building in the opinion of the Borough's Design Review Committee.
3. §27-1705: Utilization of the Flood Plain Conservation District: Relief was requested from conditional use requirements for development of amenities in the floodway. All proposed buildings related to the project were located in the floodway fringe, and no relief was requested from flood proofing requirements. However grading and amenities to be constructed in conjunction with the project were located in the floodway. Relief was granted for the following activities in the floodway:
 - a. An amphitheater with a plaza, walkway and paved parking areas;
 - b. Paved walkways, sidewalks, parking areas, plazas, courtyards and meeting areas; and
 - c. Grading, re-grading, disturbance of earth, removal and deposit of topsoil and construction of retaining walls.
4. §27-1503 Height: Building height is limited to eighty-five (85) feet, and may be increased to 250 feet by conditional use. The project does not meet the requirements for conditional use approval and therefore a variance was requested. Relief was granted for a building height not to exceed ninety (90) feet. The need for a variance was due to slope at the site and the fact that the elevation of the building had not been finalized at that time.

Z-2015-04: 200 Block of Washington Street Block A. Decision September 29, 2015

Proposal: The Developer proposed a 420,000 square foot office building, a garage of twelve (12) to thirteen (13) stories. Amenities to be constructed remained the same. It should be noted that the changes to the project were the result of requests from the single tenant proposed to occupy the building. Also of note was the Borough of Conshohocken's support for the relief being requested.

Relief Requested and Granted:

1. §27-1509 2 Building Bulk: The proposed building bulk was 400 lineal feet, which was sixteen (16) feet longer than the 384 lineal fee approved in 2014. There was no discussion regarding any changes in the bulk of the garage, which was granted relief in 2014. Note: Garages are not exempt from building bulk requirements.

2. §27-1503 Height: The proposed height of the building was 135 feet, which was a significant increase (45 feet) over the five (5) foot increase granted in 2014. Garage height also was increased, and was considered to be roughly the same as the proposed office building. The variance was granted.
3. §27-1504 D. 5 Interpretation of the Orientation of the Garage Parallel to the Schuylkill River: The parking garage associated with the project continued to be oriented parallel to the river. There was no change in consideration of the garage's orientation or change in the prior approval or condition of approval.
4. §27-1505 B.2 Minimum Building Setback from a Private or Internal Drive: The distance of the parking garage from the drive leading to the garage is less than twenty-five (25) feet. The variance was granted.
5. §37-1504 F. 2. Impervious Coverage: The Developer proposed eighty percent (80%) impervious coverage on the lot, where seventy percent (70%) is permitted. The variance was granted.

2015 variances approved were granted without conditions.



BOROUGH OF CONSHOHOCKEN

MAYOR
Yaniv Aronson

BOROUGH COUNCIL
Colleen Leonard, President
Jane Flanagan, Vice-President
Robert Stokley, Senior Member
Anita Barton, Member
James Griffin, Member
Tina Sokolowski, Member
Karen Tutino, Member

Stephanie Cecco
Borough Manager

Conshohocken Zoning Hearing Board

Tuesday, January 30, 2018 ~7:00 p.m.
Conshohocken Borough Hall ~400 Fayette Street
Conshohocken, PA 19428

Extension of 2014 and 2015 Zoning Relief Granted for the 200 Block of Washington Street – Millennium Block A.

Present: Richard Barton, Chairman – Zoning Hearing Board, Board Members: Gregory F. Scharff, Janis B. Vacca, PE, Mark S. Danek Esq., Russell Cardamone; Zoning Board Solicitors Michael P. Clarke, Esq., Alexander Glassman, Esq.; Edmund J. Campbell, Jr., Esq. – Attorney for the Applicant; Christine M. Stefler, Zoning Officer,

The meeting was called to order by Mr. Richard Barton, Chairman of the Conshohocken Zoning Hearing Board. Mr. Barton explained that there was a request to extend the zoning relief granted in 2014 and 2015 for a proposed project on the 200 Block of Washington Street known as Millennium Block A.

Mr. Edmund J. Campbell, Jr., Attorney for the property owners, described the zoning relief granted in both 2014 and 2015 which included: building bulk, building height, orientation of the proposed garage, development in the floodway fringe, development of public amenities in the floodway, and grading. Conditions related to the relief granted were that the garage be "skinned" on the exterior to reduce the appearance of a garage, that the proposed design be reviewed and approved by the Borough's Design Review Committee; and that the connection between the proposed building and Millennium III (227 Washington Street) be used for pedestrian traffic only and not for additional office or meeting space.

Mr. Campbell explained that the Developer is seeking to attract a single tenant for the proposed project which is a Fortune 50 company. He was not at liberty to identify the tenant being sought. The proposed tenant still is evaluating its needs and has narrowed the list of potential sites for its headquarters. The selection of a site by the tenant has delayed the implementation of the project.

The public in attendance at the meeting were given the opportunity to ask questions or make statements regarding the extension request. There were no questions or statements from the public.

Russell Cardamone commented that this Developer has consistently returned to the Zoning Hearing Board requesting additional relief to accommodate the proposed project.

Question was raised by the Board as to what the garage would look like. Mr. Campbell explained that, at present, there is no final design for the garage.

Mr. Barton asked when the original relief for the project expired. Relief expired as of July 1, 2016.

An extension of relief previously grant was requested until December 31, 2018.

MOTION: THAT THE REQUEST FOR THE EXTENSION OF RELIEF GRANTED IN 2014 AND 2015 BE GRANTED THROUGH DECEMBER 31, 2018. (Vacca/Danek)

Vacca yes

Scharff yes

Danek yes

Cardamone no

Barton yes

BEFORE THE ZONING HEARING BOARD OF CONSHOHOCKEN

**IN RE: APPLICATION OF
WASHINGTON STREET ASSOCIATES, IV, L.P.**

REGARDING

200 BLOCK of WASHINGTON STREET- MILLENIUM BLOCK A

DECISION OF THE BOARD

I. History of the Case:

By application and addendum dated February 26, 2014 and admitted as Exhibit P-2 (collectively, the "Application"), Washington Street Associates, IV, L.P. (the "Applicant") is seeking zoning relief from the Zoning Hearing Board (the "Board"), in the nature of variances (each a "Variance" and collectively, the "Variances") from the following sections of the Conshohocken Borough Zoning Ordinance of 2001 (together with all amendments thereto, the "Zoning Ordinance"): (i) the § 27-1509.2 requirement that buildings be no more than 250 feet in length or 350 feet in length, provided certain conditions are satisfied; (ii) the § 27-1504.D.5 requirement that parking structures not be fronting parallel to the Schuylkill River or be located between the primary structure and the Schuylkill River; (iii) the § 27-1705 requirement restricting the permissible uses of property located in the floodway; and (iv) the § 27-1503 requirement that buildings be no taller than 85 feet in height.¹ The Variances relate to the Applicant's land development plan (the "Project") for property located on the 200 block of Washington Street, Conshohocken (collectively, the "Property"). The Applicant is requesting that it be

¹ The Applicant originally also requested relief under Section 27-1511.8 with respect to parking areas; however, the Borough determined that Section 27-1511.8 applies only to residential uses and would be inapplicable in this case.

permitted to construct a 300,000 square foot office building in two (2) connected structures, an associated parking structure and several outdoor amenities (collectively, the "Proposed Use").

The Zoning Ordinance permits the Board to grant a variance when failure to do so would "inflict unnecessary hardship" upon an applicant. See id. at § 27-611.1.A.

A public hearing was held before the Board on the evening of April 7, 2014, at 7:30 p.m. prevailing time at the Borough Hall in Conshohocken, Pennsylvania. The initial hearing was continued, with the continuation heard on May 5, 2014 at 7:30 p.m. prevailing time at the Borough Hall in Conshohocken, Pennsylvania. At the final conclusion of the continuation, the Board discussed the remaining issues and rendered a decision. Due notice was given for the public hearing.

After the final conclusion of the hearing, the Board found as follows:

II. Findings of Fact:

1. The Applicant is Washington Street Associates, IV, L.P., and the Applicant is also the owner of the Property. The Applicant was represented by Edmond J. Campbell, Jr., Esquire ("Campbell") at the hearing, and its principal witnesses were Brian O'Neill ("O'Neill") and Michael Engel, the engineer on the Project ("Engel").

2. The property involved is the 200 block of Washington Street Conshohocken, Pennsylvania. The Property is presently zoned Specially Planned District-2 ("SP-2").

3. At the initial hearing, the Applicant provided a computerized digital rendering of the Project and O'Neill described each of the different models to the Board. As illustrated by the computerized digital renderings and the testimony of O'Neill, the

Applicant described the Project as the next sequence in its waterfront development, and indicated that some of its design choices were based upon the needs of a targeted tenant (the "Tenant").

4. O'Neill stated that if the Tenant were to choose this location for its offices, it would bring 1,000 jobs to Conshohocken. The Tenant envisioned a space with fewer floors and more employees on each floor to encourage collaborative work. The Tenant also specifically requested a large congregational space to host speeches to all of its employees. O'Neill indicated that in response to this request, the Applicant was proposing an outdoor amphitheater that would provide seating for all employees during these speeches, and would also be open to the public in the evenings. In addition to the planned amphitheater, the Applicant also proposed to add a public garden and increased public access to the existing trail system along the riverfront.

5. O'Neill next described the proposed office buildings themselves, designated as B-1 and B-2, respectively, on the site plan admitted as Exhibit P-3 (and detailed in Findings of Fact #s 9 and 10, below), as being constructed of all glass, including an employee "life center" on the top floor which includes amenities such as an outdoor garden, gym, a coffee shop and meeting rooms. B-1 and B-2 are connected via a glass "connector" and the parking structure is also connected to the existing M-3 building, as identified on Exhibit P-3, via a second glass "connector" (each, a "Connector," and collectively, the "Connectors").

6. Campbell next asked O'Neill to confirm that the Proposed Use is suitable for the area. O'Neill indicated that the Proposed Use was the original plan submitted for the Property, dating back to 1996 or 1997. Campbell asked O'Neill whether the

Proposed Use would change or detract from the use of the neighboring property. O'Neill stated that it would not detract but safeguard the neighboring uses.

7. The Board then posed the following questions to O'Neill:

a) The Chairman of the Board, Richard Barton (the "Chairman")

asked whether the Connectors were structural parts of the buildings. O'Neill responded that the Connectors would be structural in that people could walk back and forth through the Connectors. O'Neill also indicated that the Connectors would be climate-controlled.

b) Vivian Angelucci ("Angelucci") next asked whether the

Connectors would just be used as walkways. O'Neill indicated that they were meant to be winter gardens, such that they may have tables and chairs, but that a tenant could use the space for seating or a conference room.

c) Russ Cardamone ("Cardamone") next asked whether the gray area

depicted on Exhibit P-3, would be part of the proposed buildings. Campbell indicated that Engel would testify as to the specific dimensions of the buildings.

8. The Chairman then asked for questions from the audience. There were no questions.

9. At the request of Campbell, Engel, using a red pen, outlined the

dimensions of the buildings on Exhibit P-3. Engel also cross-hatched the glass Connector that connects B-1 and B-2 to indicate where it would be located. Exhibit P-3 shows B-1 and B-2 connected via the proposed glass Connector as well as a second glass Connector connecting B-2 and M-3, the existing building.

10. Engel further testified regarding the specific dimensions of M-3. He indicated that M-3 is approximately 360 feet long, which includes 335 feet in building

bulk and a bump out, which adds twenty-five (25) additional feet. The proposed Connector would add an additional 35 feet. B-2, from the glass Connector to the Schuylkill River (the "River"), Engel indicated, is 120 feet. The Connector between B-2 and M-3 is an additional fifty (50) feet in length. Engel testified that the proposed B-1 would be 213 feet in length. Engel concluded the dimensional discussion by indicating that if the proposed B-1 and B-2 were constructed with the glass Connectors, the total length would be 520 feet. B-1 through B-2 constitutes 389.4 feet, approximately. Engel added these calculations to Exhibit P-3.

11. As a result of these calculations, Campbell indicated that the Applicant was seeking a variance from Section 1509.2 of the Code relating to building bulk. Section 1509.2 limits building bulk in the SP-2 district to 250 feet, and by meeting certain conditions, 350 feet. Both B-1 and B-2, however, would exceed 350 feet in length. The conditions required to permit 350 feet in building length include: (1) a change in elevations every fifty (50) feet, (2) five percent (5%) of open space added for every fifty (50) feet of increased building length, and (3) no visible parking structure that is fronting parallel to the River and is located between a primary structure and the River.

a) As for the first condition to exceed 250 feet in building length, Engel testified that the façade on the existing M-3 will not change as the building already exists. He did indicate, however, that all new construction from the end of M-3 to the end of B-2 would include changes in the architectural façade in excess of every fifty (50) feet, including a slight arc to the building frontage.

b) The second requirement to exceed 250 feet in building length is that five percent (5%) open space be added for each additional fifty (50) feet in building

length. Engel indicated that there would be two (2) open space components of the Proposed Use. The open space would include the 100 foot strip of open space along the River that is owned by the Borough, as well as the proposed amphitheater which would also be available to the public. When the actual land development plans are prepared, Engel indicated, he would be able to quantify the amount of additional open space, but he was confident that it exceeds the requisite five percent (5%).

c) With respect to the conditions regarding the parking structure, Engel stated that the proposed parking structure would not be located between any buildings on the Property and the River. Campbell asked Engel whether the terms "fronting," "parallel," or "visible" were defined in the Code. Engel indicated that they were not. Campbell also asked Engel to address the undulating nature of the River, and Engel indicated that the River has an arc and a structure could only be parallel to the River if the structure matched the exact arc of the River. The parking structure, Engel stated, does not front the River because an adjacent property owner has land located between the location of the proposed parking structure and the River, and the 100 foot strip of land owned by the Borough would also be between the parking structure and the River. Engel stated that in his opinion, the conditions for the extension of building length to 350 feet were met.

12. Campbell next asked Engel to testify with respect to uses in the floodway. Engel confirmed that the Property is located in the floodplain of the River. Engel defined the floodplain as the combination of the floodway and the floodway fringe. He indicated that all of the proposed buildings would be located in the floodway fringe and that some amenities would be located in the floodway. Engel stated that development of the

Property is limited in that the Property is bordered by the River and the railroad tracks. Due to the fact that the Property is located within the floodplain, all habitable space must be located at least eighteen (18) inches above the flood height, and therefore, Engel indicated, parking was the most logical use of the first floor of the structures on the site. Engel also testified that the construction in the floodplain would be consistent with the standards set by the Army Corps of Engineers.

13. Campbell indicated he had additional questions for Engel regarding parking. Campbell asked about the number of parking decks in the proposed parking structure. Engel stated there would be five (5) parking decks above the surface parking level. Engel indicated that each parking level would be about twelve (12) feet high. Engel also stated that it was too early in the planning process to indicate the exact number of parking spaces to be provided, but he anticipates about 900 parking spaces in the structure.

14. Campbell raised the point that in addition to the conditions imposed by Section 27-1509.C of the Code with respect to parking structures, the Applicant is also seeking relief from restrictions on parking structures with respect to construction in the floodway under Section 27-1705 of the Code. Section 27-1705 identifies certain uses permissible in the floodway by conditional use. However, Campbell stated that on the advice of the Borough, conditional use in the floodway required the prior approval of the Pennsylvania Department of Environmental Protection ("DEP") as well as the Borough Engineer. Engel testified, however, that DEP approval was contingent upon municipal approval because the key storm water permit needed in order to get approval from the Borough would be a permit from the DEP. Due to the conflicting requirements, the

Applicant, Campbell summarized, was requesting the Variance from the conditional use requirements of Section 27-1705. Campbell also reviewed the requested uses in the floodway with Engel, including: an amphitheater, plaza, walkway, paved parking area, trash and utility facilities, sewer facilities, storm water facilities, sidewalks, courtyards and meeting areas, grading and regrading of land, disturbance of earth, removal of topsoil, construction of retaining walls, deposit of topsoil, parking facilities and structures, utility transmission lines, fencing during construction.

15. Campbell next asked Engel to address the requested height variance. The maximum height permitted under Section 27-1503 is eighty-five (85) feet. The Applicant requested a Variance in the amount of five (5) feet because the height of B-1 and B-2 had not yet been determined due to the slope on the site.

16. Campbell concluded Engel's testimony by posing questions similar to those posed to O'Neill. Engel indicated that the Property was suitable for the Proposed Use and that it was a permissible use. Engel also confirmed that public facilities such as water and sewer are available to the site. Engel also stated that the Applicant had agreed to finance a portion of the Borough's global traffic study, a summary of which was admitted as Exhibit P-6. The global traffic study anticipates additional office space on the Property of about 225,000 square feet, and indicates that the proposed Project was consistent with the global traffic study.

17. The Chairman then asked Zoning Officer Christine Stetler ("Stetler") when the Project would be before the Planning Commission. Stetler indicated that there has been no submission to the Planning Commission, so May or June would be earliest possible timing before the Planning Commission. The Chairman also posed a technical

question to Engel asking Engel to delineate the floodway boundary on Exhibit P-3, and Engel confirmed that none of the proposed buildings would be constructed in the floodway. The Chairman then opened the hearing up to questions from the remainder of the Board:

a) Cardamone asked whether any structure could be built between the proposed parking structure and the River. Engel responded that an existing parking lot was located along the River on the adjacent property owner's land and that there were woods between the two properties. He indicated that buildings would not be built in the floodway. Cardamone also asked Engel to confirm that the Applicant's position was that the proposed parking structure was not parallel to the River. Engel confirmed and indicated that it was separated from the River by a mature stand of trees, which served as a natural buffer. Engel also confirmed that parking on the first level of B1 and B2 would permit flood waters to flow through the area. Cardamone also asked about parking for M2 and M3. Engel indicated that some existing parking for these buildings would be removed, but that exact numbers had not been finalized.

b) Angelucci asked about the height of the buildings. O'Neill indicated that they would be less than ninety-five (95) feet. The Chairman indicated that the request in Exhibit P-2 was for the Variance to permit height to ninety (90) feet. O'Neill indicated that 90 feet would be sufficient to accommodate the Proposed Use.

c) Gregory Scharff ("Scharff") asked about the scale of the proposed buildings, with respect to the existing neighboring Londonbury complex. O'Neill confirmed that the projected height of B-1 and B-2 would be equal to the height of

Londonbury. Scharff also asked about the height of the proposed parking structure, which Engel stated would be sixty (60) feet.

d) Janis Vacca ("Vacca") asked to confirm the cumulative length of B-1, B-2 and the Connector, which Campbell indicated would be 520 feet and that the distance from B-1 Connector to B-2 would be 384 feet. Campbell also confirmed that the request for relief is with respect to the length of both buildings on both sides, stating that the Applicant recognized that if it were to connect B-2 and the Connector to M-3, there would be a single building going the length of 520 feet and that the proposed B-1 to B-2 Connector would be 34 feet in excess of the permissible building bulk. Vacca also raised a procedural question as to whether the Applicant was asking the Board to grant a variance from the Code's requirement that the Applicant obtain conditional use approval for the planned construction in the floodway. Campbell indicated that it was the Applicant's position that it met the standards of Section 27-1509 for the expansion of building bulk, but that the Applicant was requesting the Variance due to the hardship associated with the Property. Campbell reminded the Board that the Code does not define "visible," "fronting" or "parallel." O'Neill added that the proposed parking structure could not be considered fronting because of the neighboring landowner's property, as illustrated by an additional plan of the property, which was marked as Exhibit P-7. The Applicant also used a Google aerial photo, which was admitted as Exhibit P-8, to illustrate the location of the property line. Stetler confirmed that the wooded area between the neighbor's property and the Property was a remnant of the Schuylkill Canal and that it constituted preserved open space. Vacca stated that in her opinion, the intent of the Code was to avoid having a parking structure visible along the

River. O'Neill stated that the Applicant was not trying to split hairs, but to adequately address the requests of the Tenant for the space. O'Neill also commented on the proposed length of the buildings with reference to the historic factory structures in Conshohocken that were interconnected via walkways and connectors, which the Project was designed to imitate. Vacca asked whether it would be possible to rotate the parking structure ninety degrees (90°). Campbell indicated that the rotation would place the parking structure closer to Washington Street. Vacca also suggested an L-shape, but O'Neill indicated an L-shape would prevent the grid design of the Project.

e) The Chairman next commented that the B-1 and B-2 Connector structure would result in 384 feet in building length. He stated the issue becomes that these buildings, unlike M-2 and M-3 are closer to the River. M-2 and M-3 are 360 feet in length, but Stetler stated that these buildings were constructed in 2000, prior to the current building bulk requirements. Stetler confirmed, however, that building bulk relief would be necessary in the present case because the request was to expand on what was originally permitted. The Chairman continued this discussion with reference to the requested relief from conditional use. The Chairman expressed concern regarding floodplain issues and overstepping the role of Borough Council. He also stated the Board would need expert review by the Borough Engineer on technical information. Specifically, the Chairman cited page 3 of the Applicant's addendum to the Application, including items 1 through 10. Campbell indicated that items 1 through 10 include buildings and reiterated that the Applicant's plans do not include buildings in the floodway. The Chairman suggested items in the floodway that require conditional use approval should have conditional use approval with the benefit of review by the Borough

Engineer. Engel responded indicating the contradiction that the DEP is requiring zoning approval. O'Neill indicated that this issue has caused a dispute. Nasatir stated that he was not aware of this issue and offered to discuss the issue with the Borough Solicitor. The Chairman indicated that at a minimum, he would like the Borough Engineer to weigh in on the improvements in the floodway.

f) Stetler asked whether the public access ways to the River would be recorded so that the Borough is protected in terms of access to the River. Campbell indicated that the Applicant was agreeable.

18. The Chairman opened the hearing up to questions from the audience. No questions were asked. Stetler commented that the floor area ratio and impervious coverage would need to be evaluated with respect to other buildings situated on Millennium Block A. Campbell indicated that the Applicant had obtained preliminary review on that topic. The Chairman also asked for statements from the audience. There were no public statements.

19. The Chairman indicated his preference to continue the hearing to allow the Borough Engineer to weigh in on the technicalities of the proposal. Cardamone also requested that the Applicant provide a plan with the building dimensions at the next hearing as well as a Google map photo showing the trees separating the Property and the River. O'Neill agreed to provide both. The Chairman also requested that the Borough Engineer be available at the next hearing. The Board voted to continue the hearing.

20. The hearing was continued on May 5, 2014. The Applicant submitted correspondence from both Remington, Vernick and Beach Engineers ("RVB"), the Borough Engineer, and Engel's engineering firm, Right Angle Engineering ("RAE"),

with respect to the floodway issue. Plans for review by the Borough Engineer were submitted to RVB under cover letter dated April 23, 2014, the plans being admitted as Continuation Exhibit P-7 and the accompanying cover letter as Continuation Exhibit P-8. A response letter from RVB regarding the floodplain use review dated April 29, 2014 was admitted as Continuation Exhibit P-8A. The RAE response letter dated May 3, 2014 accompanying revised plans from RAE was admitted as Continuation Exhibit P-9. The revised plans submitted with the May 3, 2014 letter, which include the building dimensions, were separately admitted as Continuation Exhibit P-12. An additional review letter dated as of May 5, 2014 from RVB was admitted as Continuation Exhibit P-10. Campbell also submitted a Google map image of the site, with the proposed development superimposed, which was admitted as Continuation Exhibit P-11. Per the request of the Board, James Watson ("Watson") of RVB was also present to respond to questioning.

21. Campbell opened the Applicant's presentation by reviewing Continuation Exhibit P-11. Campbell indicated that the Google image showed that the parking structure was not clearly visible from the other side of the Schuylkill River through the foliage. O'Neill also commented that his team had developed a "skin," including colors and LED lighting, for the parking structure so that it does not have to look like a parking structure. The Chairman asked about the landscaped area between the development and the River visible on Continuation Exhibit P-11. O'Neill indicated that the landscaped property is not part of the Property and may actually have been dedicated to the Borough by the neighboring property owner. Campbell added that the fact that the landscaped

area is between the Property and the River means that the parking structure does not front the River.

22. In support of this notion, Campbell cited the language of Section 1504.D.5 with respect to "No lot shall be developed with a parking structure fronting parallel to the Schuylkill River, nor shall a parking structure be located on any lot area between the primary structure and the Schuylkill River." The Chairman asked the Applicant to clarify with respect to the "primary structure." O'Neill indicated that the primary structure in this case was the proposed office buildings. Campbell also cited Section 1509.2.C, reciting "The lot shall not be developed with a visible parking structure fronting parallel to the Schuylkill River, nor shall a stand-alone parking structure be located in any lot area between the primary structure and the Schuylkill River." Campbell indicated that the Applicant believed the Project complied with Section 1509.2.C because the lot is separated from the River by the neighboring property and the structure would be camouflaged. Stetler commented that the camouflage should be a condition to any relief granted with respect to the parking structure. Cardamone commented his belief that the parking structure would still be fronting and parallel to the River. Angelucci voiced agreement with Cardamone's comments. O'Neill responded by comparing the Property to a beach house in that a beach house located a block from the beach would not be considered beach front. Vacca asked how many stories were intended for the parking structure. O'Neill indicated there would be five (5) stories, and that the structure would be camouflaged with wire mesh and LED lighting. Vacca voiced her concern that the LED lighting would make the structure more visible. O'Neill indicated that the lights highlight the screen, not the garage and result in a luminescent glow on the screen.

Vacca asked whether the LED screen would be on at all times. O'Neill indicated that during the day, light would reflect from the screen disguising the parking structure and then at night, the lights would help disguise the interior lights of the parking structure.

23. The Chairman requested questions from the public on the parking structure, and there were no questions. O'Neill provided an image of the LED lighting from the internet. The image was admitted as Continuation Exhibit P-13. Vacca asked if the planned wire mesh system would be similar to the Murano parking structure in downtown Philadelphia. O'Neill indicated the proposed would be similar, but that technology had improved and described it as a metal wall with holes in it which is lit up at night so that the parking structure profile does not show from the parking structure lights. O'Neill also provided a picture of the utility building at the University of Pennsylvania, which was admitted as Continuation Exhibit P-14, to show the metal screening which is similarly lit up at night. O'Neill indicated his intention to use more color than used in the University of Pennsylvania project.

24. Campbell stated that the Applicant was also seeking relief from the building bulk requirements. Referring to Continuation Exhibit P-12, Campbell indicated that the distance from the Washington Street side of M-3 all the way to the front of B-2 would be approximately 520 feet. M-3, itself, is 334.3 feet and the Connector between M-3 and B-2 would result in 62.1 feet, while the Connector to the front of B-2 would be 138.4 feet, for a total of 543.8 feet. The Chairman asked specifically about the function of the 62.1 feet Connector between M-3 and B-2. O'Neill described the area as a connection between the two (2) office buildings in similar style to the historic factories in Conshohocken. Campbell added that the ground floors of B-1, B-2 and M-3 would be

parking, so there would be connectivity there. O'Neill confirmed that the Connector would be a true structural element and would permit someone to walk the full 543.8 feet, and that it would be designed as a winter garden with a glass exterior. Campbell also referenced Continuation Exhibit P-12 to highlight the subtle arc on the front façade of the building, which had been designed to echo the proposed amphitheater.

25. The Chairman opened the discussion up to questions from the Board and Stetler:

a) Cardamone asked whether a pedestrian bridge had been considered, rather than the Connector which would include meeting and office space. O'Neill indicated that the reason a bridge would not work is that the Tenant needs the ability to collaborate, but that the Applicant would be willing to narrow the Connector so that it was more like a bridge than additional meeting space.

b) Vacca asked whether the existing Londonbury complex would block the building bulk view of the Property from the Schuylkill Expressway. O'Neill indicated that only Londonbury would be visible from the Expressway. He added that the Applicant's intent was to replicate the historic buildings in Conshohocken. Vacca also asked about the façade of M-3. O'Neill indicated that the existing façade is red brick. O'Neill confirmed that B-1 and B-2 would not be red brick, but that there would be red brick in the courtyard of the new buildings.

c) The Chairman asked whether relief would also be necessary for building bulk with respect to the proposed parking structure. Campbell indicated that the length of the parking structure was proposed to be 274.8 feet, which would require a variance. O'Neill indicated the size of the parking structure was directly related to the

Proposed Use, and that the parking structure includes thirty to fifty (30-50) spaces for the public trail system on the Property.

d) Stetler asked whether the public parking would accommodate the parking being eliminated between the two Millennium buildings. Campbell indicated that some parking would be lost with the Project, but that parking would still conform to the Code. O'Neill indicated that the Tenant requested visitor parking at each entrance. Stetler also asked about the existing public access to the River between the Millennium buildings. Campbell indicated that the public access between M-2 and M-3 is somewhat limited due to the slope there. Campbell stated public access points exist from Washington Street along Millennium 2 to a sidewalk that goes down to the River, as well as a sidewalk along Ash Street and a sidewalk along Poplar. O'Neill added that there would be a bridge and an archway between the parking garage and the buildings that would be visible from Washington Street.

26. The Chairman requested questions from the public with respect to the requested building bulk relief. There were no questions.

27. Next, Campbell highlighted the boundary lines of the floodplain and the floodway on Continuation Exhibit P-12. Campbell stated that since the original hearing, the relief requested for construction in the floodway had narrowed from ten (10) categories of use to two (2). Pointing to the comments on Continuation Exhibit P-10, Campbell asked if Watson could testify with respect to his review. Watson stated that the Borough Engineer's comments were adequately addressed in the revised plans received in response to its letter dated April 29, 2014 (Continuation Exhibit P-8A). Watson stated that some requested items would be available at the time of the National Pollutant

Discharge Elimination System (NPDES) application. Campbell clarified that some of the changes requested by the Engineer could not be completed until complete site engineering had taken place. The Board had no questions for Watson. Campbell reiterated that the original request for construction in the floodway had changed, specifically that no portion of the parking structure is proposed in the floodway, but strictly in the floodplain. Campbell confirmed that the relief being requested for construction in the floodway was limited to grading and the disturbance of earth relating to the walkway and one half of one parking space along Poplar Street. The Chairman asked and Campbell confirmed that the amphitheater, plaza, paved walkways, sidewalks and parking areas, grading and regarding of land were still being proposed in the floodway.

28. The Chairman asked for questions from the public regarding construction in the floodway:

a) Jane Garbacz ("Garbacz"), 149 Sutcliffe Lane, asked how much of the floodway would be paved. Campbell indicated that a small sidewalk is proposed in the public plaza.

b) Stetler also commented, asking whether the grading and regarding would raise the flood elevation. Campbell stated that it would not. Stetler indicated the Borough's preference to have Flood Elevation Certifications on file at the Borough, and not just with the Borough Engineer. Stetler also asked for hydrology reporting which showed the Project, as proposed, would comply with the FEMA flood insurance program. Campbell agreed.

29. Campbell briefly addressed the Applicant's requested relief with respect to height. He stated that the request for relief was due to the fact that the precise architecture of B-1 and B-2 was not yet complete, and that the slopes on the Property may impact the final height of the proposed buildings. There were no questions from the public or the Board regarding the height relief request.

30. The Chairman asked for statements from the public:

a) Garbacz voiced concerns over traffic congestion and environmental risks. She stressed the importance of the Floodplain Conservation District to the region, and the fact that the Borough does not have an emergency management plan in place to relocate flood victims. She also cited contaminated soil along the brownfield sites of the Conshohocken riverfront. Garbacz stated that the requested relief was to please an incoming Tenant, but at the expense of the residents of Conshohocken. She also referenced the capacity of the Conshohocken Waste Water Treatment Plant.

b) There were no other statements from the public and O'Neill indicated he wished to respond. O'Neill stated that the Conshohocken sewer facility is operating at fifty percent (50%) of capacity currently. Secondly, he indicated that the properties the Applicant purchased had zero access to the River and the Applicant introduced the 100 foot strip to create public access. Lastly, O'Neill stated that the Property has five (5) points of entry to the riverfront.

31. The Chairman asked for questions from the Board:

a) Cardamone asked what the elevations would look like, specifically with respect to the Connector on the rear side of the proposed buildings, and asked whether the rear Connector could be revised in conformity with the front Connector, as

more of a bridge than a meeting space. O'Neill indicated that the rear Connector would actually be smaller in size. O'Neill agreed that the Connector could be just a connection space, although he indicated it would need to be fourteen (14) feet wide.

b) Vacca asked whether the riverside of the parking structure could be opaque, not with the wire mesh, but opaque so as it is not visible as a parking structure. O'Neill indicated this could be done. Vacca indicated her preference that an opaque parking structure would be more in line with the Code in that the ordinance prohibits a parking structure parallel to the River. The Chairman suggested that the Borough Design Review Committee ("DRC") review the plans to make the parking structure opaque and that any relief granted be contingent upon DRC approval, which is ultimately subject to the approval of Borough Council. Stetler also commented that the Project will be required to go before the DRC because it is to be located on the waterfront. The Chairman asked if the parking structure could be rotated such that it would be narrower along the River. O'Neill indicated that there are tenants in buildings M-2 and M-3, and they would be blocked if the parking structure was rotated. He also added that the rotation would encroach on existing parking.

32. Stephen Forster ("Forster"), a consultant for the Applicant, presented an image showing the rear of the proposed building with the architectural center which was admitted as Continuation Exhibit P-15. A second image, admitted as Continuation Exhibit P-16, showed the same building with a view from the riverside.

33. The Board finds that the matter was properly advertised pursuant to the Zoning Ordinance and the Pennsylvania Municipal Planning Code ("MPC").

III. Discussion

As detailed above, the Proposed Relief that the Applicant wishes to obtain is comprised of the Variances in order to permit the development of the Project, all in accordance with the plans submitted by the Applicant and the testimony offered at the hearing. The Proposed Relief would (i) permit the Project to include buildings in excess of 350 feet in length; (ii) construct a visible parking structure fronting parallel to the Schuylkill River; (iii) utilize portions of the Property in the floodway without first obtaining conditional use approval; and (iv) construct buildings in excess of the eighty-five (85) feet height limit. The Applicant believes that the requested Variances constitute the minimal relief necessary to complete the Project.

Section 27-611 of the Zoning Ordinance permits the Board to grant a variance when the "Zoning Ordinance inflicts unnecessary hardship upon the Applicant." See *id.* at 27-611(1)(A). Unnecessary hardship is to be determined to be present when the Board determines, as applicable, that:

- a) there are unique physical circumstances or conditions to the property;
- b) there is no possibility that the property can be developed in strict conformity with the provisions of the Zoning Ordinance and thus the Variance is necessary to enable reasonable use of the property;
- c) the unnecessary hardship has not been created by the Applicant;
- d) the granting of the Variance, if authorized, would not alter the essential character of the neighborhood; and

- e) the granting of the Variance, if authorized will represent the minimum variance to afford the relief and represent the least modification possible to the regulation in issue.

Id. at § 27-611. See also MPC, at 53 P.S. §10910.2.

Some of the requested Variances, including from Section 27-1503, in particular, are of a dimensional nature. In such situations, the Supreme Court of Pennsylvania has found, "the owner is asking only for a reasonable adjustment of the zoning regulations in order to utilize the property in a manner consistent with the applicable regulations." See Hertzberg v. Zoning Board of Adjustment of City of Pittsburgh, 721 A.2d 43, 47 (Pa. 1998). Thus, the Pennsylvania Supreme Court has stated, the level "of proof required to establish unnecessary hardship is indeed lesser." See id. at 48.

The Board has reviewed the Proposed Relief carefully in connection with the requirements of Section 27-611 as well as the MPC standards for granting the Proposed Relief. See MPC, at 53 P.S. §10910.2.

The Board has noted the heavy volume of testimony and exhibits entered into evidence on this matter.

With respect to the Variance requested under Section 27-1509.2 in connection with building bulk, the Board considered the use of the proposed Connector space between buildings M-3 and B-2 and of the Connector between buildings B-1 and B-2. With respect to the new construction buildings, B-1 and B-2, the proposal would result in a total building bulk of 384 feet or thirty-four (34) feet in excess of the 350 permissible feet in building length. The Board considered the thirty-four (34) feet to be a de minimus variance, and unanimously agreed to grant the Variance. With respect to the larger

Connector between the existing building, M-3 and the new building, B-2, the Board expressed the intent that the Connector be as narrow as possible and used solely as a walkway. The Board unanimously agreed to grant the Variance with respect to the proposed Connector between buildings M-3 and B-2, on the condition that the area of the space in that Connector only be used for the transient movement of employees, with no office space or gathering areas (the "Building Bulk Condition").

The Applicant is also seeking relief related to building bulk with respect to the proposed parking structure. The proposed parking structure would have a length of 274.9 feet, which exceeds the 250 foot limit of Section 27-1509.2. The Board, with Cardamone opposing, agreed to grant the Variance to permit the parking structure to exceed the 250 foot maximum up to a 275 foot length.

With respect to the parking structure, the Applicant also sought a Variance under Section 1504.D.5 and Section 27-1509.2.C in connection with the prohibition on the erection of a visible parking structure that is fronting and parallel to the River. The Board agreed, with Cardamone opposing, to grant the Variance to permit the parking structure to be visible, located parallel to and fronting the Schuylkill River, on the condition that the structure be concealed by some method other than wire mesh such that the parking structure does not appear to be a parking structure when viewed from the riverside, in the opinion of the Borough Design Review Commission, which is ultimately subject to the approval of Borough Council (the "DRC Condition," and collectively, together with the Building Bulk Condition, the "Conditions").

The Board also considered the Applicant's request for relief with respect to uses in the floodway. The proposed uses in the floodway include the proposed amphitheater,

plaza, the paved parking area, paved walkways and other meeting areas, grading and regarding of land, disturbance of earth, removal or deposit of topsoil and the construction of retaining walls, as identified as items 1, 6 and 7 in Exhibit P-2. The Board unanimously agreed to grant the Variance to permit the following uses in the floodway: (1) an amphitheater, plaza, walkway, paved parking areas; (6) paved walkways, sidewalks, parking areas, plazas, courtyards, meeting areas; and (7) grading and regarding of land, disturbance of earth, removal and or deposit of topsoil, construction of retaining walls.

The Board also considered the Applicant's request for relief from the building height requirements of Section 27-1503. The Board noted that the Applicant has requested an allowance of an additional five (5) feet in building height to accommodate the slope in the Property, but that no structure would exceed ninety (90) feet in height. The majority of the Board believes that granting the requested Variance is both prudent and appropriate in relieving an undue hardship upon the Applicant, and further believes that the dimensional relief requested is a "reasonable adjustment of the zoning regulations in order to utilize the property in an manner consistent with the applicable regulations" as required under the Hertzberg decision. See Hertzberg, 721 A.2d at 47, 48. The Board, with Cardamone opposing, agreed to grant the Variance.

IV. Conclusions of Law

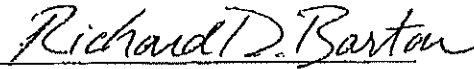
1. The matter was properly presented before the Board.
2. The matter was properly advertised and the hearings both timely and appropriately convened in accordance with the provisions of both the Zoning Ordinance and the MPC.

3. The Zoning Ordinance and the MPC both give the Board the necessary discretion to determine whether or not to grant the Proposed Relief, as well as to subject same to the Conditions.

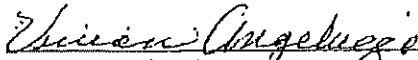
ORDER

The Board grants the Applicant's request for the Proposed Relief from the following Sections of the Zoning Ordinance: 27-1509.2, subject to the Building Bulk Condition; 27-1504.D subject to the DRC Condition; 27-1705 limited to Items 1, 6 and 7 of Exhibit P-2, respectively; and 27-1503. Such relief is granted subject to the Applicant maintaining the Proposed Use in conformity with the information provided to the Board as well as all other regulations of the Borough.

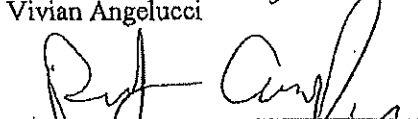
CONSHOHOCKEN ZONING HEARING BOARD²



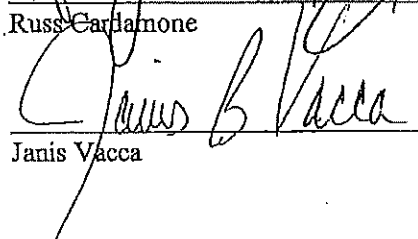
Richard D. Barton, Chairman



Vivian Angelucci



Russ Cardamone



Janis Vacca

² Gregory Scharff did not attend the continuation hearing, and therefore, did not take part in the decision.

BEFORE THE ZONING HEARING BOARD OF CONSHOHOCKEN
IN RE: APPLICATION OF WASHINGTON STREET ASSOCIATES IV, L.P. AND
MILLENNIUM WATERFRONT ASSOCIATES, L.P.
REGARDING PROPERTY LOCATED AT THE
200 BLOCK OF WASHINGTON STREET- MILLENNIUM BLOCK A
DECISION OF THE BOARD

I. HISTORY

On or about June 8, 2015, Washington Street Associates IV, L.P. and Millennium Waterfront Associates, L.P., (hereinafter called "Appellants"), filed the within Appeal for five variances and/or interpretations of the terms of Sections 27-1509.2, 27-1504(D), 27-1503, 27-1505(B)(2) and 27-1504(F) of the Conshohocken Borough Zoning Ordinance of 2001 (together with all amendments thereto, the "Zoning Ordinance"), seeking permission to construct a 420,000 square foot office building which is 400 lineal feet, 135 feet high, having impervious coverage of 80% and having internal setbacks between the building and curb of less than 25 feet at the property located at the 200 Block of Washington Street, Conshohocken, Pennsylvania (hereinafter called "Subject Property"). The applicant also further proposes orientation of a parking structure fronting parallel to the Schuylkill River.

After notice was duly given and advertised, two hearing were held on said Appeal at Borough Hall on July 6, 2015 and September 29, 2015.¹

At the hearing, the following Exhibits were introduced and admitted:

P-1 – Public Notice of the Case.

P-2 – Zoning Application.

A-1 – Zoning Application and Addendum.

¹ The July 6, 2015 hearing was continued until August 3, 2015. At the August 3, 2015 hearing the Appellants requested a continuance, which was granted. There was no testimony heard at this date.

A-2- Letter of Amendment to Zoning Application.

A-3- Resume for Dale T. Stesko R.A.

A-4- Resume for Michael Minervini, P.E.

A-5- Executed Deed for Units E,F,G,H and J.

A-6- Overall Site Plan.

A-7- Millennium Corporate Center Front Elevations.

A-8- Millennium Corporate Center Rear Elevations.

A-9- Prototypes of Parking Garage Exterior.

Applicants' Supplemental Exhibits

A-1- Resume for Thomas E. Hall, AIA.

A-2- Pixar Photo Study.

A-3- Black and White Profiles of Proposed Building.

A-4- Roof Top Images.

A-5- Garage Exterior Image.

II. FINDINGS OF FACT

1. The Subject Property is located at the 200 Block of Washington Street and is owned by Washington Street Associates IV, L.P.

2. The Subject Property is located in the Specialty Planned Two Zoning District ("SP-2").

3. The Appellants have a business address of 2701 Renaissance Boulevard, 4th Floor, King of Prussia, PA 19406.

4. The Subject Property previously filed for variances by Application and addendum on February 26, 2014.

5. The previously requested variances were granted by the Zoning Hearing Board after hearings took place on April 7, 2014 and May 5, 2014.

6. The Appellants filed this application essentially requesting to amend the previously granted relief.

7. The Appellants were represented by Edmond J. Campbell, Jr., Esquire.

8. Mike Savona, Esquire, solicitor to the Borough of Conshohocken (hereinafter "Borough"), represented the Borough at the September 29, 2015 hearing date. At said hearing, Mr. Savona stated that Borough Council supports the proposed application.

9. Mr. Campbell stated that the Appellants have a potential tenant for the Subject Property who is requiring additional modifications of the Subject Property, which is why the Appellants filed a new application even though it was granted relief last year.

10. The Subject Property, if the proposed relief is granted, would be leased to a single tenant who is looking to consolidate their operations in a single building in Conshohocken.

11. The zoning code permits development of FAR at a ratio of 1.5. Block A is about 750,000 square feet. Pursuant to the ratio, the zoning code would allow development of 1,125,000 square feet. There is currently between 500,000 and 550,000 square feet on the site, which leaves approximately 650,000 square feet left that can be potentially built upon.

12. The Appellants cannot develop the allowable 650,000 square feet without the requested variances. Even if the variances are granted, the Appellants are only seeking to build 420,000 square feet, so the site is not being developed to the fullest as allowed by the FAR ratio.

13. Because the Subject Property is located adjacent to the river, that presents economic challenges to developing the site since it needs to be elevated out of the floodplain, which is a unique characteristic of the Subject Property.

14. The proposed plan would have about 75% to 76% impervious coverage while the Zoning Ordinance allows 70% by right.

15. The proposed plan included an internal driveway that would provide access to the proposed parking structure. Because the internal driveway would come within the setbacks within the Zoning Ordinance, the Appellants are seeking relief to allow this internal driveway.

16. At the hearing on July 6, 2015, Mr. Campbell called Mr. Dale Stesko to testify. The Board accepted Mr. Stesko as an expert in architecture. Mr. Stesko testified to the following:

- a. He is an architect who is licensed in Pennsylvania.
- b. He is primarily employed by O'Neill Properties but also does work for Valley Forge Planning.
- c. The development would be approximately five acres. To the north and south the boundaries would be Millennium II and III on the Washington Street side. The Schuylkill river is the boundary opposite Washington Street. The western boundary would be Ash Street.
- d. The site is in the flood plain.
- e. The applicant is requesting variances for building height, building bulk, impervious coverage and setbacks from internal drives. However, the Applicant is not changing the footprint of the building from what was approved by the Board last year.
- f. The office building would have eight levels plus a penthouse.
- g. If the variance for the parking garage height was granted to allow a garage which would be 135 feet high, that would equate to 12 or 13 floors and would provide approximately 1,500 cars. This would accommodate the parking need for the 420,000 square foot office building on the site.

- h. It is not possible to develop another 600,000 square feet of office or residential use on the site within the 85-foot height limitation that's provided in the code.
 - i. Because of the surroundings, the only way to capture the available FAR is to go higher, which would also require more parking.
 - j. The Applicant would be willing to design the parking garage in order to mask the façade that faces the river.
 - k. As a professional architect, he cannot come up with any design that would allow a roadway to get vehicles into a building for the purposes of parking unless it actually meets the building. As such, the Applicant is requesting relief for the internal driveways.
 - l. The Subject Property is suitable for the proposed office development.
 - m. The Subject Property would be in the best interest of the public welfare and the Borough.
 - n. There is adequate sewer and water to serve the property.
 - o. The variances are the minimum needed to accomplish the proposed development.
17. After a few questions from the Board Members, mostly related to how this application is different from the previous application that was granted relief, and why the Applicant is asking for more relief, Mr. Campbell asked to continue the hearing. This request was granted.
18. The next hearing when testimony was heard occurred on September 29, 2015.
19. Mr. Campbell called Mr. Brian O'Neill to testify. Mr. O'Neill testified as follows:
- a. New office buildings are being designed to have a series of central spaces designed to attract collaboration amongst employees.

- b. The proposed lobby would extend all the way to the back of the building where there is a proposed amphitheater. There would also be a restaurant in the lobby as a part of the proposed active internal streetscape.
- c. The roof of the building will be about 50,000 square feet and would include spaces that would be utilized by the potential tenant.
- d. City Tap House restaurant is a potential tenant who may utilize a portion of the roof space. This would be in addition to the restaurant in the lobby.
- e. When compared to all of the building in the Borough, the proposed office building would not be the largest building in the Borough. Additionally, the proposed Equis building is taller than the Applicant's proposed building.
- f. 400 Four Falls, Five Tower Bridge and the Marriott are all taller in height than the proposed office building.
- g. This application was filed due to the specific requests of a specific tenant who would be utilizing the entire office building.
- h. The way the parking garage is designed, if needed, the proposed garage could have a floor added in very little time.
- i. He has owned and developed property in the Borough for over 30 years.
- j. The proposed building would be roughly 33% larger than the relief that was granted by the Board previously.
- k. The proposed tenant is requesting enough parking for five spaces per thousand square feet. At a maximum, the total amount of cars would be 2,100.
- l. The proposed tenant currently occupies close to 400,000 square feet at their current location.

20. Mr. Campbell then called Mr. Hall to testify. Mr. Hall testified as follows:

- a. He is an architect licensed in Pennsylvania and 11 other states.
- b. His firm particularly focuses on designing office buildings and had designed millions of square feet since 1988.
- c. He designed the exhibits which show all of the buildings heights in the Borough, and to a reasonable degree of architectural certainty, using information provided by Google Maps, the exhibits accurately reflect the building sizes in the Borough.
- d. The requirement for garages, due to ventilation reasons, is to be 50% open.

21. No members of the public spoke out against the Application.

III. DISCUSSION

Section 27-1509.2 states, "In the SP-2 District, a maximum building profile, as seen from end-to-end from any side or elevation, and measured perpendicular to such side or elevation, shall not exceed 250 linear feet in total horizontal length on any floor or floors. Council may permit an increase in the maximum building profile to 350 linear feet by conditional use approval, subject to the following specific conditions:

- A. There shall be adequate architectural controls in the form of breaks in the facade, so no more than 50 feet of the building is a consistent facade;
- B. For every additional 50 feet of building length, there shall be an additional 5% of open space provided on the lot or parcel; and
- C. The lot shall not be developed with a visible parking structure fronting parallel to the Schuylkill River, nor shall a stand-alone parking structure be located on any lot area between the primary structure and the Schuylkill River."

Section 27-1504(D) states "Riverfront Access and Open Space in SP-2 District.

(1) Purpose: the intent of the riverfront access and open space provision is to provide year-round opportunities for outdoor recreation within this district, provide visual relief within the built environment and facilitate circulation for pedestrians to and throughout these districts.

(2) Area: a minimum of 15% of each lot within this district shall be provided and maintained as open space. Slopes along roadways and the riverbank may be included as part of the required open space if such areas are landscaped and designed to fulfill the intent of this Section. Open space shall be restricted from further subdivision and development by a restriction in a deed and/or by a conservation easement.

(3) So long as the landowner is immune from liability pursuant to the Recreational Use of Land and Water Act, 68 P.S. 477-1 et seq.:

(a) For every development within the SP-2 District, there shall be twenty-four-hour daily emergency (i.e., fire and police) and dawn to dusk public access between Washington Street and the riverfront trail. Required public access must be provided via an easement or public right-of-way, recorded on the land development plans.

(b) There shall also be twenty-four-hour daily public access for walking, fishing, and sitting at the riverfront area between the extension of Ash Street and the eastern boundary of the SP Districts at the riverfront via a walkable surface installed at the top of the riverbank as developed.

(c) There shall be public access Monday through Friday from 6:00 p.m. until dusk and weekends and holidays from dawn until dusk for walking, fishing, and sitting in a designated riverfront strip from Fayette Street to the eastern boundary of the SP Districts at the riverfront via a walkable surface installed at the top of the riverbank as developed.

(4) Transfer of open space between lots within the SP-2 District shall be permitted by the Borough Council with conditional use approval subject to the following specific standards:

- (a) Lots for which the transfer is proposed must be contiguous.
- (b) All lots must be part of a common, unified and single land development application.
- (c) The aggregate of all open space area must be equal to 15% of the total aggregate lot area of those lots contained in the common, unified and single land development application.
- (d) For lots with frontage on the Schuylkill River, the open space must be provided along the riverfront area.
- (e) Open space must be preserved in perpetuity through a conservation easement or transferred in fee simple to the Borough, as may be required by the Borough.

(5) No lot shall be developed with a parking structure fronting parallel to the Schuylkill River, nor shall a parking structure be located on any lot area between the primary structure and the Schuylkill River.”

Section 27-1503 states, “...

1. The highest elevation of any building shall be 85 feet. For buildings with flat roofs, building height is measured from grade to the top of the building wall, excluding parapets of not more than eight feet. For buildings with pitched roofs, building height is measured from grade to the midpoint of the slope. The height excludes aerials, communication towers, or the like, as well as elevators, machine rooms, cooling towers, and their enclosing walls.

2. Notwithstanding any other provision of this Part, building height may be increased to 250 feet by conditional use, provided that the following conditions are met:

A. The location of the proposed building is within close proximity to the Fayette Street Bridge, as depicted on the map of the Fayette Street Bridge Development Area;

- B. The maximum impervious surface coverage on the lot shall be not more than 60%;
- C. A minimum of 15% of the lot shall be devoted to green space, excluding all impervious areas;
- D. Not more than 5% of the required parking shall be permitted in surface parking areas on the lot;
- E. The design of the proposed building must be submitted to the Borough Design Review Committee for review and approval prior to conditional use approval;
- F. The plan must include riverfront access deeded to the Borough in perpetuity providing unrestricted public access to the riverfront areas in perpetuity;
- G. For properties situated on the riverfront, the plan must meet the provisions of § 27-1610; and
- H. Maximum floor area ratio of 2.5 for all uses, excluding parking garages, may be permitted.”

Section 27-1505(B)(2) states, “The minimum building setback shall be 15 feet from ultimate roadway right-of-way, and 25 feet from the curbline of any private or internal drive.”

Section 27-1504(F) states, “Impervious Coverage.

- (1) In the SP-1 District, not more than 70% of the area of any lot in the district shall be covered by impervious surface.
- (2) Notwithstanding any other provisions of this Part, in the SP-2 District, not more than 70% of the area of any lot in the district shall be covered by impervious surface.”

In a request for a variance, the Board is guided by Section 27-611 of the Ordinance and Section 910.2 of the Pennsylvania Municipalities Planning Code (hereinafter called “MPC”). An applicant for a variance has the burden of establishing that a literal enforcement of the provisions of the Ordinance will result in an unnecessary hardship as that term is defined by law, including court decisions, and that the allowance of the variance will not be contrary to the public interest.

Section 27-611 of the Ordinance and Section 910.2 of the MPC permit the Board to grant a variance where it is alleged that the provisions of the Ordinance inflict unnecessary hardship upon the Appellant and when the Board can make certain prescribed findings where relevant in a given case.

The requested variances and/or interpretations are of a dimensional nature. In such situations, the Supreme Court of Pennsylvania has found, "the owner is asking only for a reasonable adjustment of the zoning regulations in order to utilize the property in a manner consistent with the applicable regulations." See Hertzberg v. Zoning Board of Adjustment of City of Pittsburgh, 721 A.2d 43, 47 (Pa. 1998). Thus, the Pennsylvania Supreme Court has stated, the level "of proof required to establish unnecessary hardship is indeed lesser." See id. at 48.

As the testimony and evidence presented to the Board in this case has shown, the Project attempts to accommodate both a positive use of the Property with minimal relief being requested.

As a result of all the above, the Application meets the requirements of "unnecessary hardship" required under the MPC. See id. The majority of the Board, upon thorough and deliberate review of the materials submitted and testimony offered, has determined that the proposed Variances are appropriate in consideration of the unique characteristics of the Property.

The requested variance will not adversely affect the public interest.

IV. CONCLUSIONS OF LAW

From the facts presented, it is the judgment of the Board that Appellants have proven an unnecessary hardship unique or peculiar to the property and that the variance is not contrary to the public interest. Accordingly, the Board is able to make the following relevant findings under Section 910.2 of the MPC:

1. That there are unique physical circumstances or conditions, including irregularities, narrowness or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the property, and that the unnecessary hardship is due to such condition, and not the circumstances or conditions generally created by the provisions of the Ordinance in the neighborhood or district in which the property is located;

2. That because of such physical circumstances or conditions there is no possibility that the property can be developed in strict conformity with the provisions of the Ordinance and that the authorization for a variance is therefore necessary to enable the reasonable use of the Subject Property;

3. That the variance will not alter the essential character of the neighborhood or district in which the Subject property is located, nor substantially or permanently impair the appropriate use or development of the adjacent property, or be detrimental to the public welfare;

4. That the unnecessary hardship has not been created by the Appellants; and,

5. That the variance will represent the minimum variance that will afford relief and will represent the least modification possible under Section 27-611.


ORDER

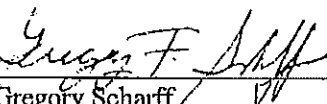
AND NOW, this 27th day of September 2015, the Appeal Washington Street Associates IV, L.P. and Millennium Waterfront Associates, L.P., seeking variances from Sections 27-1509.2, 27-1504(D), 27-1503, 27-1505(B)(2) and 27-1504(F), to construct a 420,000 square foot office building which is 400 lineal feet, 135 feet high, having impervious coverage of 80% and having internal setbacks between the building and curb of less than 25 feet in addition to the constructing a parking structure which would front parallel to the Schuylkill River is GRANTED.

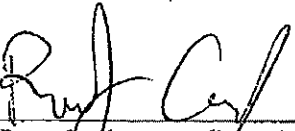
The Appellants are directed to apply to the Borough Zoning Officer/Building Inspector to obtain any appropriate permits.

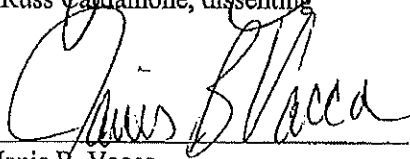
CONSHOHOCKEN ZONING HEARING BOARD


Richard Barton, Chairman


Mark Danek


Gregory Scharff


Russ Caudamone, dissenting


Janis B. Vacca

ADDENDUM II

See attached.

Following is a description of relief granted in 2014 and 2015 for the proposed project.

Z-2014-04: 200 Washington Street Block A. Decision May 5, 2014

Proposal: The Developer proposed a 300,000 square foot office building with a five (5) story parking garage, and public amenities including an amphitheater, public garden and improved public access. It should be noted that the design of the project was a direct result of the needs of the single tenant being sought to occupy the building.

Relief Requested and Granted:

1. §27-1509.2 Building Bulk: Relief was requested to increase the building bulk of the new proposed office building from 250 feet to 384 feet, and increasing the non-conforming building bulk of 227 Washington Street through connection to the proposed building, making the building bulk 543.8 feet. Variances were approved on condition that the connector between the existing building at 227 Washington Street and the new office building be used for the transient movement of employees only, and not for additional office space or gathering areas. Relief was approved for the building bulk of the proposed garage of 274.8 feet
2. §27-1504 D. 5: Interpretation and in the alternate a variance was requested regarding the proposed orientation of the parking garage parallel to the Schuylkill River. The Ordinance does not permit visible parking structures parallel to the river or between a principal building and the river. Despite arguments that there was intervening land between the proposed parking garage and the actual river bank, the Zoning Board granted a variance to orienting the parking garage parallel to the river, on condition that the structure be concealed in some way other than wire mesh so that it does not appear to be a parking structure when viewed from the river side of the building in the opinion of the Borough's Design Review Committee.
3. §27-1705: Utilization of the Flood Plain Conservation District: Relief was requested from conditional use requirements for development of amenities in the floodway. All proposed buildings related to the project were located in the floodway fringe, and no relief was requested from flood proofing requirements. However grading and amenities to be constructed in conjunction with the project were located in the floodway. Relief was granted for the following activities in the floodway:
 - a. An amphitheater with a plaza, walkway and paved parking areas;
 - b. Paved walkways, sidewalks, parking areas, plazas, courtyards and meeting areas; and
 - c. Grading, re-grading, disturbance of earth, removal and deposit of topsoil and construction of retaining walls.
4. §27-1503 Height: Building height is limited to eighty-five (85) feet, and may be increased to 250 feet by conditional use. The project does not meet the requirements for conditional use approval and therefore a variance was requested. Relief was granted for a building height not to exceed ninety (90) feet. The need for a variance was due to slope at the site and the fact that the elevation of the building had not been finalized at that time.

Z-2015-04: 200 Block of Washington Street Block A. Decision September 29, 2015

Proposal: The Developer proposed a 420,000 square foot office building, a garage of twelve (12) to thirteen (13) stories. Amenities to be constructed remained the same. It should be noted that the changes to the project were the result of requests from the single tenant proposed to occupy the building. Also of note was the Borough of Conshohocken's support for the relief being requested.

Relief Requested and Granted:

1. §27-1509 2 Building Bulk: The proposed building bulk was 400 lineal feet, which was sixteen (16) feet longer than the 384 lineal fee approved in 2014. There was no discussion regarding any changes in the bulk of the garage, which was granted relief in 2014. Note: Garages are not exempt from building bulk requirements.

2. §27-1503 Height: The proposed height of the building was 135 feet, which was a significant increase (45 feet) over the five (5) foot increase granted in 2014. Garage height also was increased, and was considered to be roughly the same as the proposed office building. The variance was granted.
3. §27-1504 D. 5 Interpretation of the Orientation of the Garage Parallel to the Schuylkill River: The parking garage associated with the project continued to be oriented parallel to the river. There was no change in consideration of the garage's orientation or change in the prior approval or condition of approval.
4. §27-1505 B.2 Minimum Building Setback from a Private or Internal Drive: The distance of the parking garage from the drive leading to the garage is less than twenty-five (25) feet. The variance was granted.
5. §37-1504 F. 2. Impervious Coverage: The Developer proposed eighty percent (80%) impervious coverage on the lot, where seventy percent (70%) is permitted. The variance was granted.

2015 variances approved were granted without conditions.

SITE MAP

See attached.

050000024007
05018 001 Schuylkill River Trail

050011860006
05018 016

Washington Street

0500118569
05018 027

050011850001
05018 011

050011856946
05018 024

050011856001
05018 011

050011856955
05018 023

050011856136
05018 031

050011852005
05018 008

050011856001
05018 011

CONDO I

CONDO A

CONDO B

Poplar Street

05

050011856109
05018 028

050011856118
05018 029

050011856127
05018 030

050011856937
05018 025

050011856145
05018 032

CONDO E

CONDO F

CONDO G

CONDO H

CONDO J

050000026005
05017 036

050011888104
05018 022

AS OF 5/14/21

C = COMMON ELEMENT

- MILLENNIUM WATERFRONT ASSOCIATES II LP
- MILLENNIUM OFFICE OWNER II LLC
- MILLENNIUM III OFFICE OWNER LLC
- TPT MILLENNIUM LLC



BOROUGH OF CONSHOHOCKEN

Office of the Borough Manager

MAYOR
Yaniv Aronson

BOROUGH COUNCIL
Colleen Leonard, President
Tina Sokolowski, Vice-President
Robert Stokley, Senior Member
Anita Barton, Member
James Griffin, Member
Jane Flanagan, Member
Karen Tutino, Member

Stephanie Cecco
Borough Manager

July 21, 2020

Edmund J. Campbell, Jr., Esq.
Campbell Rocco Law, LLC
2701 Renaissance Blvd., 4th Floor
King of Prussia, PA 19406

Re: PZ-2014-04 and 2015-04: 200 Block of Washington Street Conshohocken, PA 19428

Dear Mr. Campbell,

The Conshohocken Zoning Hearing Board at its July 20, 2020 meeting approved an extension of the zoning relief originally granted in 2014 and 2015 for the referenced project. The following relief was extended for one (1) year through July 20, 2021:

- §27-1509.2 – Variance for building bulk
- §27-1504.D.5 – Variance for orientation of the parking garage
- §27-1705 – Variance for floodproofing of amenities in the floodway
- §27-1503 – Variance for building height
- §27-1505.B.2 – Variance for minimum setback from internal roadways
- §27-1504.F.2 – Variance for impervious coverage

Zoning relief will expire should any required permits not be obtained within the outlined time period. Compliance with all local, state, and federal laws and regulations is still required along with all representations and conditions of the original relief granted.

If you have any questions or concerns, please feel free to contact the undersigned.

Sincerely,

Eric P. Johnson, PE
Zoning Officer
PENNONI ASSOCIATES INC.

EPJ/

cc: Stephanie Cecco, Borough Manager
Ray Sokolowski, Executive Director of Operations
Michael Peters, Esq., Borough Solicitor
Alex Glassman, Esq., Zoning Hearing Board Solicitor
Matt McHugh, Esq.
Zoning Hearing Board



BOROUGH OF CONSHOHOCKEN

Office of the Borough Manager

MAYOR
Yaniv Aronson

BOROUGH COUNCIL
Colleen Leonard, President
Jane Flanagan, Vice-President
Robert Stokley, Senior Member
Anita Barton, Member
James Griffin, Member
Tina Sokolowski, Member
Karen Tutino, Member

MEMORANDUM

Stephanie Cecco
Borough Manager

Date: July 9, 2021
To: Stephanie Cecco, Brittany Rogers
From: Eric P. Johnson, P.E.
Re: 200 Block Washington Street Extension Request - Zoning Determination

History of the Site:

The subject property is bounded by Washington Street to the north, the Schuylkill River waterfront to the south, Poplar Street to the east, and Ash Street to the west. The property is located in the SP-2 – Specially Planned Zoning District Two and is located in the Floodplain Conservation District and Floodway and Zone AE Special Flood Hazard Area as defined by the FEMA Flood Insurance Rate Map (FIRM).

In connection with a proposed development of a commercial office building, parking garage, and site amenities, the applicant was granted the following relief by the Zoning Hearing Board in 2014 (Z-2014-04) and in 2015 (Z-2015-04):

- §27-1509.2 – Variance for building bulk
- §27-1504.D.5 – Variance for orientation of the parking garage
- §27-1705 – Variance for floodproofing of amenities in the floodway
- §27-1503 – Variance for building height
- §27-1505.B.2 – Variance for minimum setback from internal roadways
- §27-1504.F.2 – Variance for impervious coverage

The expiration date of the granted relief has been extended multiple times. The applicant was most recently before the Zoning Hearing Board in July 2020 at which time the following relief was extended until July 20, 2021:

- §27-1504.D.5 – Variance for orientation of the parking garage
- §27-1705 – Variance for floodproofing of amenities in the floodway
- §27-1503 – Variance for building height
- §27-1505.B.2 – Variance for minimum setback from internal roadways
- §27-1504.F.2 – Variance for impervious coverage

Current Request:

The applicant, Millennium Waterfront Associates LP, is requesting an extension of the previously granted zoning relief for an additional twelve (12) months until July 20, 2022.

Zoning Determination:

Per §27-613 of the Zoning Ordinance, the zoning relief granted expires if the applicant does not obtain any and all required permits within the specified timeframe. The zoning relief originally granted by the Zoning Hearing Board in 2014 (Z-2014-04) and in 2015 (Z-2015-04) has been extended multiple times with the most recent extension granted in July 2020. The applicant currently has no land development or permit applications submitted to the Borough, and no indication has been made to the Borough that the project is progressing towards obtaining all required approvals and permits. Therefore, it is recommended that the Zoning Hearing Board deny the request for another extension of time on the subject relief.



BOROUGH OF CONSHOHOCKEN

Office of the Borough Manager

Zoning Administration

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Robert Stokley, Member
Anita Barton, Member
James Griffin, Member
Jane Flanagan, Member
Karen Tutino, Member

Yaniv Aronson, Mayor

Stephanie Cecco, Borough Manager

ZONING NOTICE

August 16th, 2021, ZONING HEARING BOARD MEETING TO OCCUR VIA REMOTE MEANS

ZONING HEARING Z-2021-15

NOTICE IS HEREBY GIVEN that the Conshohocken Zoning Hearing Board will conduct a public hearing on August 16th, 2021, at 7:00 p.m. prevailing time via remote means. The public is encouraged to participate as set forth below.

This meeting will be held using a Go-To-Meeting Platform. To the extent possible, members of Conshohocken Zoning Hearing Board and Borough staff/professionals will participate via both video and audio. (INSTRUCTIONS ON SECOND PAGE)

At this time, the Conshohocken Zoning Hearing Board will hear testimony and accept evidence on the following request.

PETITIONER: Dryden Court Development, LLC. C/O David J. Brosso
1125 Robin Rd., Gladwyne, PA 19035

PREMISES INVOLVED: 450 Colwell Ln., Conshohocken, PA 19428
Limited Industrial District

OWNER OF RECORD: Dryden Court Development, LLC. C/O David J. Brosso
1125 Robin Rd., Gladwyne, PA 19035

The applicant is seeking variances from Borough Code Sections §27-1903-B(3)(A) for a reduced front yard setback and §27-1903-B(11) to permit a building height over 35 feet.

Persons who wish to become parties to the application must notify the Borough of their intent to ask for party status at least five (5) days prior to the scheduled hearing by emailing the attached entry of appearance form to zoning@conshohockenpa.gov. Said persons must be available to participate in the zoning hearing on the scheduled date and time. It is noted that submitting the attached entry of appearance form does not guarantee that you will be granted party status. The Zoning Hearing Board decides who may participate in the hearing before it as a party, subject to Section 908(3) of the Municipalities Planning Code (MPC). The MPC permits party status to any person "affected" by the application. Having taxpayer status alone is not enough to claim party status; however, a person whose property or business abuts the property that is the subject of the appeal is affected and should qualify as a party. Ultimately, the ZHB makes the party status determination after reviewing the request.

Thank you,
Zoning Hearing Board



BOROUGH OF CONSHOHOCKEN

Office of the Borough Manager

Zoning Administration

BOROUGH COUNCIL

Colleen Leonard, President
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Robert Stokley, Member
Anita Barton, Member
James Griffin, Member
Jane Flanagan, Member
Karen Tutino, Member

Yaniv Aronson, Mayor

Stephanie Cecco, Borough Manager

ZONING HEARING REMOTE SESSION ACCESS INSTRUCTIONS

The public is encouraged to participate as follows:

Audio Feed Participation: You may dial-in to access the audio feed of the meeting. All participants (whether listening or providing comments) must use this method of audio participation, even those using Go-To-Meeting to access the video feed. To access audio, please use the below number and access code/ password information.

We ask that you please always keep your phones on mute, unless giving a public comment as set forth in the Public Comment section below.

Please join my meeting from your computer, tablet or smartphone.

<https://global.gotomeeting.com/join/972846509>

You can also dial in using your phone.

United States (Toll Free): [1 866 899 4679](tel:18668994679)

Access Code: 972-846-509

New to GoToMeeting? Get the app now and be ready when your first meeting starts:

<https://global.gotomeeting.com/install/972846509>

If you have already downloaded the Go-To-Meeting application, the link will redirect you to the application itself. Please follow the instructions.

It is recommended that you download the application in advance of the meeting time. If you attempt to sign in prior to the start of the meeting, the Go-To-Meeting application will inform you that the meeting has not started. Please close the application and log back in at the time of the meeting (7:00 PM).

Public Comment: There will be a designated time on the agenda for public comment. Those with public comment shall state their name and address. Prior to the start of the meeting, you may submit written comments by e-mailing them to Zoning@conshohockenpa.gov. Similarly, during the meeting, you may submit written comments by e-mailing them to Zoning@conshohockenpa.gov.

Public comments submitted in this manner will be read by a member of Borough Administration during the public comment period. Because the actual time of the public comment period is determined by the pace of the meeting, please submit all comments as soon as possible, whether before or during the meeting. Written comments shall include the submitting person's name, address, and property in question.

The Conshohocken Zoning Hearing Board thanks you in advance for your cooperation during the remote meeting. If you encounter problems participating during the meeting, or have questions regarding the above prior to the meeting, please contact the Borough at zoning@conshohockenpa.gov.



BOROUGH OF CONSHOHOCKEN

Office of the Borough Manager

Zoning Administration

BOROUGH COUNCIL

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Jane Flanagan, Member
Karen Tutino, Member

Yaniv Aronson, Mayor

Stephanie Cecco, Borough Manager

The Borough of Conshohocken Zoning Hearing Board Entry of Appearance as a Party

I/We _____

Request to be granted party status in Application Z-2021-15.

Applicant: 450 Colwell Ln., Dryden Court Development, LLC. - Variance

Please print name:

Please print address:

Please print email:

Please Sign Below:

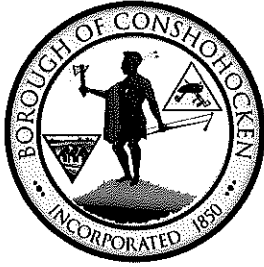
Please return form via mail or e-mail to the below:
(Entry must be received no later than August 11th, 2021)

MAIL:

Borough of Conshohocken
Attn: Bobbi Jo Myrsiades
400 Fayette St. - Suite 200
Conshohocken, PA 19428

E-MAIL:

zoning@conshohockenpa.gov



BOROUGH OF CONSHOHOCKEN
400 Fayette Street, Suite 200, Conshohocken, PA 19428
Phone (610) 828-1092 Fax (610) 828-0920

Zoning Application

Application: Z-2002-15
Date Submitted: 6-21-21
Date Received: 6-24-21

1. Application is hereby made for:

Special Exception Variance

Appeal of the decision of the zoning officer

Conditional Use approval Interpretation of the Zoning Ordinance

Other _____

2. Section of the Zoning Ordinance from which relief is requested:

27-1903-B(3)(A) - Front Yard and 27-1903-B(11) Building Height

3. Address of the property, which is the subject of the application:

450 Colwell Lane, Conshohocken, PA 19428

4. Applicant's Name: Dryden Court Development, LLC c/o David J. Brosso

Address: 1125 Robin Road, Gladwyne, PA 19035

Phone Number (daytime): 610-310-5055

E-mail Address: djbprop@gmail.com

5. Applicant is (check one): Legal Owner Equitable Owner ; Tenant

6. Property Owner: (Same as Applicant)

Address: _____

Phone Number: _____

E-mail Address: _____

7. Lot Dimensions: 390' x 238' = 2 acres Zoning District: L1

8. Has there been previous zoning relief requested in connection with this Property?

Yes No If yes, please describe.

Application for Conditional Use Approval to permit Multi-Family housing in the LI District is currently pending.

9. Please describe the present use of the property including any existing improvements and the dimensions of any structures on the property.

The Property is improved with a 27,000 s.f. warehouse that is presently vacant. The warehouse was formerly occupied by American Olean Tile. Access to the Property is from Colwell Lane.

10. Please describe the proposed use of the property.

Applicant proposes to redevelop the property as a multi-family development consisting of 48 dwelling units ("Proposed Use"). The Proposed Use is depicted on a plan prepared by Joseph Estock, entitled "Dryden Court - Sketch G", dated May 12, 2021, last revised May 18, 2021. The Proposed Use would provide access from both Colwell Lane as well as 5th Avenue. The Proposed Use provides a transition from the adjacent townhomes to the more industrial areas along Colwell Lane. Providing a new access to 5th Avenue further integrates the development with the existing townhomes while providing superior access particularly in flooding events that may require the temporary closure of Colwell Lane.

11. Please describe proposal and improvements to the property in detail.

Please see attached Plan. The Proposed Use consists of three multi-family buildings totalling 48 dwelling units.

12. Please describe the reasons the Applicant believes that the requested relief should be granted.

Applicant proposes to provide a new/superior access to the property along 5th Avenue. This access improves emergency services access and will allow egress to 5th Avenue for the Proposed Development as well as the adjacent Rumsey Electric property during emergency situations. Additionally, the topography of the property (slopes) requires particular attention to the design of the Proposed Use. Further, in order to integrate the Proposed Use into the existing community, the Proposed Use must be shifted toward 5th Avenue.

13. If a Variance is being requested, please describe the following:

a. The unique characteristics of the property: Topography and Floodplain/emergency access

b. How the Zoning Ordinance unreasonably restricts development of the property:

The Zoning Ordinance restricts height to 35'. In order to integrate the development into the existing topography while providing access to 5th Avenue, Applicant requires relief to permit a building height of 40 feet. Additionally, the Zoning Ordinance requires a front yard of 30'. The property is a corner lot thus requiring a front yard along both Colwell Lane and 5th Avenue. All development has historically fronted upon Colwell Lane. The Proposed Use seeks to integrate the development including pedestrian and vehicular access along 5th Avenue. To do so, the Proposed Use must be shifted towards 5th Avenue.

c. How the proposal is consistent with the character of the surrounding neighborhood. _____

The granting of the requested relief will allow the project to integrate into the existing townhouses along 5th Avenue while improving pedestrian and vehicular access.

d. Why the requested relief is the minimum required to reasonably use the property; and why the proposal could not be less than what is proposed.

The proposed front yard of 5' represents the minimum necessary to safely and efficiently achieve the above described pedestrian and vehicular access. Likewise, the requested deviation from the maximum building height is the minimum necessary to implement the Proposed Use.

14. The following section should be completed if the applicant is contesting the determination of the zoning officer.

a. Please indicate the section of the zoning ordinance that is the subject of the zoning officer's decision (attach any written correspondence relating to the determination).

n/a

b. Please explain in detail the reasons why you disagree with the zoning officer's determination.

n/a

15. If the Applicant is requesting any other type of relief, please complete the following section.

a. Type of relief that is being requested by the applicant.

b. Please indicate the section of the Zoning Ordinance related to the relief being requested.

c. Please describe in detail the reasons why the requested relief should be granted.

16. If the applicant is being represented by an attorney, please provide the following information.

a. Attorney's Name: Craig Robert Lewis, Esquire

b. Address: 910 Harvest Drive, Suite 200, Blue Bell, PA 19422

c. Phone Number: 610-941-2584

d. E-mail Address: rlewis@kaplaw.com

I/we hereby certify that to the best of my knowledge, all of the above statements contained in this Zoning Application and any papers or plans submitted with this application to the Borough of Conshohocken are true and correct.

[Signature]
Applicant

[Signature]
Legal Owner

6/17/2021
Date

COMMONWEALTH OF PENNSYLVANIA

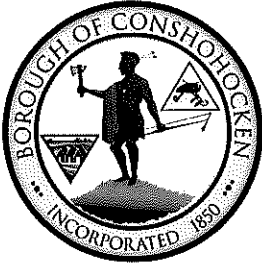
COUNTY OF MONTGOMERY

As subscribed and sworn to before me this 17 day of June, 2021. By David J Brosso

[Signature]
Notary Public

(Seal)

Commonwealth of Pennsylvania - Notary Seal
Kimberly Zera, Notary Public
Montgomery County
My commission expires May 5, 2022
Commission number 1185103
Member, Pennsylvania Association of Notaries



BOROUGH OF CONSHOHOCKEN
400 Fayette Street, Suite 200, Conshohocken, PA 19428
Phone (610) 828-1092 Fax (610) 828-0920

Decision

(For Borough Use Only)

Application Granted

Application Denied

MOTION:

CONDITIONS:

BY ORDER OF THE ZONING HEARING BOARD

	Yes	No
_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>

DATE OF ORDER: _____

Craig R. Lewis
Direct Dial: (610) 941-2584
Direct Fax: (610) 684-2021
Email: rlewis@kaplaw.com
www.kaplaw.com

June 18, 2021

VIA EMAIL AND FEDERAL EXPRESS

Borough of Conshohocken
Attn: Stephanie Cecco, Borough Manager
400 Fayette Street, Suite 200
Conshohocken, PA 19428

**RE: 450 Colwell Lane - Application to the Zoning Hearing Board
Dryden Court Development, LLC - Multi-family Development Stacked Condos
Our Reference No. 16140.009**

Dear Ms. Cecco:

As I believe you know, I represent Dryden Court Development, LLC (“**DCD**”). As evidenced by the Deed attached hereto, DCD is the legal owner of the property located at 450 Colwell Lane, Conshohocken, PA (“**Property**”). In accordance with the Borough of Conshohocken Zoning Ordinance (“**Zoning Ordinance**”) and Borough of Conshohocken Zoning Map the Property is located in the LI- Limited Industrial Zoning District.

DCD proposes to develop the Property for modern, multi-family housing (“**Proposed Use**”). In accordance with Section 1901-B of the Zoning Ordinance, the Proposed Use is a specifically permitted use of Property by conditional use. On December 30, 2020, DCD submitted an application seeking conditional use approval for the Proposed Use (“**Conditional Use Application**”). The Borough’s Planning Commission recently recommended approval of the Conditional Use Application and a hearing thereon is scheduled for Jul 21, 2021.

As was recently discussed with the Borough’s staff and the Planning Commission, the Proposed Use requires minor dimensional relief from the Zoning Ordinance. Specifically, in order to provide improved integration of the Proposed Use with the surrounding properties, and to improve emergency access and circulation, DCD requires relief from the applicable front yard setback requirement. Additionally, in order to address the topography of the Property, the Proposed Use requires relief from the applicable maximum building height requirement. As will be address through testimony and exhibits, these requests for relief are necessitated by the physical characteristics of the Property, will not be detrimental to the public health, safety and/or welfare, and will improve emergency access to the Proposed Use.

Therefore, on behalf of DCD I am enclosing herewith and application to the Borough's Zoning Hearing Board seeking relief from §§ 27-1903-B(3)(A) and 27-1903-B(11) of the Zoning Ordinance ("**Application**"). The Application consists of the following materials:

- Borough of Conshohocken Zoning Application;
- Site Plan prepared by Joseph M. Estock, PE consisting of three (3) sheets; sheet 1 entitled "Sketch Plan G", dated May 12, 2021, last revised May 18, 2021
- A check in the amount of \$500.00 payable to the Borough of Conshohocken representing the applicable Zoning Hearing Board Application Fee; and
- A check in the amount of \$1,500.00 payable to the Borough of Conshohocken representing the applicable Zoning Application Escrow Deposit.

As set forth in the Borough's "Zoning Application Filing Procedures", in addition to the above referenced Deed, I am enclosing an original, signed and notarized Application. I am also enclosing one hardcopy of the Application. Please retain the original for your own purposes. Please timestamp and return the remaining copy for my records. An electronic copy of the Application will also be delivered to the Borough contemporaneously herewith by electronic transmission.

Please schedule the Application for consideration by the Borough's Zoning Hearing Board at its regularly scheduled July 19, 2021 meeting date. Kindly provide notice of the scheduling of the hearing and provide copies of all reviews, correspondence and communications generated and/or received regarding this matter.

If you require anything further or have any questions, please contact me at your convenience.

Best Regards,



Craig R. Lewis

Enclosures

cc (via e-mail w/ enclosures): DJB Properties, LLC
Michael E. Peters, Esq.
Eric P. Johnson, PE, Zoning Officer

Prepared by:

Spruce Law Group, LLC
1622 Spruce Street
Philadelphia, PA 19103
Attn: Jason R. Sieminski, Esq.

After Recording, Return To:

Land Services USA, Inc.
1835 Market Street, Suite 420
Philadelphia, PA 19103
Attn: Richard Little

Parcel No.: 05-00-00103-00-9
Address: 450 Colwell Lane
Conshohocken, PA

SPECIAL WARRANTY DEED

This Special Warranty Deed is made on December 17, 2020, and is by and between **D. DEODATI & SONS HOLDINGS, LLC**, a Pennsylvania limited liability company (hereinafter called the "Grantor"), to **DRYDEN COURT DEVELOPMENT LLC**, a Pennsylvania limited liability company, (hereinafter called the "Grantee").

WITNESSETH, that the said Grantor, for and in consideration of the sum of Three Million Three Hundred and Ten Thousand and 00/100 Dollars (\$3,310,000.00), lawful money of the United States of America, and other good and valuable consideration, unto it well and truly paid by the said Grantee, at or before the sealing and delivery hereof, the receipt whereof is hereby acknowledged, has granted, bargained, sold, and conveyed, and by these presents does grant, bargain, sell, and convey unto the said Grantee, its successors and assigns, all of the following described real estate, situated in the County of Montgomery, Commonwealth of Pennsylvania known and described as follows:

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HERETO

TOGETHER WITH all right, title and interest of Grantor in the improvements, hereditaments, easements and appurtenances thereunto belonging, or in anyway appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof, and all the estate, right, title, interest, claim or demand whatsoever, either in law or equity, of, in and to the above described premises (collectively, the "Property"),

TO HAVE AND TO HOLD the Property, unto Grantee, its representatives, successors and assigns, to and for the only proper use and behalf of Grantee, its representatives, successors and assigns, forever. And Grantor does covenant, promise and agree, to and with Grantee, its successors and assigns, by these presents, that Grantor will **WARRANT SPECIALLY** against all and every person or persons lawfully claiming the same or any part thereof by, through or under Grantor, the Property hereby conveyed.

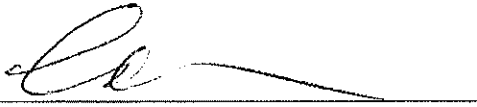
THIS DOCUMENT MAY NOT SELL, CONVEY, TRANSFER, INCLUDE OR INSURE THE TITLE TO THE COAL AND RIGHT OF SUPPORT UNDERNEATH THE SURFACE LAND DESCRIBED OR REFERRED TO HEREIN, AND THE OWNER OR OWNERS OF SUCH COAL MAY HAVE THE COMPLETE LEGAL RIGHT TO REMOVE ALL OF SUCH COAL AND, IN THAT CONNECTION, DAMAGE MAY RESULT TO THE SURFACE OF THE LAND AND ANY HOUSE, BUILDING OR OTHER STRUCTURE ON OR IN SUCH LAND. THE INCLUSION OF THIS NOTICE DOES NOT ENLARGE, RESTRICT OR MODIFY ANY LEGAL RIGHTS OR ESTATES OTHERWISE CREATED, TRANSFERRED, EXCEPTED OR RESERVED BY THIS INSTRUMENT.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the aforementioned Grantor has hereunto set such Grantor's hand and seal the day and year first above mentioned.

GRANTOR:

D. DEODATI & SONS HOLDINGS, LLC,
a Pennsylvania limited liability company

By: 

Name: Edmund B. Moore, Jr.

Title: Managing Member

ACKNOWLEDGMENT

COMMONWEALTH OF PENNSYLVANIA

COUNTY OF *Montgomery*

On this, the 17 day of December, 2020, before me, a Notary Public in and for said State and County, personally appeared Edmund B. Moore, Jr., who acknowledged himself to be the Managing Member of D. Deodati & Sons Holdings, LLC, a Pennsylvania limited liability company, and that he as such officer, being authorized to do so, executed the foregoing instrument in the name of the Grantor for the purposes therein contained.

WITNESS my hand and Notarial Seal the day and year first above written.



Notary Public

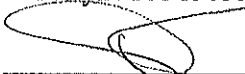
My Commission Expires: 2/21/2024

Commonwealth of Pennsylvania - Notary Seal
Teresa A. Penna, Notary Public
Montgomery County
My commission expires February 21, 2024
Commission number 1267598
Member, Pennsylvania Association of Notaries

Certificate of Address

The Tax Billing Address and Owner Mailing Address of the Grantee is:

1125 Robin Road
Gladwyne PA 19035



On Behalf of the Grantee,
Dryden Court Development LLC

EXHIBIT "A"

LEGAL DESCRIPTION

ALL THAT CERTAIN lot or piece of land, situate in the Borough of Conshohocken, County of Montgomery and Commonwealth of Pennsylvania, bounded and described according to a Plan of Subdivision, made for George K. Heebner, Inc., by Yerkes Associates, Inc., Consulting Engineers and Surveyors, 101 Charles Drive, Bryn Mawr, PA, dated March 20, 1978 and recorded in Montgomery County in Plan Book A-31 Page 94, as follows, to wit:

BEGINNING at a point on the Southeast side of Colwell Lane (60 feet wide) marking its intersection with the Southwest side of the future extension of West 5th Avenue (80 feet wide); thence along the Southwest side of proposed extension of West 5th Avenue (80 feet wide) South 49 degrees 0 minutes East 390.48 feet to a point; thence leaving said side of West 5th Avenue (proposed) and by other land now or late of George K. Heebner, Inc. Parcel No. 2, the two following courses and distances: (1) South 41 degrees 0 minutes West 238 feet to a point; and (2) North 49 degrees 0 minutes West 311.02 feet to a point on the Southeast side of Colwell Lane (60 feet wide) aforementioned; thence along the same the three following courses and distances: (1) North 4 degrees 38 minutes East 12.40 feet to a point of curve; (2) on the arc of a circle curving to the right having a radius of 370 feet the arc distance of 233.02 feet the chord of said curved line having a bearing of North 22 degrees 40 minutes 30 seconds East 229.19 feet to a point; and (3) North 40 degrees 43 minutes East 10.45 feet to the place of beginning.

CONTAINING 2 acres, be the same more or less.

BEING known as 450 Colwell Lane.

BEING Tax Parcel #05-00-00103-00-9.

BEING the same premises which D. Deodati & Sons, by Deed dated 2/19/2013 and recorded 3/5/2013 in the County of Montgomery in Deed Book 5865 page 1668, conveyed unto D. Deodati & Sons Holdings, LLC, a Pennsylvania limited liability company, in fee.

Craig R. Lewis
Direct Dial: (610) 941-2584
Direct Fax: (610) 684-2021
Email: rlewis@kaplaw.com
www.kaplaw.com

June 18, 2021

VIA EMAIL AND FEDERAL EXPRESS

Borough of Conshohocken
Attn: Stephanie Cecco, Borough Manager
400 Fayette Street, Suite 200
Conshohocken, PA 19428

**RE: 450 Colwell Lane - Application to the Zoning Hearing Board
Dryden Court Development, LLC - Multi-family Development Stacked Condos
Our Reference No. 16140.009**

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DCD proposes to develop the Property for modern, multi-family housing (“**Proposed Use**”). In accordance with Section 1901-B of the Zoning Ordinance, the Proposed Use is a specifically permitted use of Property by conditional use. On December 30, 2020, DCD submitted an application seeking conditional use approval for the Proposed Use (“**Conditional Use Application**”). The Borough’s Planning Commission recently recommended approval of the Conditional Use Application and a hearing thereon is scheduled for Jul 21, 2021.

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- Borough of Conshohocken Zoning Application;
- Site Plan prepared by Joseph M. Estock, PE consisting of three (3) sheets; sheet 1 entitled “Sketch Plan G”, dated May 12, 2021, last revised May 18, 2021
- A check in the amount of \$500.00 payable to the Borough of Conshohocken representing the applicable Zoning Hearing Board Application Fee; and
- A check in the amount of \$1,500.00 payable to the Borough of Conshohocken representing the applicable Zoning Application Escrow Deposit.

As set forth in the Borough's “Zoning Application Filing Procedures”, in addition to the above referenced Deed, I am enclosing an original, signed and notarized Application. I am also enclosing one hardcopy of the Application. Please retain the original for your own purposes. Please timestamp and return the remaining copy for my records. An electronic copy of the Application will also be delivered to the Borough contemporaneously herewith by electronic transmission.

Please schedule the Application for consideration by the Borough's Zoning Hearing Board at its regularly scheduled July 19, 2021 meeting date. Kindly provide notice of the scheduling of the hearing and provide copies of all reviews, correspondence and communications generated and/or received regarding this matter.

If you require anything further or have and questions, please contact me at your convenience.

Best Regards,



Craig R. Lewis

Enclosures

cc (via e-mail w/ enclosures): DJB Properties, LLC
Michael E. Peters, Esq.
Eric P. Johnson, PE, Zoning Officer

①

Prepared by:

Spruce Law Group, LLC
1622 Spruce Street
Philadelphia, PA 19103
Attn: Jason R. Sieminski, Esq.

After Recording, Return To:

Land Services USA, Inc.
1835 Market Street, Suite 420
Philadelphia, PA 19103
Attn: Richard Little

Parcel No.: 05-00-00103-00-9
Address: 450 Colwell Lane
Conshohocken, PA

SPECIAL WARRANTY DEED

This Special Warranty Deed is made on December ~~17~~, 2020, and is by and between **D. DEODATI & SONS HOLDINGS, LLC**, a Pennsylvania limited liability company (hereinafter called the "Grantor"), to **DRYDEN COURT DEVELOPMENT LLC**, a Pennsylvania limited liability company, (hereinafter called the "Grantee").

WITNESSETH, that the said Grantor, for and in consideration of the sum of Three Million Three Hundred and Ten Thousand and 00/100 Dollars (\$3,310,000.00), lawful money of the United States of America, and other good and valuable consideration, unto it well and truly paid by the said Grantee, at or before the sealing and delivery hereof, the receipt whereof is hereby acknowledged, has granted, bargained, sold, and conveyed, and by these presents does grant, bargain, sell, and convey unto the said Grantee, its successors and assigns, all of the following described real estate, situated in the County of Montgomery, Commonwealth of Pennsylvania known and described as follows:

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HERETO

TOGETHER WITH all right, title and interest of Grantor in the improvements, hereditaments, easements and appurtenances thereunto belonging, or in anyway appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof, and all the estate, right, title, interest, claim or demand whatsoever, either in law or equity, of, in and to the above described premises (collectively, the "Property"),

TO HAVE AND TO HOLD the Property, unto Grantee, its representatives, successors and assigns, to and for the only proper use and behalf of Grantee, its representatives, successors and assigns, forever. And Grantor does covenant, promise and agree, to and with Grantee, its successors and assigns, by these presents, that Grantor will **WARRANT SPECIALLY** against all and every person or persons lawfully claiming the same or any part thereof by, through or under Grantor, the Property hereby conveyed.

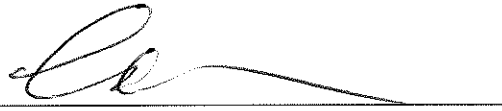
THIS DOCUMENT MAY NOT SELL, CONVEY, TRANSFER, INCLUDE OR INSURE THE TITLE TO THE COAL AND RIGHT OF SUPPORT UNDERNEATH THE SURFACE LAND DESCRIBED OR REFERRED TO HEREIN, AND THE OWNER OR OWNERS OF SUCH COAL MAY HAVE THE COMPLETE LEGAL RIGHT TO REMOVE ALL OF SUCH COAL AND, IN THAT CONNECTION, DAMAGE MAY RESULT TO THE SURFACE OF THE LAND AND ANY HOUSE, BUILDING OR OTHER STRUCTURE ON OR IN SUCH LAND. THE INCLUSION OF THIS NOTICE DOES NOT ENLARGE, RESTRICT OR MODIFY ANY LEGAL RIGHTS OR ESTATES OTHERWISE CREATED, TRANSFERRED, EXCEPTED OR RESERVED BY THIS INSTRUMENT.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the aforementioned Grantor has hereunto set such Grantor's hand and seal the day and year first above mentioned.

GRANTOR:

D. DEODATI & SONS HOLDINGS, LLC,
a Pennsylvania limited liability company

By: 

Name: Edmund B. Moore, Jr.
Title: Managing Member

ACKNOWLEDGMENT

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF *Montgomery*

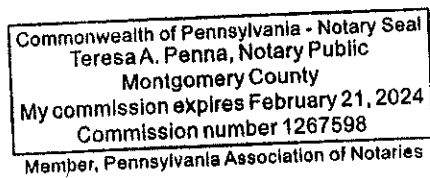
On this, the 17 day of December, 2020, before me, a Notary Public in and for said State and County, personally appeared Edmund B. Moore, Jr., who acknowledged himself to be the Managing Member of D. Deodati & Sons Holdings, LLC, a Pennsylvania limited liability company, and that he as such officer, being authorized to do so, executed the foregoing instrument in the name of the Grantor for the purposes therein contained.

WITNESS my hand and Notarial Seal the day and year first above written.



Notary Public

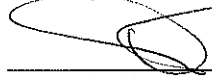
My Commission Expires: 2/21/2024



Certificate of Address

The Tax Billing Address and Owner Mailing Address of the Grantee is:

1125 Robin Road
Gladwyne PA 19035

A handwritten signature in black ink, consisting of several loops and a horizontal stroke, positioned above a horizontal line.

On Behalf of the Grantee,
Dryden Court Development LLC

EXHIBIT "A"

LEGAL DESCRIPTION

ALL THAT CERTAIN lot or piece of land, situate in the Borough of Conshohocken, County of Montgomery and Commonwealth of Pennsylvania, bounded and described according to a Plan of Subdivision, made for George K. Heebner, Inc., by Yerkes Associates, Inc., Consulting Engineers and Surveyors, 101 Charles Drive, Bryn Mawr, PA, dated March 20, 1978 and recorded in Montgomery County in Plan Book A-31 Page 94, as follows, to wit:

BEGINNING at a point on the Southeast side of Colwell Lane (60 feet wide) marking its intersection with the Southwest side of the future extension of West 5th Avenue (80 feet wide); thence along the Southwest side of proposed extension of West 5th Avenue (80 feet wide) South 49 degrees 0 minutes East 390.48 feet to a point; thence leaving said side of West 5th Avenue (proposed) and by other land now or late of George K. Heebner, Inc. Parcel No. 2, the two following courses and distances: (1) South 41 degrees 0 minutes West 238 feet to a point; and (2) North 49 degrees 0 minutes West 311.02 feet to a point on the Southeast side of Colwell Lane (60 feet wide) aforementioned; thence along the same the three following courses and distances: (1) North 4 degrees 38 minutes East 12.40 feet to a point of curve; (2) on the arc of a circle curving to the right having a radius of 370 feet the arc distance of 233.02 feet the chord of said curved line having a bearing of North 22 degrees 40 minutes 30 seconds East 229.19 feet to a point; and (3) North 40 degrees 43 minutes East 10.45 feet to the place of beginning.

CONTAINING 2 acres, be the same more or less.

BEING known as 450 Colwell Lane.

BEING Tax Parcel #05-00-00103-00-9.

BEING the same premises which D. Deodati & Sons, by Deed dated 2/19/2013 and recorded 3/5/2013 in the County of Montgomery in Deed Book 5865 page 1668, conveyed unto D. Deodati & Sons Holdings, LLC, a Pennsylvania limited liability company, in fee.



BOROUGH OF CONSHOHOCKEN
400 Fayette Street, Suite 200, Conshohocken, PA 19428
Phone (610) 828-1092 Fax (610) 828-0920

Zoning Application

Application: _____
Date Submitted: _____
Date Received: _____

1. Application is hereby made for:

- Special Exception Variance
- Appeal of the decision of the zoning officer
- Conditional Use approval Interpretation of the Zoning Ordinance
- Other _____

2. Section of the Zoning Ordinance from which relief is requested:

27-1903-B(3)(A) - Front Yard and 27-1903-B(11) Building Height

3. Address of the property, which is the subject of the application:

450 Colwell Lane, Conshohocken, PA 19428

4. Applicant's Name: Dryden Court Development, LLC c/o David J. Brosso

Address: 1125 Robin Road, Gladwyne, PA 19035

Phone Number (daytime): 610-310-5055

E-mail Address: djbprop@gmail.com

5. Applicant is (check one): Legal Owner Equitable Owner ; Tenant

6. Property Owner: (Same as Applicant)

Address: _____

Phone Number: _____

E-mail Address: _____

7. Lot Dimensions: 390' x 238' = 2 acres

Zoning District: L1

8. Has there been previous zoning relief requested in connection with this Property?

Yes No If yes, please describe.

Application for Conditional Use Approval to permit Multi-Family housing in the LI District is currently pending.

9. Please describe the present use of the property including any existing improvements and the dimensions of any structures on the property.

The Property is improved with a 27,000 s.f. warehouse that is presently vacant. The warehouse was formerly occupied by American Olean Tile. Access to the Property is from Colwell Lane.

10. Please describe the proposed use of the property.

Applicant proposes to redevelop the property as a multi-family development consisting of 48 dwelling units ("Proposed Use"). The Proposed Use is depicted on a plan prepared by Joseph Estock, entitled "Dryden Court - Sketch G", dated May 12, 2021, last revised May 18, 2021. The Proposed Use would provide access from both Colwell Lane as well as 5th Avenue. The Proposed Use provides a transition from the adjacent townhomes to the more industrial areas along Colwell Lane. Providing a new access to 5th Avenue further integrates the development with the existing townhomes while providing superior access particularly in flooding events that may require the temporary closure of Colwell Lane.

11. Please describe proposal and improvements to the property in detail.

Please see attached Plan. The Proposed Use consists of three multi-family buildings totalling 48 dwelling units.

12. Please describe the reasons the Applicant believes that the requested relief should be granted.

Applicant proposes to provide a new/superior access to the property along 5th Avenue. This access improves emergency services access and will allow egress to 5th Avenue for the Proposed Development as well as the adjacent Rumsey Electric property during emergency situations. Additionally, the topography of the property (slopes) requires particular attention to the design of the Proposed Use. Further, in order to integrate the Proposed Use into the existing community, the Proposed Use must be shifted toward 5th Avenue.

13. If a Variance is being requested, please describe the following:

a. The unique characteristics of the property: Topography and Floodplain/emergency access

b. How the Zoning Ordinance unreasonably restricts development of the property:

The Zoning Ordinance restricts height to 35'. In order to integrate the development into the existing topography while providing access to 5th Avenue, Applicant requires relief to permit a building height of 40 feet. Additionally, the Zoning Ordinance requires a front yard of 30'. The property is a corner lot thus requiring a front yard along both Colwell Lane and 5th Avenue. All development has historically fronted upon Colwell Lane. The Proposed Use seeks to integrate the development including pedestrian and vehicular access along 5th Avenue. To do so, the Proposed Use must be shifted towards 5th Avenue.

c. How the proposal is consistent with the character of the surrounding neighborhood. _____

The granting of the requested relief will allow the project to integrate into the existing townhouses along 5th Avenue while improving pedestrian and vehicular access.

d. Why the requested relief is the minimum required to reasonably use the property; and why the proposal could not be less than what is proposed.

The proposed front yard of 5' represents the minimum necessary to safely and efficiently achieve the above described pedestrian and vehicular access. Likewise, the requested deviation from the maximum building height is the minimum necessary to implement the Proposed Use.

14. The following section should be completed if the applicant is contesting the determination of the zoning officer.

a. Please indicate the section of the zoning ordinance that is the subject of the zoning officer's decision (attach any written correspondence relating to the determination).

n/a

b. Please explain in detail the reasons why you disagree with the zoning officer's determination.

n/a

15. If the Applicant is requesting any other type of relief, please complete the following section.

a. Type of relief that is being requested by the applicant.

b. Please indicate the section of the Zoning Ordinance related to the relief being requested.

c. Please describe in detail the reasons why the requested relief should be granted.

16. If the applicant is being represented by an attorney, please provide the following information.

a. Attorney's Name: Craig Robert Lewis, Esquire

b. Address: 910 Harvest Drive, Suite 200, Blue Bell, PA 19422

c. Phone Number: 610-941-2584

d. E-mail Address: rlewis@kaplaw.com

I/we hereby certify that to the best of my knowledge, all of the above statements contained in this Zoning Application and any papers or plans submitted with this application to the Borough of Conshohocken are true and correct.

Applicant

Legal Owner

Date

[Handwritten signatures]
6/17/2021

COMMONWEALTH OF PENNSYLVANIA

COUNTY OF MONTGOMERY

As subscribed and sworn to before me this 17 day of June, 2021. By David J Brosso

[Handwritten signature of Kimberly Zera]

Notary Public

(Seal)

Commonwealth of Pennsylvania - Notary Seal
Kimberly Zera, Notary Public
Montgomery County
My commission expires May 5, 2022
Commission number 1185103
Member, Pennsylvania Association of Notaries



BOROUGH OF CONSHOHOCKEN
400 Fayette Street, Suite 200, Conshohocken, PA 19428
Phone (610) 828-1092 Fax (610) 828-0920

Decision

(For Borough Use Only)

Application Granted

Application Denied

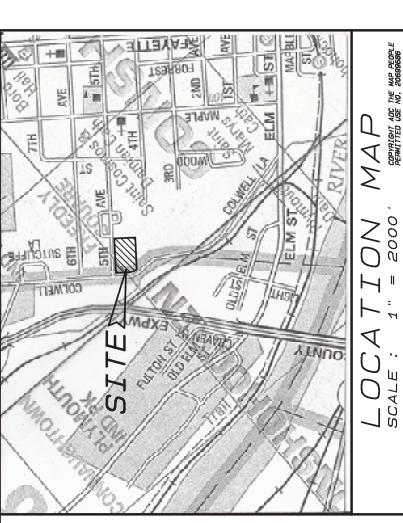
MOTION:

CONDITIONS:

BY ORDER OF THE ZONING HEARING BOARD

	Yes	No
_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>

DATE OF ORDER: _____



LEGEND

- CENTERLINE
- TRACT BOUNDARY
- PROPERTY LINE
- LEGAL R.O.W. EASEMENTS
- EXISTING CONTOUR
- PROPOSED CONTOUR
- EXISTING WATER LINE
- EXISTING SAN. SEWER LINE
- EXISTING TELEPHONE LINE
- EXISTING ELECTRIC LINE
- EXISTING STORM SEWER/INLET
- PROPOSED WATER LINE
- PROPOSED SAN. SEWER LINE
- PROPOSED ELECTRIC LINE
- PROPOSED GAS LINE
- EXISTING MANHOLE
- PROPOSED CURBLINE
- PROPOSED UTILITY POLE
- EXISTING VALVE, VENT, CO.
- PROPOSED BUILDING
- PROPOSED CONCRETE PADS/WALKWAYS

SITE DATA:
 OWNER/APPLICANT: DRYDEN COURT DEVELOPMENT, LLC
 C/O: DAVID J. BROSSO
 600 W. 12TH ST.
 GLADYSBURG, PA 19035
 610-310-5055 (CELL)

PREMISES:
 450 COLWELL LANE UNIT 1
 TPN 05-00-0003-00-9
 DEED BOOK 5865 PG 1668

LOT AREA: 2.0000 ACRES
YIELD: 48 DWELLING UNITS

ZONING DATA:
 DISTRICT: "LI" LIMITED INDUSTRIAL DISTRICT/RESEARCH
 RESIDENTIAL OVERLAY DISTRICT
 USE: MODERN MULTIFAMILY HOUSING

REQUIRED	PROVIDED
DENSITY:	24 DU/AC
TRACT AREA:	2.0 ACRES
FRONT YARD:	5 FT
REAR YARD:	7.5 FT
SIDE YARD:	29 FT
BUILDING COVERAGE:	40 % (MAX)
BUILDING HEIGHT:	35 FT (MAX)
PARKING SETBACK:	10 FT (MIN)
INTERNAL DRIVEWAY SETBACK:	10 FT (MIN)
BUILDING SEPARATION:	40 FT (MIN)
0-1 BEDROOM:	700 SF (MIN)
2 BEDROOMS:	1,100 SF (MIN)
3 BEDROOMS:	1,200 SF (MIN)

TOPOGRAPHY:
 CONTOURS PLOTTED FROM PENNSYLVANIA SPATIAL DATA
 ACCESS LIDAR MAPPING RESOURCES
 (DATUM: NAVD-88)

PARKING:
 PRIVATE STALLS= 48 PS
 SHARED STALLS= 26 PS
 TOTAL: 122 PS

PROJECT TITLE:
DRYDEN COURT
 450 COLWELL LANE
 CONSHOHOCKEN BOROUGH - MONTGOMERY COUNTY - PENNSYLVANIA

DRAWING TITLE:
 SKETCH PLAN 'G'

PREPARED BY:
JOSEPH M. ESTOCK
 Consulting Engineers & Land Surveyors
 355 South Henderson Road
 King of Prussia, PA 19406-2407
 (610) 265-3035 - Fax (610) 962-9855
 joe@josephmstock.com

REVISIONS:

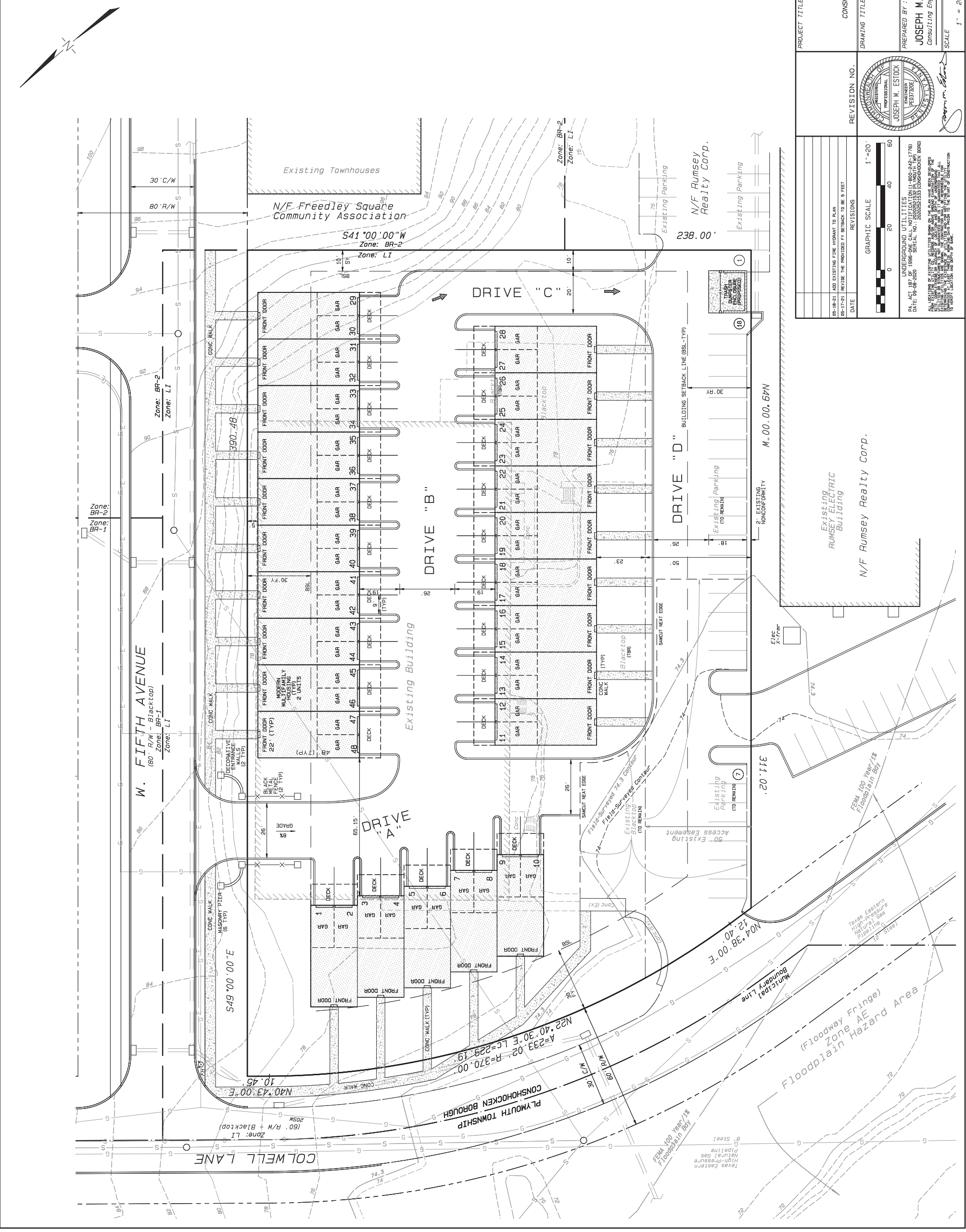
DATE	REVISIONS
05-18-21	ADD EXISTING FIRE HYDRANT TO PLAN
05-17-21	REVISE THE PROVIDED PY SETBACK TO BE 5 FEET

GRAPHIC SCALE 1"=20'
 0 20 40 60

UNDERGROUND UTILITIES
 PA ACT 187 OF 1986 ONE CALL NOTIFICATION (1-800-246-1776)
 DATE: 09-08-2020 SERIAL NO.: 20202521333 (CONSHOHOCKEN BORO)

ALL LOCATIONS OF EXISTING UTILITIES SHOWN ON THIS PLAN HAVE BEEN VERIFIED BY JOSEPH M. ESTOCK AND HIS FIELD PERSONNEL. THE FIELD PERSONNEL HAVE BEEN TRAINED AND LICENSED UNDER THE PENNSYLVANIA PROFESSIONAL ENGINEERING ACT AND THE PENNSYLVANIA PROFESSIONAL LAND SURVEYING ACT. THE FIELD PERSONNEL HAVE BEEN ADVISED OF THE LOCATION OF ALL UTILITIES IN THE AREA AND HAVE BEEN ADVISED OF THE LOCATION OF ALL UTILITIES IN THE AREA.

SCALE 1" = 20'
DATE 12 MAY 2021
FILE NO. 20033
FIELD BOOK 337
SHT. NO. 1 of 3



A-1

Deed

①

Prepared by:

Spruce Law Group, LLC
1622 Spruce Street
Philadelphia, PA 19103
Attn: Jason R. Sieminski, Esq.

After Recording, Return To:

Land Services USA, Inc.
1835 Market Street, Suite 420
Philadelphia, PA 19103
Attn: Richard Little

Parcel No.: 05-00-00103-00-9
Address: 450 Colwell Lane
Conshohocken, PA

SPECIAL WARRANTY DEED

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WITNESSETH, that the said Grantor, for and in consideration of the sum of Three Million Three Hundred and Ten Thousand and 00/100 Dollars (\$3,310,000.00), lawful money of the United States of America, and other good and valuable consideration, unto it well and truly paid by the said Grantee, at or before the sealing and delivery hereof, the receipt whereof is hereby acknowledged, has granted, bargained, sold, and conveyed, and by these presents does grant, bargain, sell, and convey unto the said Grantee, its successors and assigns, all of the following described real estate, situated in the County of Montgomery, Commonwealth of Pennsylvania known and described as follows:

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HERETO

TOGETHER WITH all right, title and interest of Grantor in the improvements, hereditaments, easements and appurtenances thereunto belonging, or in anyway appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof, and all the estate, right, title, interest, claim or demand whatsoever, either in law or equity, of, in and to the above described premises (collectively, the "Property"),

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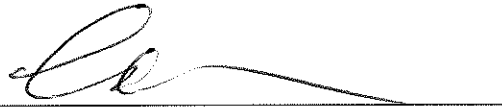
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[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the aforementioned Grantor has hereunto set such Grantor's hand and seal the day and year first above mentioned.

GRANTOR:

D. DEODATI & SONS HOLDINGS, LLC,
a Pennsylvania limited liability company

By: 

Name: Edmund B. Moore, Jr.

Title: Managing Member

ACKNOWLEDGMENT

COMMONWEALTH OF PENNSYLVANIA

COUNTY OF *Montgomery*

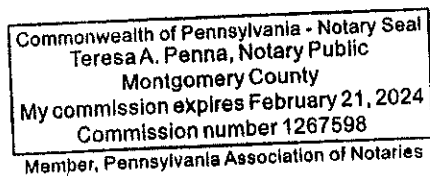
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WITNESS my hand and Notarial Seal the day and year first above written.



Notary Public

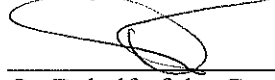
My Commission Expires: *2/21/2024*



Certificate of Address

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Gladwyne PA 19035

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On Behalf of the Grantee,
Dryden Court Development LLC

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LEGAL DESCRIPTION

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BEING known as 450 Colwell Lane.

BEING Tax Parcel #05-00-00103-00-9.

BEING the same premises which D. Deodati & Sons, by Deed dated 2/19/2013 and recorded 3/5/2013 in the County of Montgomery in Deed Book 5865 page 1668, conveyed unto D. Deodati & Sons Holdings, LLC, a Pennsylvania limited liability company, in fee.

Craig R. Lewis
Direct Dial: (610) 941-2584
Direct Fax: (610) 684-2021
Email: rlewis@kaplaw.com
www.kaplaw.com

June 18, 2021

VIA EMAIL AND FEDERAL EXPRESS

Borough of Conshohocken
Attn: Stephanie Cecco, Borough Manager
400 Fayette Street, Suite 200
Conshohocken, PA 19428

**RE: 450 Colwell Lane - Application to the Zoning Hearing Board
Dryden Court Development, LLC - Multi-family Development Stacked Condos
Our Reference No. 16140.009**

Dear Ms. Cecco:

As I believe you know, I represent Dryden Court Development, LLC (“**DCD**”). As evidenced by the Deed attached hereto, DCD is the legal owner of the property located at 450 Colwell Lane, Conshohocken, PA (“**Property**”). In accordance with the Borough of Conshohocken Zoning Ordinance (“**Zoning Ordinance**”) and Borough of Conshohocken Zoning Map the Property is located in the LI- Limited Industrial Zoning District.

DCD proposes to develop the Property for modern, multi-family housing (“**Proposed Use**”). In accordance with Section 1901-B of the Zoning Ordinance, the Proposed Use is a specifically permitted use of Property by conditional use. On December 30, 2020, DCD submitted an application seeking conditional use approval for the Proposed Use (“**Conditional Use Application**”). The Borough’s Planning Commission recently recommended approval of the Conditional Use Application and a hearing thereon is scheduled for Jul 21, 2021.

As was recently discussed with the Borough’s staff and the Planning Commission, the Proposed Use requires minor dimensional relief from the Zoning Ordinance. Specifically, in order to provide improved integration of the Proposed Use with the surrounding properties, and to improve emergency access and circulation, DCD requires relief from the applicable front yard setback requirement. Additionally, in order to address the topography of the Property, the Proposed Use requires relief from the applicable maximum building height requirement. As will be address through testimony and exhibits, these requests for relief are necessitated by the physical characteristics of the Property, will not be detrimental to the public health, safety and/or welfare, and will improve emergency access to the Proposed Use.

Therefore, on behalf of DCD I am enclosing herewith and application to the Borough's Zoning Hearing Board seeking relief from §§ 27-1903-B(3)(A) and 27-1903-B(11) of the Zoning Ordinance (“**Application**”). The Application consists of the following materials:

- Borough of Conshohocken Zoning Application;
- Site Plan prepared by Joseph M. Estock, PE consisting of three (3) sheets; sheet 1 entitled “Sketch Plan G”, dated May 12, 2021, last revised May 18, 2021
- A check in the amount of \$500.00 payable to the Borough of Conshohocken representing the applicable Zoning Hearing Board Application Fee; and
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Please schedule the Application for consideration by the Borough's Zoning Hearing Board at its regularly scheduled July 19, 2021 meeting date. Kindly provide notice of the scheduling of the hearing and provide copies of all reviews, correspondence and communications generated and/or received regarding this matter.

If you require anything further or have and questions, please contact me at your convenience.

Best Regards,



Craig R. Lewis

Enclosures

cc (via e-mail w/ enclosures): DJB Properties, LLC
Michael E. Peters, Esq.
Eric P. Johnson, PE, Zoning Officer

①

Prepared by:

Spruce Law Group, LLC
1622 Spruce Street
Philadelphia, PA 19103
Attn: Jason R. Sieminski, Esq.

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Philadelphia, PA 19103
Attn: Richard Little

Parcel No.: 05-00-00103-00-9
Address: 450 Colwell Lane
Conshohocken, PA

SPECIAL WARRANTY DEED

This Special Warranty Deed is made on December ~~17~~, 2020, and is by and between **D. DEODATI & SONS HOLDINGS, LLC**, a Pennsylvania limited liability company (hereinafter called the "Grantor"), to **DRYDEN COURT DEVELOPMENT LLC**, a Pennsylvania limited liability company, (hereinafter called the "Grantee").

WITNESSETH, that the said Grantor, for and in consideration of the sum of Three Million Three Hundred and Ten Thousand and 00/100 Dollars (\$3,310,000.00), lawful money of the United States of America, and other good and valuable consideration, unto it well and truly paid by the said Grantee, at or before the sealing and delivery hereof, the receipt whereof is hereby acknowledged, has granted, bargained, sold, and conveyed, and by these presents does grant, bargain, sell, and convey unto the said Grantee, its successors and assigns, all of the following described real estate, situated in the County of Montgomery, Commonwealth of Pennsylvania known and described as follows:

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HERETO

TOGETHER WITH all right, title and interest of Grantor in the improvements, hereditaments, easements and appurtenances thereunto belonging, or in anyway appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof, and all the estate, right, title, interest, claim or demand whatsoever, either in law or equity, of, in and to the above described premises (collectively, the "Property"),

TO HAVE AND TO HOLD the Property, unto Grantee, its representatives, successors and assigns, to and for the only proper use and behalf of Grantee, its representatives, successors and assigns, forever. And Grantor does covenant, promise and agree, to and with Grantee, its successors and assigns, by these presents, that Grantor will **WARRANT SPECIALLY** against all and every person or persons lawfully claiming the same or any part thereof by, through or under Grantor, the Property hereby conveyed.

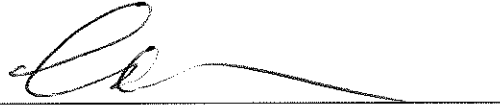
THIS DOCUMENT MAY NOT SELL, CONVEY, TRANSFER, INCLUDE OR INSURE THE TITLE TO THE COAL AND RIGHT OF SUPPORT UNDERNEATH THE SURFACE LAND DESCRIBED OR REFERRED TO HEREIN, AND THE OWNER OR OWNERS OF SUCH COAL MAY HAVE THE COMPLETE LEGAL RIGHT TO REMOVE ALL OF SUCH COAL AND, IN THAT CONNECTION, DAMAGE MAY RESULT TO THE SURFACE OF THE LAND AND ANY HOUSE, BUILDING OR OTHER STRUCTURE ON OR IN SUCH LAND. THE INCLUSION OF THIS NOTICE DOES NOT ENLARGE, RESTRICT OR MODIFY ANY LEGAL RIGHTS OR ESTATES OTHERWISE CREATED, TRANSFERRED, EXCEPTED OR RESERVED BY THIS INSTRUMENT.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the aforementioned Grantor has hereunto set such Grantor's hand and seal the day and year first above mentioned.

GRANTOR:

D. DEODATI & SONS HOLDINGS, LLC,
a Pennsylvania limited liability company

By: 

Name: Edmund B. Moore, Jr.
Title: Managing Member

ACKNOWLEDGMENT

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF *Montgomery*

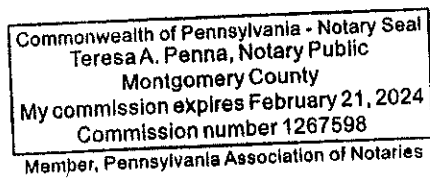
On this, the 17 day of December, 2020, before me, a Notary Public in and for said State and County, personally appeared Edmund B. Moore, Jr., who acknowledged himself to be the Managing Member of D. Deodati & Sons Holdings, LLC, a Pennsylvania limited liability company, and that he as such officer, being authorized to do so, executed the foregoing instrument in the name of the Grantor for the purposes therein contained.

WITNESS my hand and Notarial Seal the day and year first above written.



Notary Public

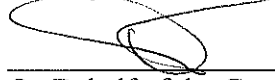
My Commission Expires: *2/21/2024*



Certificate of Address

The Tax Billing Address and Owner Mailing Address of the Grantee is:

1125 Robin Road
Gladwyne PA 19035

A handwritten signature in black ink, consisting of several loops and a horizontal stroke, positioned above a horizontal line.

On Behalf of the Grantee,
Dryden Court Development LLC

EXHIBIT "A"

LEGAL DESCRIPTION

ALL THAT CERTAIN lot or piece of land, situate in the Borough of Conshohocken, County of Montgomery and Commonwealth of Pennsylvania, bounded and described according to a Plan of Subdivision, made for George K. Heebner, Inc., by Yerkes Associates, Inc., Consulting Engineers and Surveyors, 101 Charles Drive, Bryn Mawr, PA, dated March 20, 1978 and recorded in Montgomery County in Plan Book A-31 Page 94, as follows, to wit:

BEGINNING at a point on the Southeast side of Colwell Lane (60 feet wide) marking its intersection with the Southwest side of the future extension of West 5th Avenue (80 feet wide); thence along the Southwest side of proposed extension of West 5th Avenue (80 feet wide) South 49 degrees 0 minutes East 390.48 feet to a point; thence leaving said side of West 5th Avenue (proposed) and by other land now or late of George K. Heebner, Inc. Parcel No. 2, the two following courses and distances: (1) South 41 degrees 0 minutes West 238 feet to a point; and (2) North 49 degrees 0 minutes West 311.02 feet to a point on the Southeast side of Colwell Lane (60 feet wide) aforementioned; thence along the same the three following courses and distances: (1) North 4 degrees 38 minutes East 12.40 feet to a point of curve; (2) on the arc of a circle curving to the right having a radius of 370 feet the arc distance of 233.02 feet the chord of said curved line having a bearing of North 22 degrees 40 minutes 30 seconds East 229.19 feet to a point; and (3) North 40 degrees 43 minutes East 10.45 feet to the place of beginning.

CONTAINING 2 acres, be the same more or less.

BEING known as 450 Colwell Lane.

BEING Tax Parcel #05-00-00103-00-9.

BEING the same premises which D. Deodati & Sons, by Deed dated 2/19/2013 and recorded 3/5/2013 in the County of Montgomery in Deed Book 5865 page 1668, conveyed unto D. Deodati & Sons Holdings, LLC, a Pennsylvania limited liability company, in fee.



BOROUGH OF CONSHOHOCKEN
400 Fayette Street, Suite 200, Conshohocken, PA 19428
Phone (610) 828-1092 Fax (610) 828-0920

Zoning Application

Application: _____
Date Submitted: _____
Date Received: _____

1. Application is hereby made for:

- Special Exception Variance
- Appeal of the decision of the zoning officer
- Conditional Use approval Interpretation of the Zoning Ordinance
- Other _____

2. Section of the Zoning Ordinance from which relief is requested:

27-1903-B(3)(A) - Front Yard and 27-1903-B(11) Building Height

3. Address of the property, which is the subject of the application:

450 Colwell Lane, Conshohocken, PA 19428

4. Applicant's Name: Dryden Court Development, LLC c/o David J. Brosso

Address: 1125 Robin Road, Gladwyne, PA 19035

Phone Number (daytime): 610-310-5055

E-mail Address: djbprop@gmail.com

5. Applicant is (check one): Legal Owner Equitable Owner ; Tenant

6. Property Owner: (Same as Applicant)

Address: _____

Phone Number: _____

E-mail Address: _____

7. Lot Dimensions: 390' x 238' = 2 acres

Zoning District: L1

8. Has there been previous zoning relief requested in connection with this Property?

Yes No If yes, please describe.

Application for Conditional Use Approval to permit Multi-Family housing in the LI District is currently pending.

9. Please describe the present use of the property including any existing improvements and the dimensions of any structures on the property.

The Property is improved with a 27,000 s.f. warehouse that is presently vacant. The warehouse was formerly occupied by American Olean Tile. Access to the Property is from Colwell Lane.

10. Please describe the proposed use of the property.

Applicant proposes to redevelop the property as a multi-family development consisting of 48 dwelling units ("Proposed Use"). The Proposed Use is depicted on a plan prepared by Joseph Estock, entitled "Dryden Court - Sketch G", dated May 12, 2021, last revised May 18, 2021. The Proposed Use would provide access from both Colwell Lane as well as 5th Avenue. The Proposed Use provides a transition from the adjacent townhomes to the more industrial areas along Colwell Lane. Providing a new access to 5th Avenue further integrates the development with the existing townhomes while providing superior access particularly in flooding events that may require the temporary closure of Colwell Lane.

11. Please describe proposal and improvements to the property in detail.

Please see attached Plan. The Proposed Use consists of three multi-family buildings totalling 48 dwelling units.

12. Please describe the reasons the Applicant believes that the requested relief should be granted.

Applicant proposes to provide a new/superior access to the property along 5th Avenue. This access improves emergency services access and will allow egress to 5th Avenue for the Proposed Development as well as the adjacent Rumsey Electric property during emergency situations. Additionally, the topography of the property (slopes) requires particular attention to the design of the Proposed Use. Further, in order to integrate the Proposed Use into the existing community, the Proposed Use must be shifted toward 5th Avenue.

13. If a Variance is being requested, please describe the following:

a. The unique characteristics of the property: Topography and Floodplain/emergency access

b. How the Zoning Ordinance unreasonably restricts development of the property:

The Zoning Ordinance restricts height to 35'. In order to integrate the development into the existing topography while providing access to 5th Avenue, Applicant requires relief to permit a building height of 40 feet. Additionally, the Zoning Ordinance requires a front yard of 30'. The property is a corner lot thus requiring a front yard along both Colwell Lane and 5th Avenue. All development has historically fronted upon Colwell Lane. The Proposed Use seeks to integrate the development including pedestrian and vehicular access along 5th Avenue. To do so, the Proposed Use must be shifted towards 5th Avenue.

c. How the proposal is consistent with the character of the surrounding neighborhood. _____

The granting of the requested relief will allow the project to integrate into the existing townhouses along 5th Avenue while improving pedestrian and vehicular access.

d. Why the requested relief is the minimum required to reasonably use the property; and why the proposal could not be less than what is proposed.

The proposed front yard of 5' represents the minimum necessary to safely and efficiently achieve the above described pedestrian and vehicular access. Likewise, the requested deviation from the maximum building height is the minimum necessary to implement the Proposed Use.

14. The following section should be completed if the applicant is contesting the determination of the zoning officer.

a. Please indicate the section of the zoning ordinance that is the subject of the zoning officer's decision (attach any written correspondence relating to the determination).

n/a

b. Please explain in detail the reasons why you disagree with the zoning officer's determination.

n/a

15. If the Applicant is requesting any other type of relief, please complete the following section.

a. Type of relief that is being requested by the applicant.

b. Please indicate the section of the Zoning Ordinance related to the relief being requested.

c. Please describe in detail the reasons why the requested relief should be granted.

16. If the applicant is being represented by an attorney, please provide the following information.

a. Attorney's Name: Craig Robert Lewis, Esquire

b. Address: 910 Harvest Drive, Suite 200, Blue Bell, PA 19422

c. Phone Number: 610-941-2584

d. E-mail Address: rlewis@kaplaw.com

I/we hereby certify that to the best of my knowledge, all of the above statements contained in this Zoning Application and any papers or plans submitted with this application to the Borough of Conshohocken are true and correct.

Applicant

Legal Owner

Date

[Handwritten signatures]
6/17/2021

COMMONWEALTH OF PENNSYLVANIA

COUNTY OF MONTGOMERY

As subscribed and sworn to before me this 17 day of June, 2021. By David J Brosso

Notary Public

(Seal)

[Handwritten signature of Kimberly Zera]

Commonwealth of Pennsylvania - Notary Seal
Kimberly Zera, Notary Public
Montgomery County
My commission expires May 5, 2022
Commission number 1185103
Member, Pennsylvania Association of Notaries



BOROUGH OF CONSHOHOCKEN
400 Fayette Street, Suite 200, Conshohocken, PA 19428
Phone (610) 828-1092 Fax (610) 828-0920

Decision

(For Borough Use Only)

Application Granted

Application Denied

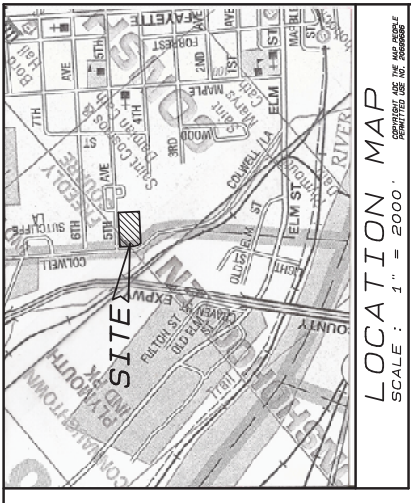
MOTION:

CONDITIONS:

BY ORDER OF THE ZONING HEARING BOARD

	Yes	No
_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>

DATE OF ORDER: _____



LEGEND

- CENTERLINE
- TRACT BOUNDARY
- PROPERTY LINE
- LEGAL R.O.W. EASEMENTS
- EXISTING CONTOUR
- PROPOSED CONTOUR
- EXISTING WATER LINE
- EXISTING SAN. SEWER LINE
- EXISTING TELEPHONE LINE
- EXISTING ELECTRIC LINE
- EXISTING STORM SEWER/INLET
- PROPOSED WATER LINE
- PROPOSED SAN. SEWER LINE
- PROPOSED ELECTRIC LINE
- PROPOSED GAS LINE
- EXISTING MANHOLE
- PROPOSED MANHOLE
- EXISTING CURBLINE
- PROPOSED CURBLINE
- UTILITY POLE
- EXISTING VALVE, VENT, CO.
- PROPOSED BUILDING
- PROPOSED CONCRETE PADS/WALKWAYS

SITE DATA:
 OWNER/APPLICANT: DRYDEN COURT DEVELOPMENT, LLC
 C/O DAVID J. BROSSO
 624 W. 10TH ST.
 GLADYSBURG, PA 19035
 610-310-5055 (CELL)

PREMISES:
 450 COLWELL LANE UNIT 1
 TPN 05-00-0003-00-9
 DEED BOOK 5865 PG 1668

LOT AREA: 2.0000 ACRES
YIELD: 48 DWELLING UNITS

ZONING DATA:
 DISTRICT: "LI" LIMITED INDUSTRIAL DISTRICT/RESEARCH
 RESIDENTIAL OVERLAY DISTRICT

USE: MODERN MULTIFAMILY HOUSING

REQUIRED	PROVIDED
DENSITY:	24 DU/AC
TRACT AREA:	2.0 ACRES
FRONT YARD:	5 FT
REAR YARD:	7.5 FT
SIDE YARD:	29 FT
BUILDING COVERAGE:	40 % (MAX)
BUILDING HEIGHT:	35 FT (MAX)
PARKING SETBACK:	10 FT (MIN)
INTERNAL DRIVEWAY SETBACK:	10 FT (MIN)
BUILDING SEPARATION:	40 FT (MIN)
0-1 BEDROOM:	700 SF (MIN)
2 BEDROOMS:	1,100 SF (MIN)
3 BEDROOMS:	1,200 SF (MIN)

TOPOGRAPHY:
 CONTOURS PLOTTED FROM PENNSYLVANIA SPATIAL DATA
 ACCESS LIDAR MAPPING RESOURCES
 (DATUM: NAVD83)

PARKING:
 PRIVATE STALLS= 48 PS
 SHARED STALLS= 26 PS
 TOTAL: 122 PS

PROJECT TITLE:
 DRYDEN COURT
 450 COLWELL LANE
 CONSHOCKEN BOROUGH - MONTGOMERY COUNTY - PENNSYLVANIA

DRAWING TITLE:
 SKETCH PLAN 'G'

PREPARED BY:
 JOSEPH M. ESTOCK
 Consulting Engineers & Land Surveyors
 355 South Henderson Road
 King of Prussia, PA 19406-2407
 (610) 265-3035 - Fax (610) 982-9855
 joe@josephmstock.com

REVISIONS:

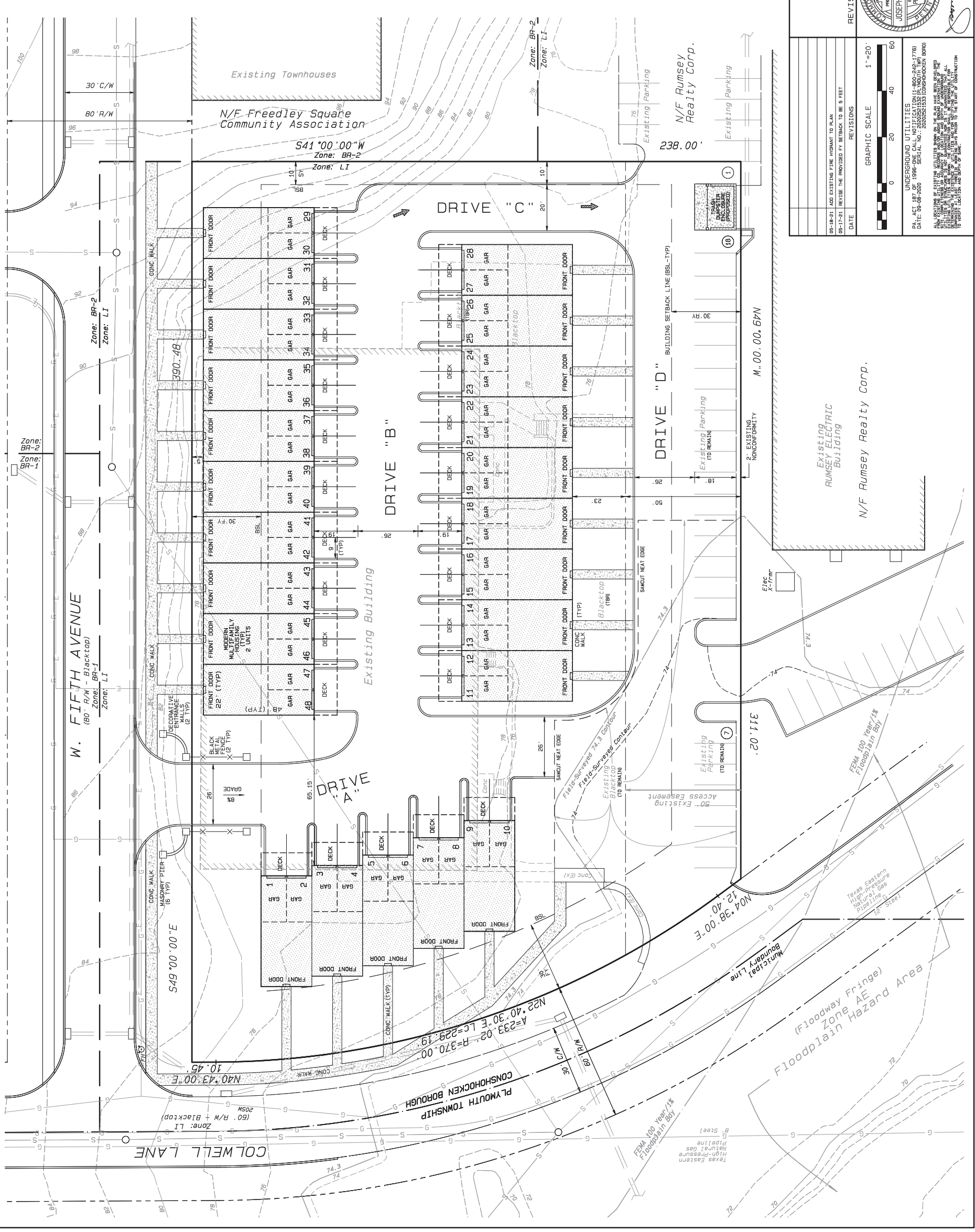
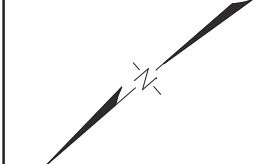
DATE	REVISIONS
05-18-21	ADD EXISTING FIRE HYDRANT TO PLAN
05-17-21	REVISE THE PROVIDED PY SETBACK TO BE 5 FEET

GRAPHIC SCALE 1"=20'
 0 20 40 60

UNDERGROUND UTILITIES
 PA ACT 187 OF 1986 ONE CALL NOTIFICATION (1-800-246-1776)
 DATE: 09-09-2020 SERIAL NO.: 20202521333 (CONSHOCKEN BORO)

ALL LOCATIONS OF EXISTING UTILITIES SHOWN ON THIS PLAN HAVE BEEN VERIFIED BY FIELD SURVEY. THE LOCATION OF UTILITIES SHOWN ON THIS PLAN IS BASED ON THE RECORD DRAWINGS AND FIELD SURVEY. THE LOCATION OF UTILITIES SHOWN ON THIS PLAN IS NOT GUARANTEED. THE USER OF THIS PLAN SHALL BE RESPONSIBLE FOR VERIFYING THE LOCATION OF UTILITIES PRIOR TO THE START OF CONSTRUCTION.

SCALE 1" = 20'
DATE 12 MAY 2021
FILE NO. 20033
FIELD BOOK 337
SHT. NO. 1 of 3



REVISION NO.

PROFESSIONAL SEAL:
 JOSEPH M. ESTOCK
 LICENSE NO. PE037206

DATE 12 MAY 2021
FILE NO. 20033
FIELD BOOK 337
SHT. NO. 1 of 3

PROJECT TITLE:
 DRYDEN COURT
 450 COLWELL LANE
 CONSHOCKEN BOROUGH - MONTGOMERY COUNTY - PENNSYLVANIA

DRAWING TITLE:
 SKETCH PLAN 'G'

PREPARED BY:
 JOSEPH M. ESTOCK
 Consulting Engineers & Land Surveyors
 355 South Henderson Road
 King of Prussia, PA 19406-2407
 (610) 265-3035 - Fax (610) 982-9855
 joe@josephmstock.com

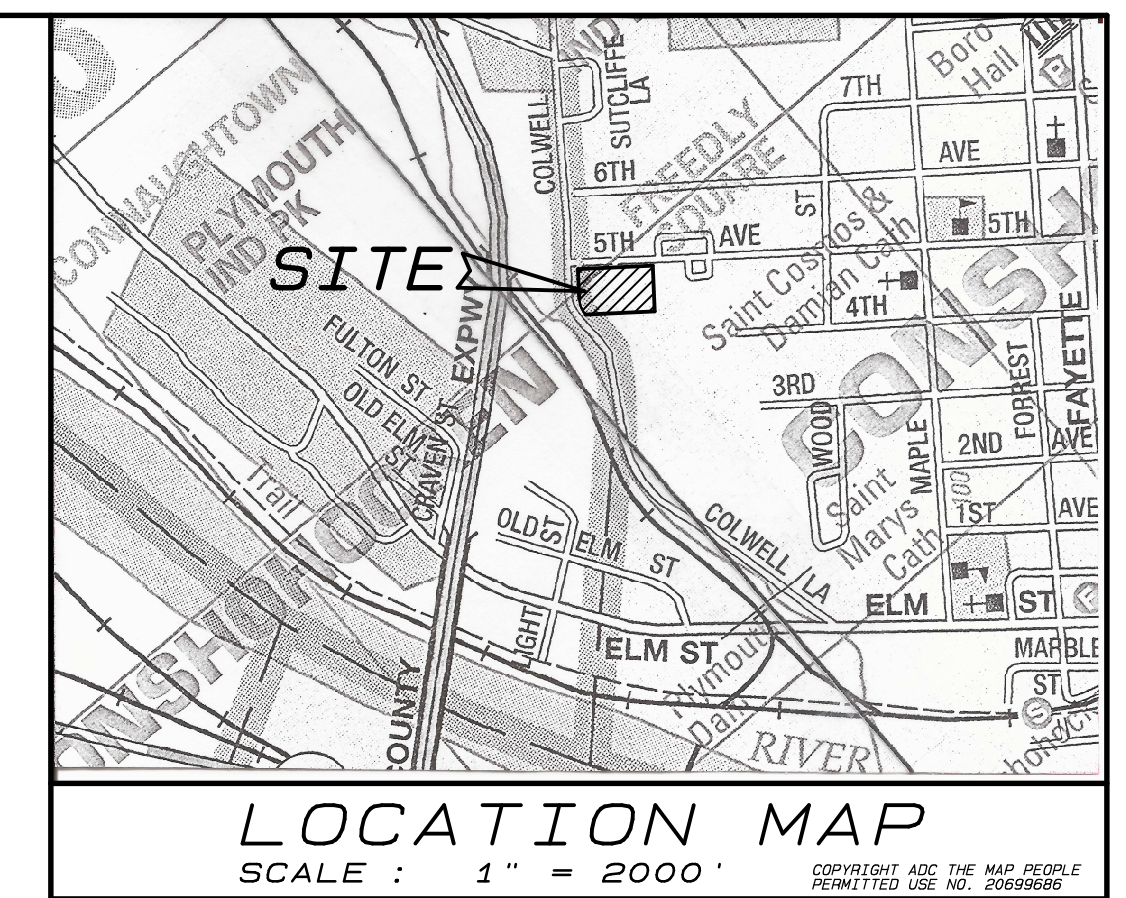
REVISIONS:

DATE	REVISIONS
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GRAPHIC SCALE 1"=20'
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LEGEND

---	CENTERLINE
---	TRACT BOUNDARY
---	PROPERTY LINE
---	LEGAL R.O.W., EASEMENTS
---	REQUIRED R.O.W.
---	EXISTING CONTOUR
---	PROPOSED CONTOUR
---	EXISTING WATER LINE
---	EXISTING SAN. SEWER LINE
---	EXISTING TELEPHONE LINE
---	EXISTING GAS LINE
---	EXISTING ELECTRIC LINE
---	EXISTING STORM SEWER/INLET
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---	PROPOSED SAN. SEWER LINE
---	PROPOSED ELECTRIC LINE
---	PROPOSED GAS LINE
---	EXISTING MANHOLE
---	PROPOSED MANHOLE
---	EXISTING CURBLINE
---	PROPOSED CURBLINE
---	UTILITY POLE
---	EXISTING VALVE, VENT, CO.
---	PROPOSED BUILDING
---	PROPOSED CONCRETE PADS/WALKWAYS

SITE DATA:

OWNER/APPLICANT: DRYDEN COURT DEVELOPMENT, LLC
C/O DAVID J. BROSSO
1125 ROBIN ROAD
GLADWYNE, PA 19035
610-310-5055 (CELL)

PREMISES: 450 COLWELL LANE
TAX MAP BLOCK 28 UNIT 1
TPN 08-00-00-00
DEED BOOK 5865 PG 1668

LOT AREA: 2.0000 ACRES
YIELD: 48 DWELLING UNITS

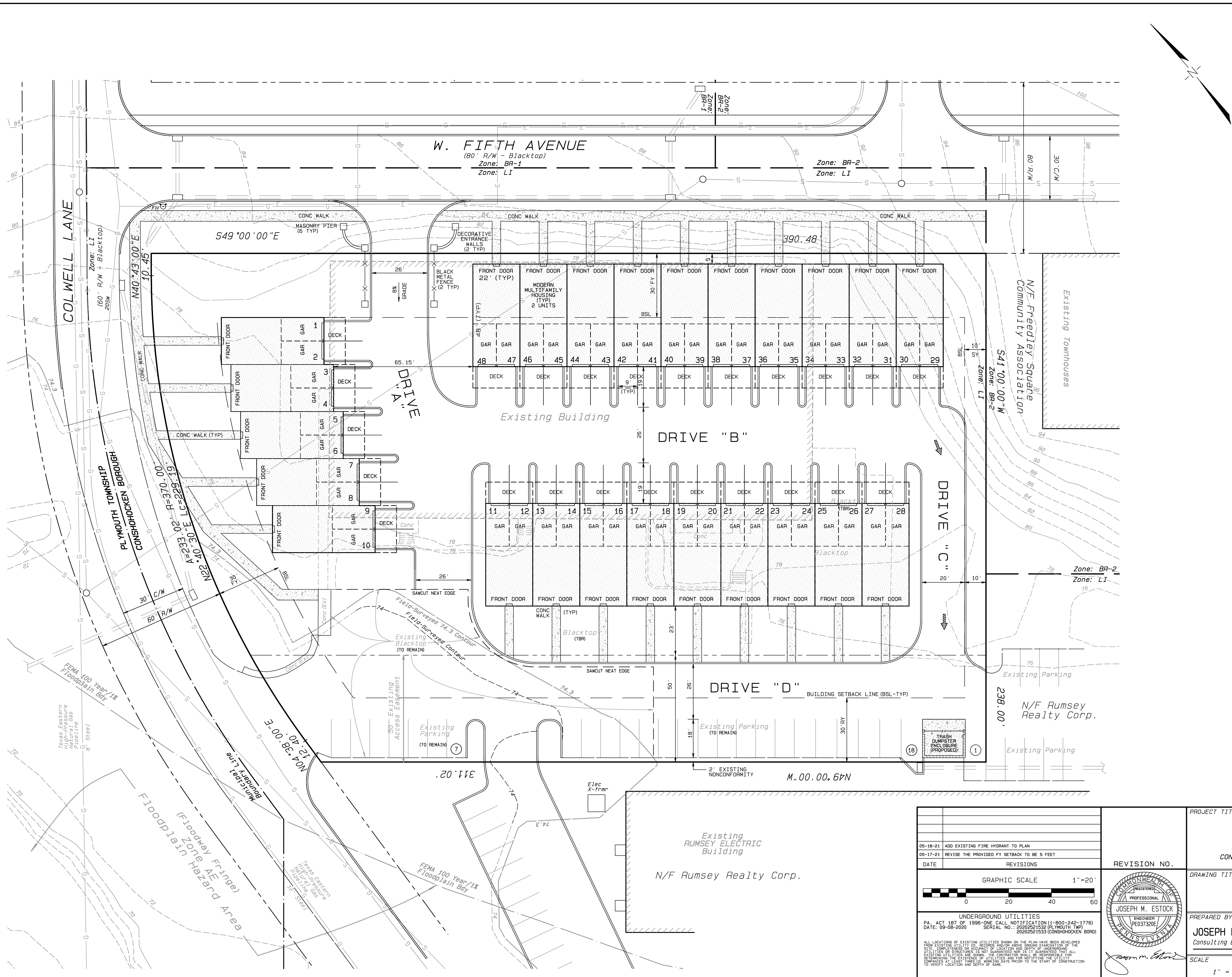
ZONING DATA:

DISTRICT: "LI" LIMITED INDUSTRIAL DISTRICT/RESEARCH RESIDENTIAL OVERLAY DISTRICT
USE: MODERN MULTIFAMILY HOUSING

REQUIREMENTS	REQUIRED	PROVIDED
DENSITY:	33 DU/AC (MAX)	24 DU/AC
TRACT AREA:	1.0 ACRE (MIN)	2.0 ACRES
SETBACKS:		
FRONT YARD:	30 FT (MIN)	5 FT
REAR YARD:	30 FT (MIN)	73 FT
SIDE YARD:	10 FT (MIN)	20 FT
BUILDING COVERAGE:	40 % (MAX)	29 %
IMPERVIOUS COVERAGE:	80 % (MAX)	76 %
BUILDING HEIGHT:	35 FT (MAX)	35 FT
PARKING SETBACK:	10 FT (MIN)	30 FT
PARKING LOCATION:	REAR OF BLDG	REAR OF BLDG
INTERNAL DRIVEWAY SETBACK:	10 FT (MIN)	10 FT
BUILDING SEPARATION:	40 FT (MIN)	65.15 FT
UNIT SIZE:		
0-1 BEDROOM:	700 SF (MIN)	NONE
2 BEDROOMS:	900 SF (MIN)	1,000+ SF
3 BEDROOMS:	1,100 SF (MIN)	1,200+ SF
PARKING:		
GARAGE STALLS=	48 PS	
PRIVATE STALLS=	48 PS	
SHARED STALLS=	26 PS	
TOTAL:	122 PS	

TOPOGRAPHY:

CONTOURS PLOTTED FROM PENNSYLVANIA SPATIAL DATA ACCESS LIDAR MAPPING RESOURCES (DATUM: NAVD-88)



REVISIONS

DATE	REVISIONS
05-19-21	ADD EXISTING FIRE HYDRANT TO PLAN
05-17-21	REVISE THE PROVIDED FY SETBACK TO BE 5 FEET

GRAPHIC SCALE 1"=20'

UNDERGROUND UTILITIES
PA. ACT 187 OF 1996-ONE CALL NOTIFICATION (1-800-242-1776)
DATE: 09-08-2020 SERIAL NO.: 2020025152 (PLYMOUTH TWP)
2020251533 (CONSHOHOCKEN BORO)

ALL LOCATIONS OF EXISTING UTILITIES SHOWN ON THE PLAN HAVE BEEN DEVELOPED FROM EXISTING UTILITY CO. RECORDS AND/OR ABOVE GROUND EXAMINATION OF THE SITE. THE ENGINEER HAS CONDUCTED VISUAL AND SURFACE EXAMINATIONS OF ALL EXISTING UTILITIES AND HAS DETERMINED THE EXISTENCE OF UTILITIES AND FOR NOTIFYING THE UTILITY COMPANIES AT LEAST THREE (3) WORKING DAYS PRIOR TO THE START OF CONSTRUCTION TO VERIFY LOCATION AND DEPTH OF SAME.

PROJECT TITLE:
DRYDEN COURT
450 COLWELL LANE
CONSHOHOCKEN BOROUGH - MONTGOMERY COUNTY - PENNSYLVANIA

DRAWING TITLE:
SKETCH PLAN 'G'

PREPARED BY:
JOSEPH M. ESTOCK
Consulting Engineers & Land Surveyors

REVISION NO.: [Stamp: JOSEPH M. ESTOCK, ENGINEER, PE037320E, PENNSYLVANIA]

SCALE: 1" = 20'
DATE: 12 MAY 2021
FILE NO.: 20033
FIELD BOOK: 337
SHT. NO.: 1 of 3



Eastburn and Gray, PC

Attorneys at Law

Michael E. Peters, Esquire

60 East Court Street

P.O. Box 1389

Doylestown, PA 18901

(215) 345-7000

mpeters@eastburngray.com

Date of Mailing: August 5, 2021

VIA ELECTRONIC MAIL

Craig Robert Lewis, Esquire

rlewis@kaplaw.com

Re: **Conshohocken Borough**
Conditional Use Application – Notice of Decision
Property: 450 Colwell Lane
Applicant: Dryden Court Development LLC

Dear Rob:

This letter provides notice of the decision of the Borough Council of the Borough of Conshohocken at the conclusion of the conditional use hearing regarding the above-referenced property on August 4, 2021.

Borough Council voted to approve a conditional use pursuant to section 27-1901-B to permit a modern multifamily housing development consisting of 48 condominium units, consistent with the application and the materials and representations presented during the hearing. The relief was specifically made subject to those conditions enumerated on exhibit B-11, attached hereto and incorporated herein.

Borough Council will issue a decision with findings of fact, conclusions of law, and reasons.

Very truly yours,

A handwritten signature in blue ink, appearing to read 'M. Peters', written over a light blue circular stamp.

Michael E. Peters

(enclosure—ex. B-11)

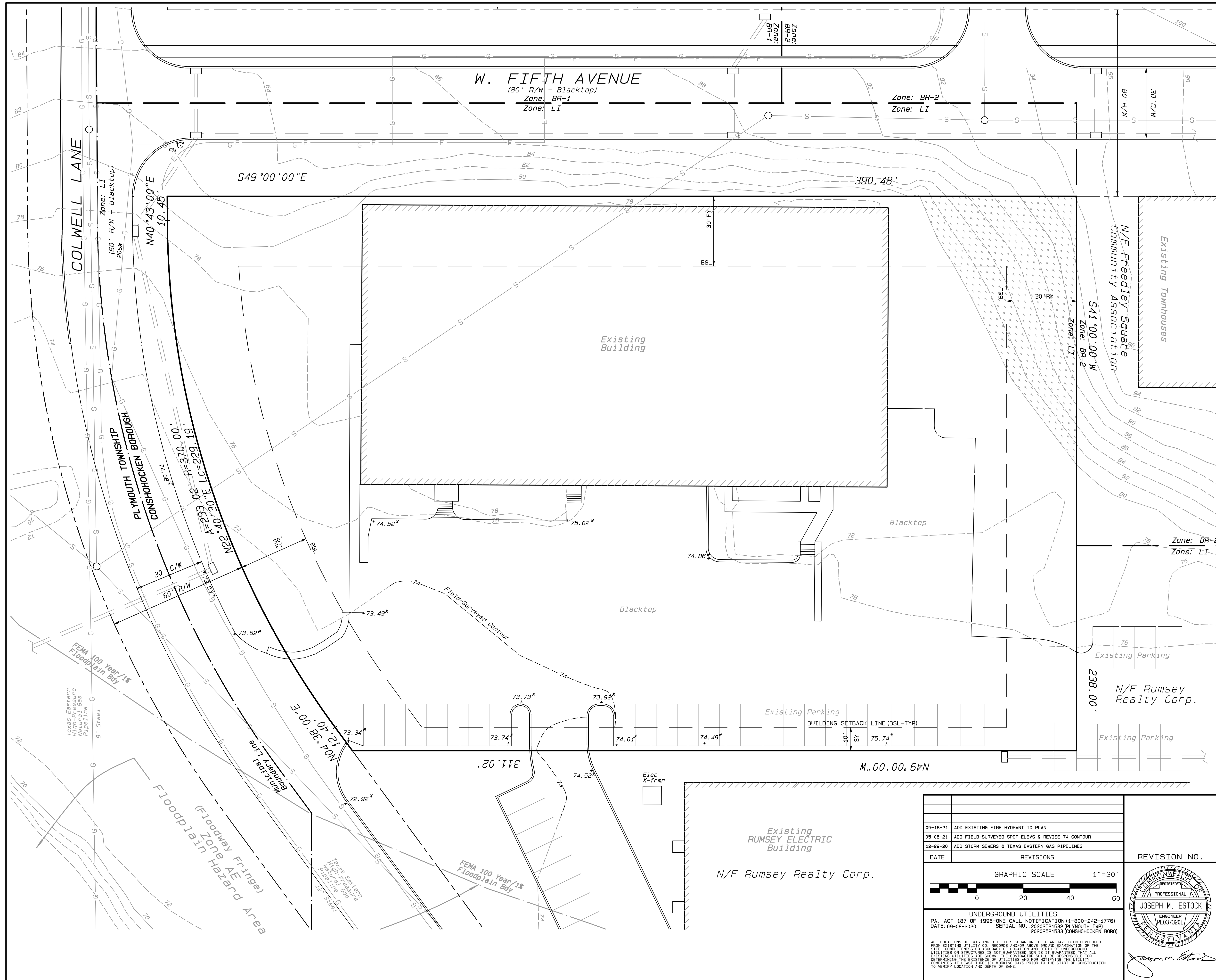
cc: Eric Johnson, P.E., Zoning Officer (w/ enclosure)
Bobbi Jo Myrsiades, Administrative Assistant – Operations (w/enclosure)
Stephanie Cecco, Borough Manager (w/enclosure)

Amended Conditions of Approval

1. Upon final unappealable zoning approval of its proposal to redevelop the property identified as 450 Colwell Lane, Conshohocken, PA tax parcel ID No. 05-00-00103-00-9 (“**Property**”) for multi-family residential use consisting of 48 stacked-condo dwelling units (“**Stacked Condo Application**”), Dryden Court Development, LLC (“**DCD**”) shall withdraw its pending conditional use application seeking to redevelop the Property for multi-family residential use consisting of 59 apartment dwelling units (“**Apartment Application**”). The term "final unappealable zoning approval" as used in this condition shall be comprised of (a) final unappealable conditional use approval for the Stacked Condo Application and (b) final unappealable approval from the Conshohocken Zoning Hearing Board for the relief referenced in condition 11 hereof.
2. If/when DCD redevelops the Property for multi-family residential use (“**Future Residential Development**”), it shall be substantially consistent with the plan identified as follows, “Dryden Court” Sketch Plan G, prepared by Joseph M. Estock, dated May 12, 2021, last revised May 18, 2021 (“**Plan**”).
3. As depicted on the Plan the Future Residential Development shall be limited to 48 dwelling units.
4. As depicted on the Plan the Future Residential Development shall provide direct access to 5th Avenue which shall be designed to permit access to the Property by emergency services vehicles.
5. Upon recording of a plan for the Future Residential Development, DCD or its successor in interest, shall record a covenant running with the land permitting the Borough to install and maintain a gate(s) at the Colwell Lane access to the Property that will prevent ingress or egress in the event of a flooding emergency (“**Covenant**”). DCD or its successor in interest shall be responsible for the cost of the gate and the cost of installing the gate. Final design details of the gate and its installation shall be subject to the approval of the Borough during the land development stage for the Future Residential Development.
6. The Covenant shall also relinquish any rights that DCD, or its successors and assigns may have to any claim for condemnation resulting from the installation of emergency access gates on the Property or along other portions of Colwell Lane.
7. DCD is in the process of converting the existing warehouse on the Property to a Sports and Recreation Complex (“**Sports Facility**”). If, DCD seeks to terminate the Sports Facility, DCD shall notify the Borough of its intention to do so and shall offer the Property and Sports Facility to be purchased by the Borough. The Borough shall be permitted no less than ninety (90) days to perform due diligence and shall be entitled to purchase the Property for Fair Market Value. To establish Fair Market Value, the Borough shall present an appraisal for the Property by a licensed appraiser regularly conducting business in Montgomery County, PA. If DCD disagrees with the Fair Market Value offered by the Borough, DCD shall be permitted to provide, within sixty (60) days a counter-appraisal which also must be performed by a licensed appraiser regularly conducting business in Montgomery County. If, after presenting the counter-appraisal the Borough and DCD cannot agree on Fair Market Value, the Borough’s appraiser and DCD’s appraiser shall agree on an independent third-party appraiser who shall receive

any information DCD and/or the Borough believe relevant and perform an independent appraisal of the Property within sixty (60) days. The independent appraiser's statement of Fair Market Value shall be binding between DCD and the Borough and the Borough can then elect to purchase the Property at the stated Fair Market Value or permit DCD to sell the Property or redevelop the Property for the Future Residential Development or any other then permitted use.

8. If DCD, its successors or assigns obtains a loan for its redevelopment of the Property as the Sport Facility from the Montgomery County Redevelopment Authority ("**Redevelopment Loan**"), the Redevelopment Loan must be satisfied prior to recording a land development plan for the Future Residential Development.
9. DCD, its successors and/or assigns, shall be precluded from redeveloping the Property for the Future Residential Development for a period of seven (7) years from the date of this Conditional Use approval, or the date of satisfaction of the Redevelopment Loan, whichever date is later ("**Preclusion Period**").
10. This Conditional Use approval shall be valid for a period of three (3) years from the termination of the Preclusion Period and during such time shall be afforded the protections prescribed by Section 508 of the Municipalities Planning Code (53 P.S. §10508). During the Preclusion Period, DCD, its successors and/or assigns, may seek any and all permits and/or approvals necessary for the Future Residential Development.
11. DCD's development of the Future Residential Development shall be substantially consistent with the Plan and shall not exceed 48 dwelling units. However, to achieve 48 dwelling units and to satisfy the Borough's desired revisions to the project, DCD must seek relief from the Zoning Ordinance to permit, inter alia, a reduction in the front yard setback along 5th Avenue to five (5) feet. DCD shall apply for such relief within 90 days of this Conditional Use Approval.



- LEGEND**
- CENTERLINE
 - TRACT BOUNDARY
 - PROPERTY LINE
 - LEGAL R.O.W., EASEMENTS
 - REQUIRED R.O.W.
 - EXISTING CONTOUR
 - EXISTING WATER LINE
 - EXISTING SAN. SEWER LINE
 - EXISTING TELEPHONE LINE
 - EXISTING GAS LINE
 - EXISTING ELECTRIC LINE
 - EXISTING STORM SEWER/INLET
 - EXISTING MANHOLE
 - EXISTING CURBLINE
 - UTILITY POLE
 - EXISTING VALVE, VENT. CO.
 - FEMA 100 YEAR FLOODPLAIN BOUNDARY LINE
 - FEMA 500 YEAR FLOODPLAIN BOUNDARY LINE
 - TO BE REMOVED

STEEP SLOPE LEGEND

STEEP SLOPES - 15% OR GREATER

SOILS TYPE LEGEND

THE ENTIRE SITE IS COMPRISED OF THE FOLLOWING SOIL TYPE:

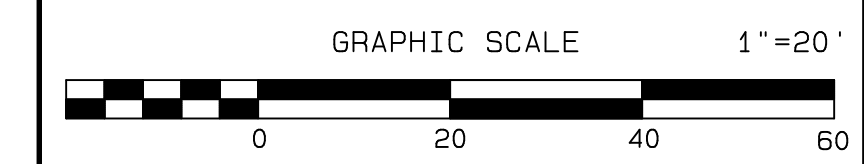
UgB URBAN LAND, 0%-8% SLOPES

FLOODPLAIN REFERENCE

THE SITE IS LOCATED IN ZONE 'X'. AREAS BOTH WITHIN AND OUTSIDE THE 500 YEAR FLOODPLAIN, AS INDICATED ON FLOOD INSURANCE RATE MAP NO. 42051C03986, HAVING A MAP REVISED DATE OF MARCH 02, 2016.

+ 73.92' FIELD-SURVEYED SPOT ELEVATION

DATE	REVISIONS
05-18-21	ADD EXISTING FIRE HYDRANT TO PLAN
05-06-21	ADD FIELD-SURVEYED SPOT ELEVATIONS & REVISE 74 CONTOUR
12-29-20	ADD STORM SEWERS & TEXAS EASTERN GAS PIPELINES



UNDERGROUND UTILITIES
 PA. ACT 187 OF 1996-ONE CALL NOTIFICATION (1-800-242-1776)
 DATE: 09-08-2020 SERIAL NO.: 20002521532 (PLUMBING TWO)
 20202521533 (CONSHOHOCKEN BORO)

ALL LOCATIONS OF EXISTING UTILITIES SHOWN ON THE PLAN HAVE BEEN DEVELOPED FROM EXISTING UTILITY CO. RECORDS AND/OR ABOVE GROUND EXAMINATION OF THE SITE. THE CONTRACTOR SHALL VERIFY THE LOCATION AND DEPTH OF ALL EXISTING UTILITIES AND SHALL BE RESPONSIBLE FOR DETERMINING THE EXISTENCE OF UTILITIES AND FOR NOTIFYING THE UTILITY COMPANIES AT LEAST THREE (3) WORKING DAYS PRIOR TO THE START OF CONSTRUCTION TO VERIFY LOCATION AND DEPTH OF SAME.

PROJECT TITLE :
DRYDEN COURT
 450 COLWELL LANE
 CONSHOHOCKEN BOROUGH - MONTGOMERY COUNTY - PENNSYLVANIA

DRAWING TITLE :
EXISTING FEATURES PLAN

PREPARED BY :
JOSEPH M. ESTOCK
 Consulting Engineers & Land Surveyors

355 South Henderson Road
 King of Prussia, PA 19406-2407
 (610) 265-3035 - Fax (610) 962-9855
 joe@josephmestock.com

SCALE: 1" = 20'
 DATE: 22 DECEMBER 2020
 FILE NO.: 20033
 FIELD BOOK: 337
 SHT. NO.: 2 of 3

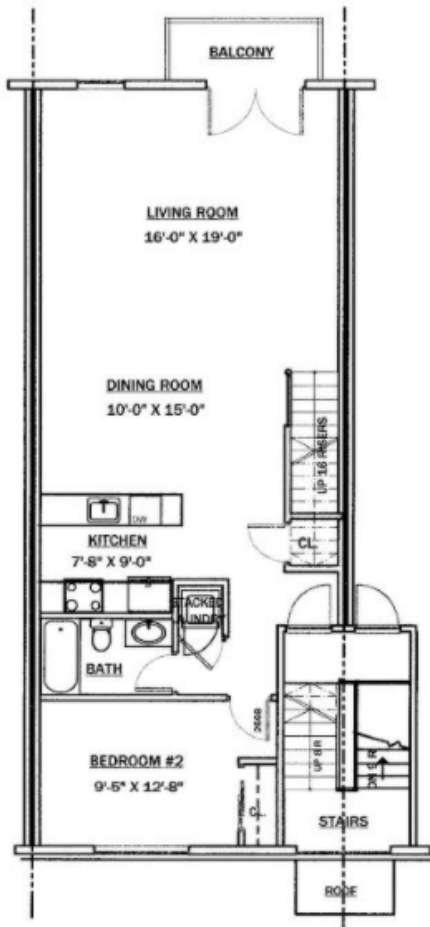
DRYDEN COURT CONDOS (Conceptual Streetscape View)

Note: Concept plans Only - Actual grade will differ from image. Front entrance may be changed as well. Floor layout dimensions may change.



DRYDEN COURT CONDOS

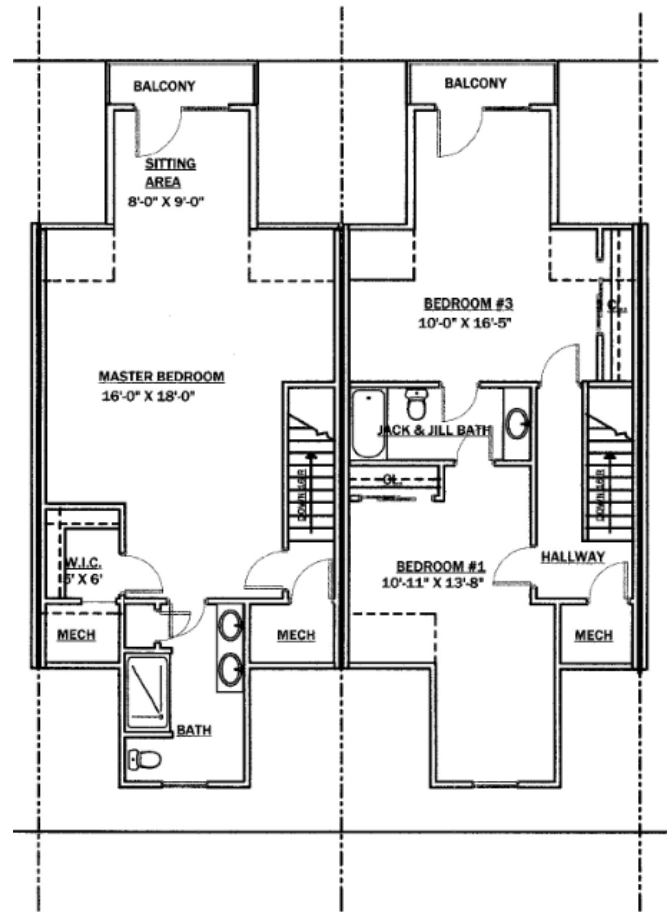
UPPER UNIT (FIRST FLOOR)



AVA MODEL STARDARD MAIN FLOOR

DRYDEN COURT CONDOS

UPPER UNIT (SECOND FLOOR)

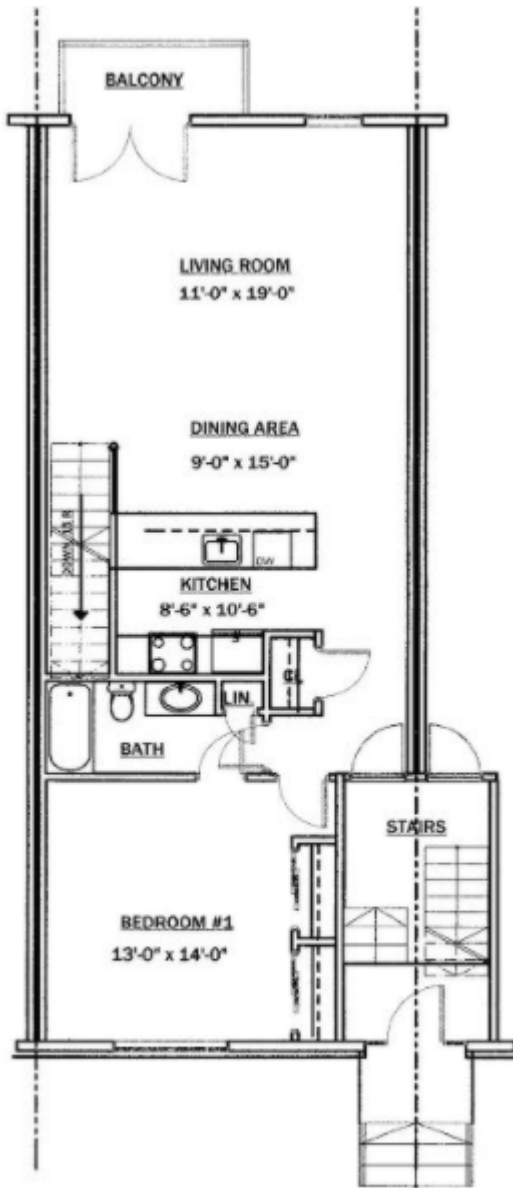


AVA MODEL STANDARD LOFT

AVA MODEL 2 BEDROOM LOFT

DRYDEN COURT CONDOS

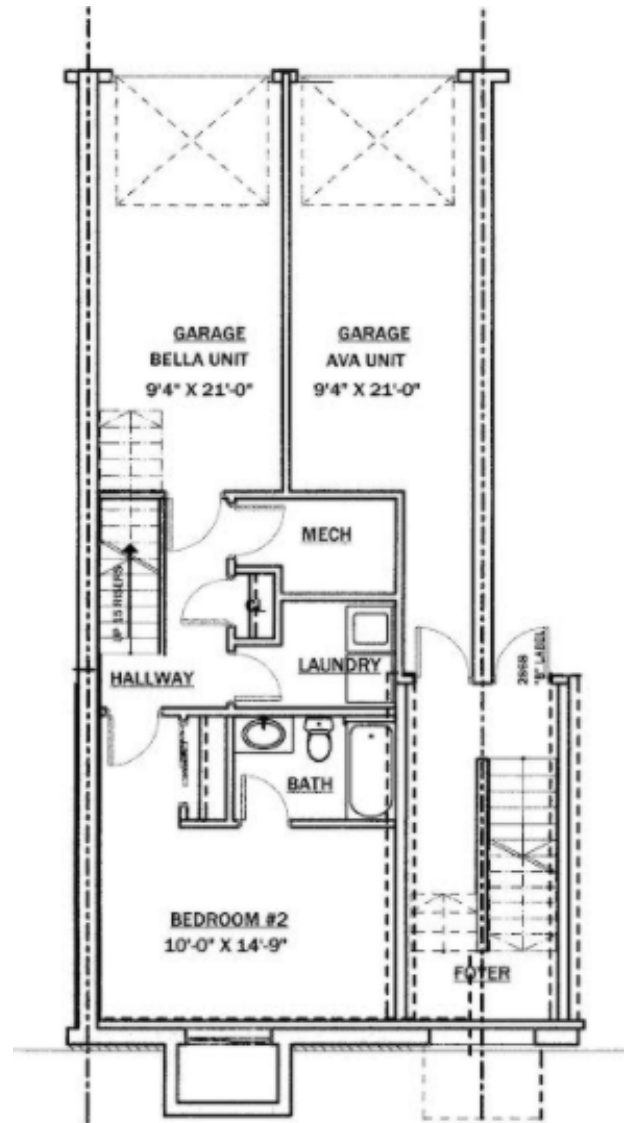
LOWER UNIT (FIRST FLOOR)



BELLA MODEL STANDARD MAIN FLOOR

DRYDEN COURT CONDOS

LOWER UNIT (SECOND FLOOR)



BELLA MODEL STANDARD GROUND FLOOR



BOROUGH OF CONSHOHOCKEN

Office of the Borough Manager

MAYOR
Yaniv Aronson

BOROUGH COUNCIL
Colleen Leonard, President
Tina Sokolowski, Vice-President
Robert Stokley, Senior Member
Anita Barton, Member
James Griffin, Member
Jane Flanagan, Member
Karen Tutino, Member

MEMORANDUM

Stephanie Cecco
Borough Manager

Date: August 5, 2021
To: Stephanie Cecco, Brittany Rogers
From: Eric P. Johnson, PE, Zoning Officer
Re: 450 Colwell Lane – Zoning Variance Determination

History of the Site:

450 Colwell Lane is a 2-acre property located at the corner of Colwell Lane and W. 5th Avenue and is currently developed with a one-story warehouse building and parking lot. The property is bordered to the south by the Rumsey Electric Company property. A 50-foot-wide access easement exist along the southern edge of the 450 Colwell Lane property to provide access to the front parking lot and the rear of the Rumsey Electric property. 450 Colwell Lane is located in the LI – Limited Industrial zoning district and the southwest corner of the property is located in the Floodplain Conservation District.

The applicant, Dryden Court Development, LLC, submitted an application for a Conditional Use in accordance with §27-1901-B of the Conshohocken Zoning Ordinance to permit a multifamily residential development utilizing the Residential Overlay District prior to the repeal of the overlay. Conditional use approval was granted by Borough Council on August 4, 2021 for the proposed forty-eight (48) unit multifamily residential development consisting of three (3) buildings with one residential units stacked on top of one other residential unit. Each unit would share an exterior access with one other unit. The building facing Colwell Lane would contain ten (10) units, the building facing W. 5th Avenue would contain twenty (20) units, and the building interior to the site would contain eighteen (18) units. The applicant is proposing one garage parking space and one parking space located in front of the garage for each unit. The existing parking along the southern property line is proposed to remain for additional parking.

Current Request:

In connection with the proposed development, the applicant is seeking a variance from §27-1903-B.3.A to permit a front yard setback of 5 feet along the W. 5th Ave frontage whereas 30 feet is required; and a variance from §27-1903-B.11 to permit a building height of 40 feet, whereas 35 feet is permitted.

Zoning Determination:

Per §27-1903-B.3.A, the minimum required front yard setback is 30 feet measured from the property line. The proposed dwellings along W. 5th Ave are setback 5 feet from the property line. The applicant has indicated the reduced setback would better conform to the existing site topography and provide an improved street frontage. A variance would be required for the reduced front yard setback.

Per §27-1903-B.11, the maximum permitted building height is 35 feet, unless otherwise permitted by Conshohocken Borough Council. The request for a building height in excess of 35 feet was not received until after the Residential Overlay District was repealed by Borough Council; therefore, the request for a 40-foot building height will require a variance granted by the Zoning Hearing Board.



BOROUGH OF CONSHOHOCKEN

Office of the Borough Manager

Zoning Administration

BOROUGH COUNCIL

Colleen Leonard, President
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Robert Stokley, Member
Anita Barton, Member
James Griffin, Member
Jane Flanagan, Member
Karen Tutino, Member

Yaniv Aronson, Mayor

Stephanie Cecco, Borough Manager

ZONING NOTICE

June 21st, 2021 ZONING HEARING BOARD MEETING TO OCCUR VIA REMOTE MEANS

ZONING HEARING(S) Z-2021-09, Z-2021-11, and Z-2021-12

NOTICE IS HEREBY GIVEN that the Conshohocken Zoning Hearing Board will conduct a public hearing on June 21st, 2021 at 7:00 p.m. prevailing time via remote means. The public is encouraged to participate as set forth below. This meeting will be held using a Go-To-Meeting Platform. To the extent possible, members of Conshohocken Zoning Hearing Board and Borough staff/professionals will participate via both video and audio. (INSTRUCTIONS ON SECOND PAGE)

At this time, the Conshohocken Zoning Hearing Board will hear testimony and accept evidence on the following request.

PETITIONER: CGEM, LLC, Mun Chung, Member
6142 Creekside Dr. Flourtown, PA 19031

PREMISES INVOLVED: 701 Fayette St., Conshohocken, PA 19428
Borough Commercial

OWNER OF RECORD: CGEM, LLC

In connection with a proposed mixed-use redevelopment of the subject property, the applicant is seeking variances and special exceptions for building setbacks, impervious coverage, and off-street parking from the following code section: §27-1303.C, D, and F; §27-2002; §27-2006; §27-2009.

PETITIONER: 3 Blind Pigs, LLC.
404 Pennsylvania Ave., Ft. Washington, PA 19034

PREMISES INVOLVED: 101 E. 7th Ave., Conshohocken, PA 19428
Borough Residential 1

OWNER OF RECORD: 3 Blind Pigs, LLC.

The applicant is seeking variances from §27-703.D and E(6); and §27-811.B and C to permit the installation of a roof structure over the existing patio.

PETITIONER: Kimberly Gider
115 Ava Ct., Plymouth Meeting, PA 19462

PREMISES INVOLVED: 824 Fayette St., Conshohocken, PA 19428
Residential Office Zoning District

OWNER OF RECORD: Jeffrey and Betty Stanley

The applicant is seeking a Special Exception, per §27-703.B(1), to permit the change of an existing non-conforming use. The applicant seeks to convert the existing first floor retail space from a restaurant to a beauty salon.



BOROUGH OF CONSHOHOCKEN

Office of the Borough Manager

Zoning Administration

BOROUGH COUNCIL

Colleen Leonard, President
Tina Sokolowski, Vice-President
Robert Stokley, Member
Anita Barton, Member
James Griffin, Member
Jane Flanagan, Member
Karen Tutino, Member

Yaniv Aronson, Mayor

Stephanie Cecco, Borough Manager

ZONING HEARING REMOTE SESSION ACCESS INSTRUCTIONS

The public is encouraged to participate as follows:

Audio Feed Participation: You may dial-in to access the audio feed of the meeting. All participants (whether listening or providing comments) must use this method of audio participation, even those using Go-To-Meeting to access the video feed. To access audio, please use the below number and access code/ password information.

We ask that you please always keep your phones on mute, unless giving a public comment as set forth in the Public Comment section below.

Please join my meeting from your computer, tablet or smartphone.

<https://global.gotomeeting.com/join/972846509>

You can also dial in using your phone.

United States (Toll Free): [1 866 899 4679](tel:18668994679)

Access Code: 972-846-509

New to GoToMeeting? Get the app now and be ready when your first meeting starts:

<https://global.gotomeeting.com/install/972846509>

If you have already downloaded the Go-To-Meeting application, the link will redirect you to the application itself. Please follow the instructions.

It is recommended that you download the application in advance of the meeting time. If you attempt to sign in prior to the start of the meeting, the Go-To-Meeting application will inform you that the meeting has not started. Please close the application and log back in at the time of the meeting (7:00 PM).

Public Comment: There will be a designated time on the agenda for public comment. Those with public comment shall state their name and address. Prior to the start of the meeting, you may submit written comments by e-mailing them to Bmyrsiades@conshohockenpa.gov. Similarly, during the meeting, you may submit written comments by e-mailing them to bmyrsiades@conshohockenpa.gov.

Public comments submitted in this manner will be read by a member of Borough Administration during the public comment period. Because the actual time of the public comment period is determined by the pace of the meeting, please submit all comments as soon as possible, whether before or during the meeting. Written comments shall include the submitting person's name, address, and property in question.

The Conshohocken Zoning Hearing Board thanks you in advance for your cooperation during the remote meeting. If you encounter problems participating during the meeting, or have questions regarding the above prior to the meeting, please contact the Borough at bmyrsiades@conshohockenpa.gov.



BOROUGH OF CONSHOHOCKEN

Office of the Borough Manager

Zoning Administration

BOROUGH COUNCIL

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Tina Sokolowski, Vice-President
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Anita Barton, Member
James Griffin, Member
Jane Flanagan, Member
Karen Tutino, Member

Yaniv Aronson, Mayor

Stephanie Cecco, Borough Manager

The Borough of Conshohocken Zoning Hearing Board Entry of Appearance as a Party

Persons who wish to become parties to the application must notify the Borough of their intent to ask for party status at least five (5) days prior to the scheduled hearing by emailing the attached entry of appearance form to zoning@conshohockenpa.gov. Said persons must be available to participate in the zoning hearing on the scheduled date and time. It is noted that submitting the attached entry of appearance form does not guarantee that you will be granted party status. The Zoning Hearing Board decides who may participate in the hearing before it as a party, subject to Section 908(3) of the Municipalities Planning Code (MPC). The MPC permits party status to any person "affected" by the application. Having taxpayer status alone is not enough to claim party status; however, a person whose property or business abuts the property that is the subject of the appeal is affected and should qualify as a party. Ultimately, the ZHB makes the party status determination after reviewing the request.

I/We _____

Request to be granted party status in Application: (Check One)

- Applicant: 701 Fayette St.- CGEM, LLC - Zoning Variance/Special Exception - Z-2021-09
- Applicant: 3 Blind Pigs, LLC. - 101 E. 7th Ave. - Zoning Variance - Z-2021-11
- Applicant: 824 Fayette St. - Kimberly Gider - Special Exception - Z-2021-12

Please print name:

Please print address:

Please print email:

Please Sign Below:

Please return form via mail or e-mail to the below:
(Entry must be received no later than June 16th, 2021)

MAIL:

Borough of Conshohocken
Attn: Bobbi Jo Myrsiades
400 Fayette St. - Suite 200
Conshohocken, PA 19428

EMAIL: zoning@conshohockenpa.gov



BOROUGH OF CONSHOHOCKEN

Office of the Borough Manager

MAYOR
Yaniv Aronson

BOROUGH COUNCIL
Colleen Leonard, President
Tina Sokolowski, Vice-President
Robert Stokley, Senior Member
Anita Barton, Member
James Griffin, Member
Jane Flanagan, Member
Karen Tutino, Member

MEMORANDUM

Stephanie Cecco
Borough Manager

Date: June 14, 2021
To: Stephanie Cecco, Brittany Rogers
From: Eric P. Johnson, PE
Re: 701 Fayette Street – Zoning Determination

History of the Site:

701 Fayette Street is currently developed with an abandoned gas station and auto repair shop at the northeast corner of Fayette Street and E. 7th Avenue. The site is currently accessed by two full movement driveways from Fayette Street and one full movement driveway from E. 7th Avenue. A portion of an alley that serves the abutting residential properties encroaches on the northeast corner of the subject property. The property is located in the BC – Borough Commercial zoning district.

Current Request:

The applicant, CGEM, LLC., proposes to redevelop the property with a mixed-use development consisting of ground floor commercial/retail space and a total of ten (10) residential units split between the second and third floors. Each dwelling unit is proposed to have two (2) bedrooms. The applicant proposes to construct a 27-space parking lot to the rear of the building that is accessed from E. 7th Avenue.

In connection with a proposed mixed-use redevelopment, the applicant is seeking variances from §27-1303.C and D regarding front and side yard setbacks; a variance from §27-1303.F regarding maximum impervious coverage; a variance from §27-2002 regarding required off-street parking; and a special exception from §27-2006 and §27-2009 regarding the reduction of off-street parking for nonresidential uses.

Zoning Determination:

Per 27-1303.C, the front building setback shall be the public sidewalk or 15 feet from the curb line of the public street, whichever is greater; except when a building line has been established, then the front setback shall be the building line of the majority of the buildings on the block. The intent of the code is to establish a building line in close proximity to street frontage, creating an inviting shopping experience for pedestrians. Only one other building exists on the block and is toward the back of the lot, not meeting the intent of the code. The applicant is proposing to place the building at the back edge of the existing public sidewalk. The location of the building meets the intent of the code and does not require a variance.

Per §27-1303.D, for buildings situated on a corner, the side yard setback shall be the public sidewalk or 15 feet from the curb line of the public street, whichever is greater. In all other situations the minimum set back shall be 10 feet. The building is proposed to be located along the back of the E. 7th Avenue sidewalk and 15 feet behind the street curb line; and the northern building façade is proposed to be set back 10 feet from the property line. The location of the building meets the intent of the code and does not require a variance.

Per §27-1303.F, the maximum impervious coverage cannot be more than 85% of the lot area. The applicant has indicated that the proposed development could comply with the maximum permitted impervious coverage; however, the applicant intends to maintain the existing alley encroachment on the northeast corner of the property, increasing the impervious coverage to a noncompliant 88.9%. Therefore, a variance is required.

Per §27-2002, any building erected, altered, or used shall be provided with the required minimum number of off-street parking spaces, together with adequate driveways and street access. The proposed development includes 10 residential units, requiring 20 off-street parking spaces. Additionally, the development includes 5,155 square feet of commercial space on the ground floor. The applicant has indicated the commercial space is divided into 4 storefronts but has not provided details on the proposed mix of uses. The applicant has proposed the use of the shopping center requirement of 1 space per 200 square feet of gross leasable area, for a total requirement of 26 off-street spaces. The required parking rate of 1 space per 200 square feet of floor area falls within the required parking requirement for a mix of retail and office uses; however, if a more intensive use, such as a restaurant (1 space per 50 square feet) is proposed, the required amount of off-street parking would be higher. The applicant is proposing 27 off-street parking spaces as part of the proposed development, requiring a variance.

The applicant has provided a parking assessment in support of the request for a reduction of off-street parking, indicating that the 27 parking spaces would be shared between the residential units and commercial space. Off-street parking for residential uses is generally required to be reserved for the use of the residents. The applicant will need to provide additional detail regarding how the parking will be shared; particularly if one or more of the commercial uses will have evening hours of operation.

Per §27-2006, the required nonresidential off-street parking spaces on a site may be located elsewhere than on the same lot when authorized as a special exception by the Zoning Hearing Board, contingent on the conditions outlined in §27-2006.A-C being satisfied. Specifically, the applicant is required to provide an agreement and site plan with the owner of another property showing the joint use of the off-street parking spaces that will not be located on the subject property. The applicant is requesting to reduce the required amount of off-street parking spaces on the subject lot but has not provided the required documentation that the off-street parking will be located on another property. Note, that the increased number of on street parking along the property frontage cannot be counted toward the required off-street parking requirement.

Per §27-2009, in the case of mixed-use development, the amount of off-street parking required shall be determined by the sum of the requirements of the various uses computed separately in accordance with §27-2002, except where the applicant qualifies under §27-2006 or in the case of a shopping center. The applicant cited §27-2009 in connection with the requested special exception per §27-2006, however, the specific relief sought is not clear. The applicant will need to provide evidence regarding the applicability of the shopping center parking demand of 1 space per 200 square feet of leasable floor area compared to the sum total of all the proposed commercial uses.



MIXED USED CONSHOHOCKEN - OPTION 1 AT FAYETTE ROAD

SCALE: AS SHOWN

DATE: 02.27.2020

PROJECT # 19046

SK.7

**BEFORE THE ZONING HEARING BOARD
OF THE BOROUGH OF CONSHOHOCKEN**

**IN RE: 701 Fayette Street Zoning Application
Applicant Exhibit List**

Ex. 1 – Zoning Application

Ex. 2 - Deed

Ex. 3 – Architectural Renderings

Ex. 4 – Photos from April 5, 2021

Ex. 5 – Photos from April 7, 2021

Ex. 6 – Dynamic Traffic – Shared Parking Analysis

Ex. 6A – Curriculum Vitae of Justin Taylor, PE, PTOE, LEED AP

Ex. 7 – Site Plan

Ex. 8 – Site Plan with Satellite Image Overlay

Ex. 9 - Petitions



BOROUGH OF CONSHOHOCKEN
400 Fayette Street, Suite 200, Conshohocken, PA 19428
Phone (610) 828-1092 Fax (610) 828-0920

Zoning Application

Application: _____

Date Submitted: _____

Date Received: _____

1. Application is hereby made for:

Special Exception Variance

Appeal of the decision of the zoning officer

Conditional Use approval Interpretation of the Zoning Ordinance

Other _____

2. Section of the Zoning Ordinance from which relief is requested:

27-1303 - Permitted Use Dimensional Standards; 27-2002 - Off-Street Parking: Shopping Center/Residential Use.

3. Address of the property, which is the subject of the application:

701 Fayette Street

4. Applicant's Name: CGEM LLC, Mun Chung, Member

Address: 6142 Creekside Drive, Flourtown, PA 19031

Phone Number (daytime): 484-344-5429 (thru counsel)

E-mail Address: msd@daneklawfirm.com

5. Applicant is (check one): Legal Owner ; Equitable Owner ; Tenant

6. Property Owner: CGEM LLC

Address: 6142 Creekside Drive, Flourtown, PA 19031

Phone Number: 484-344-5429 (thru counsel)

E-mail Address: msd@daneklawfirm.com

7. Lot Dimensions: 120'x150' Zoning District: BC

8. Has there been previous zoning relief requested in connection with this Property?

Yes No If yes, please describe.

Unaware of any relief for the prior gas station.

9. Please describe the present use of the property including any existing improvements and the dimensions of any structures on the property.

Current use is an abandoned gas station.

10. Please describe the proposed use of the property.

Applicant proposes to construct a three story shopping center containing first floor commercial - retail space together with five (5) two (2) bedrooms on the second and third floors. The applicant proposes 27 on-site parking stalls together with five (5) new on-street stalls.

11. Please describe proposal and improvements to the property in detail.

See architect's renderings submitted herewith.

12. Please describe the reasons the Applicant believes that the requested relief should be granted.

Applicant proposes a substantial shopping center development at 701 Fayette Street. The lot has been a blight on Fayette Street for several years since the gas station use was abandoned. The proposal provides a necessary missing link along Fayette Street to continue the commercial corridor from the lower streets through to the upper streets.

Likewise, the proposed residential use provides much needed housing for residents that may not necessarily be ready to purchase.

13. If a Variance is being requested, please describe the following:

a. The unique characteristics of the property: The existing alleyway and unopened paper street at the laundrymat cut into the useable space at the site, thereby reducing the overall utilization of

b. How the Zoning Ordinance unreasonably restricts development of the property:

The Ordinance requires 46 stalls. 26 stalls for the shopping center use together with 20 stalls for the residential uses. Under current engineering guidelines, 27 stalls would only be required. See Dynamic Traffic Shared Parking Analysis submitted herewith. Thus, the Ordinance as written does not reflect current professional thinking on the parking demand in the main commercial corridor of a municipality. Likewise, the existing Ordinance places an unreasonable barrier to development that stands in contrast to the goals of the Borough's Comprehensive Plan to foster mixed-use development uses and varying housing types for

c. How the proposal is consistent with the character of the surrounding neighborhood. _____

The three story shopping center is consistent with the commercial neighborhood.

d. Why the requested relief is the minimum required to reasonably use the property; and why the proposal could not be less than what is proposed.

The proposal is the minimum relief needed since the Applicant's proposal meets the minimum number of parking stalls under a Shared Parking Analysis prepared by Dynamic Traffic. The Proposal could not be less since the three story structure maintains the building lines along Fayette Street. Likewise, even if the Applicant would reduce the footprint or stories, the Project would not have the same street presence or provide the missing link along the Fayette Street commercial corridor between the lower and upper streets.

14. The following section should be completed if the applicant is contesting the determination of the zoning officer.

a. Please indicate the section of the zoning ordinance that is the subject of the zoning officer's decision (attach any written correspondence relating to the determination).

b. Please explain in detail the reasons why you disagree with the zoning officer's determination.

15. If the Applicant is requesting any other type of relief, please complete the following section.

a. Type of relief that is being requested by the applicant.

b. Please indicate the section of the Zoning Ordinance related to the relief being requested.

c. Please describe in detail the reasons why the requested relief should be granted.

16. If the applicant is being represented by an attorney, please provide the following information.

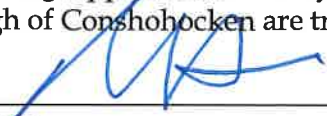
a. Attorney's Name: Mark S. Danek, Esq.

b. Address: 1255 Drummers Lane, Suite 105, Wayne, PA 19087

c. Phone Number: 484-344-5429

d. E-mail Address: msd@daneklawfirm.com

I/we hereby certify that to the best of my knowledge, all of the above statements contained in this Zoning Application and any papers or plans submitted with this application to the Borough of Conshohocken are true and correct.


Applicant

Mark S. Danek, Esq. on behalf of CGEM LLC

Legal Owner

April 16, 2021

Date

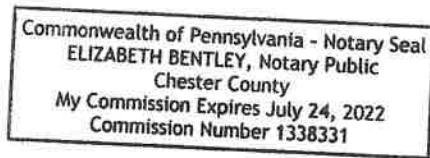
COMMONWEALTH OF PENNSYLVANIA

COUNTY OF MONTGOMERY

As subscribed and sworn to before me this 16th day of April, 2021.


Notary Public

(Seal)





BOROUGH OF CONSHOHOCKEN
400 Fayette Street, Suite 200, Conshohocken, PA 19428
Phone (610) 828-1092 Fax (610) 828-0920

Decision

(For Borough Use Only)

Application Granted

Application Denied

MOTION:

CONDITIONS:

BY ORDER OF THE ZONING HEARING BOARD

	Yes	No
_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>

DATE OF ORDER: _____

**BEFORE THE ZONING HEARING BOARD
OF THE BOROUGH OF CONSHOHOCKEN**

**IN RE: 701 Fayette Street Zoning Application – ADDENDUM
(As Amended April 26, 2021)**

This Addendum provides supplemental information not able to be typed into the application form.

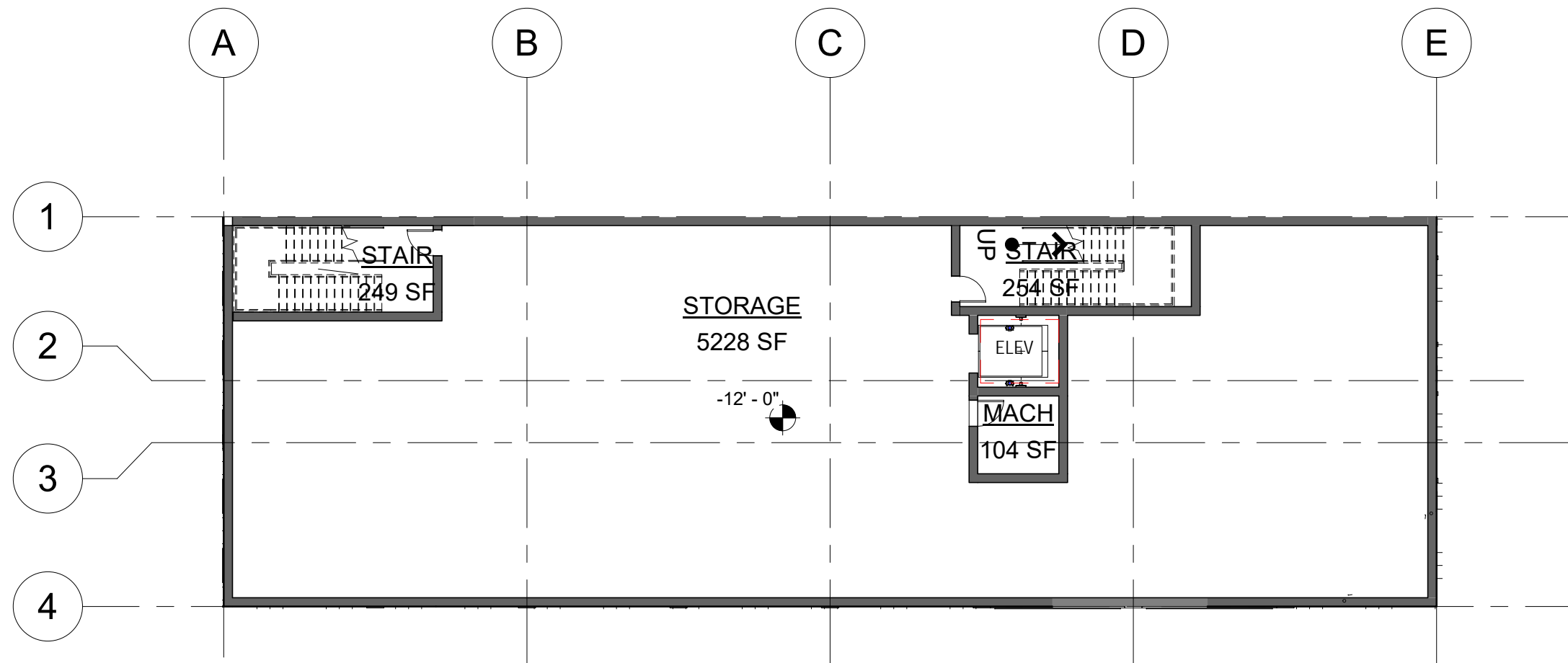
CGEM LLC (“CGEM”) proposes to construct a three story shopping center containing first floor commercial - retail space together with five (5) two (2) bedrooms on the second and third floors. Applicant proposes to provide twenty-seven (27) off-street parking stalls with an additional five (5) on-street parking stalls (due to the removal of existing curb cuts for the abandoned gas station use).

As part of the Application, CGEM seeks several dimensional variances from the Borough’s Zoning Ordinance (the “Code”).

1. §27-1303(C) – BC District Dimensional Standards. Applicant seeks a dimensional variance from the requirements of this section. The Code requires that the Building Front setback be the public sidewalk or fifteen feet (15’) from the curblines of the public street. Applicant proposes to locate the Building at the existing public sidewalk (believed to be twenty feet (20’) wide). Applicant believes that it meets the Code requirements, but is asking for an interpretation in an abundance of caution.
2. §27-1303(D) – BC District Dimensional Standards. Applicant seeks a dimensional variance from the requirements of this section. The Code requires that the Side Yard Setback for a corner lot be the public sidewalk or fifteen feet (15’) from the curblines of the public street. Applicant proposes to locate the Building at the existing sidewalk (believed to be fifteen feet (15’) wide). Applicant believes that it meets the Code requirements, but is asking for an interpretation in an abundance of caution.
3. §27-1303(F) – BC District Dimensional Standards. Applicant seeks a dimensional variance from the requirements of this section. The Code requires a maximum impervious coverage 85% of the lot area. Applicant proposes a maximum of 88.9% impervious coverage (if an existing paving area in the rear upper left of the Subject Property remains as an accommodation to the neighbors that currently use a paved area that encroaches onto the Subject Property). Applicant believes that it meets the Code requirements, but is asking for an interpretation in an abundance of caution.
4. §27-2002 – Off-Street Parking. Applicant seeks a dimensional variance from the requirements of this section. The Code requires a maximum of forty-six (46) stalls for the shopping center (26) /residential uses (20). Applicant

proposes to provide twenty-seven (27) off-street stalls, together with five (5) new on-street parking stalls due to the removal of existing curb cuts. Applicant submits concurrently herewith the Shared Parking Analysis of Dynamic Traffic which comes to the conclusion that the expected parking demand of the proposed shopping center/residential use is twenty-seven (27) stalls. By following current shared parking guidelines, Applicant easily meets the “real world” expected parking demand for the development.

As part of the Application, CGEM also seeks, in the alternative (or in addition), a Special Exception pursuant to §27-2006 and §27-2009, which allow the Zoning Hearing Board to reduce the overall number of off-street parking stalls needed. Thus, the Applicant requests a Special Exception (at the lower evidentiary threshold) to reduce the number of off-street parking stalls for the non-residential use down to 21 total stalls from the required 26 stalls for the shopping center use. And, Applicant requests a variance to further reduce the overall parking to meet the number of stalls as provided on-site. Applicant asserts that the foregoing is consistent with the Shared Parking Analysis submitted with the initial Application.



1 BASEMENT
1/16" = 1'-0"

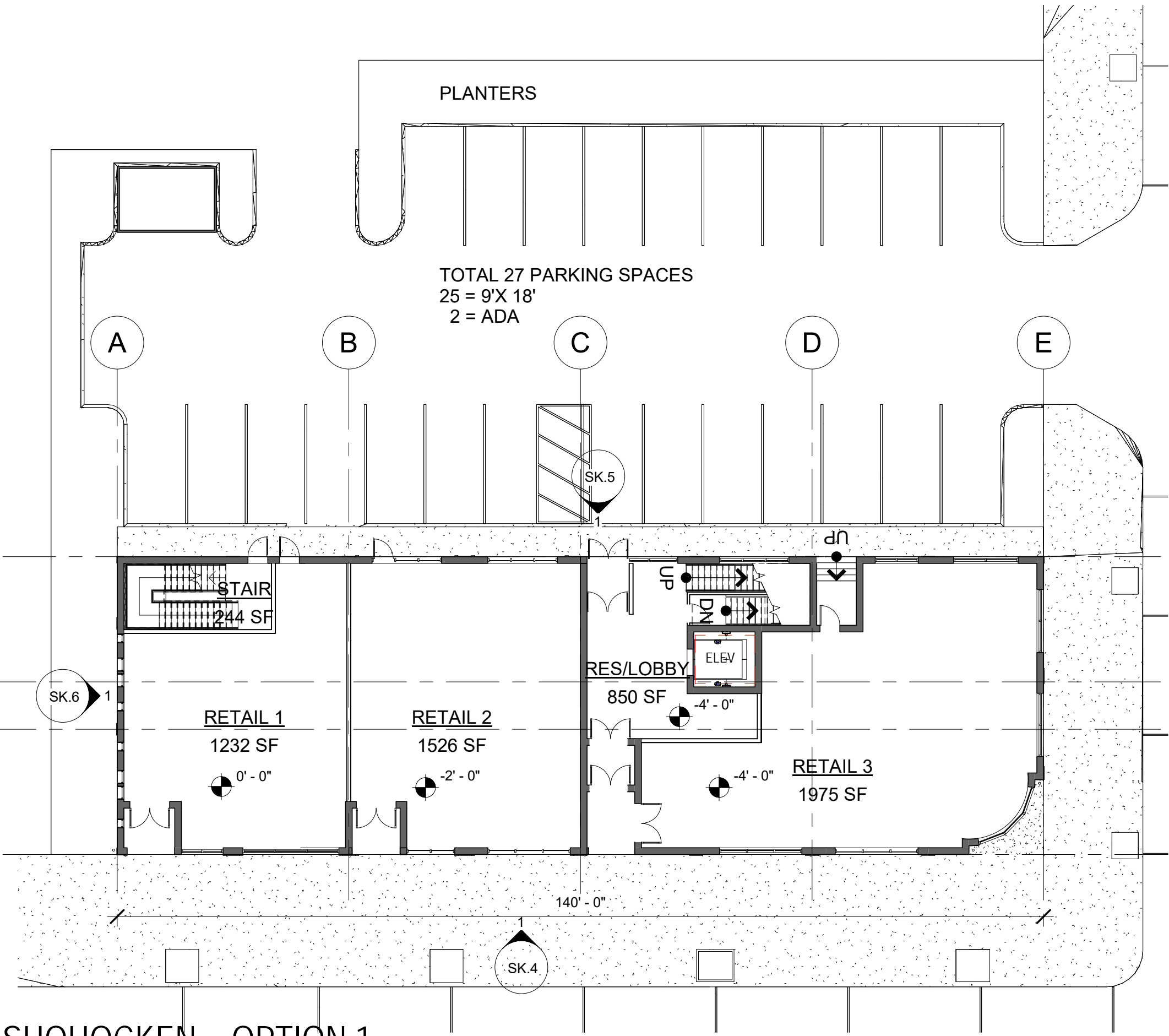


MIXED USED CONSHOHOCKEN - OPTION 1

SCALE: AS SHOWN

DATE: 02.27.2020

PROJECT # 19046



PLANTERS

TOTAL 27 PARKING SPACES
 25 = 9'X 18'
 2 = ADA

A B C D E

1
 2
 3
 4

45' - 0"

SK.6

RETAIL 1
 1232 SF
 0' - 0"

RETAIL 2
 1526 SF
 -2' - 0"

RES/LOBBY
 850 SF
 -4' - 0"

RETAIL 3
 1975 SF
 -4' - 0"

140' - 0"

SK.4

1 GROUND FLOOR
 1/16" = 1'-0"



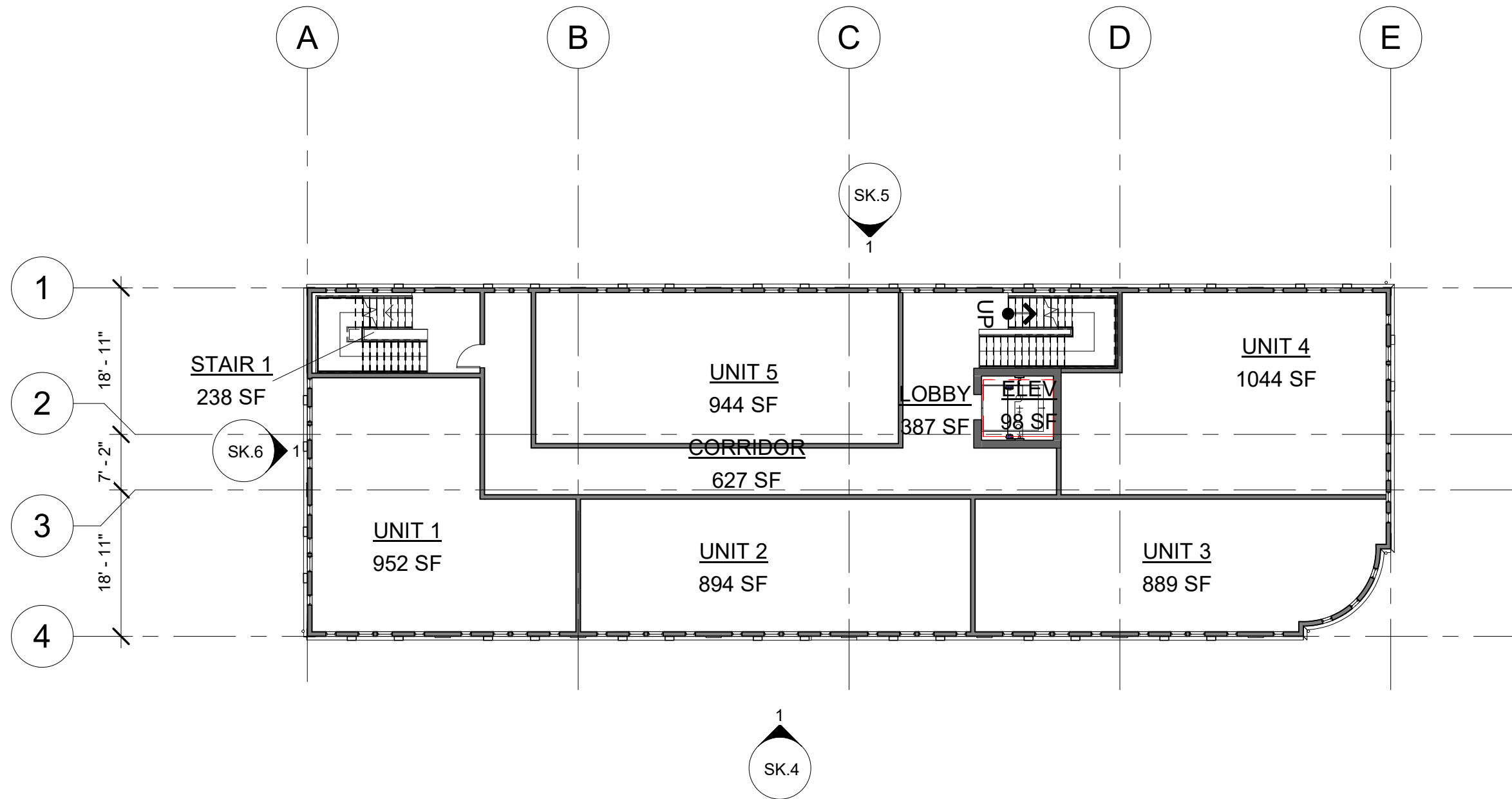
MIXED USED CONSHOHOCKEN - OPTION 1

SCALE: AS SHOWN

DATE: 02.27.2020

PROJECT # 19046

SK.2



1 SECOND AND THIRD FLOOR
1/16" = 1'-0"



MIXED USED CONSHOHOCKEN - OPTION 1

SCALE: AS SHOWN

DATE: 02.27.2020

PROJECT # 19046



1 FRONT ELEVATION
3/32" = 1'-0"



MIXED USED CONSHOHOCKEN - OPTION 1

SCALE: AS SHOWN

DATE: 02.27.2020

PROJECT # 19046



1 REAR ELEVATION
3/32" = 1'-0"

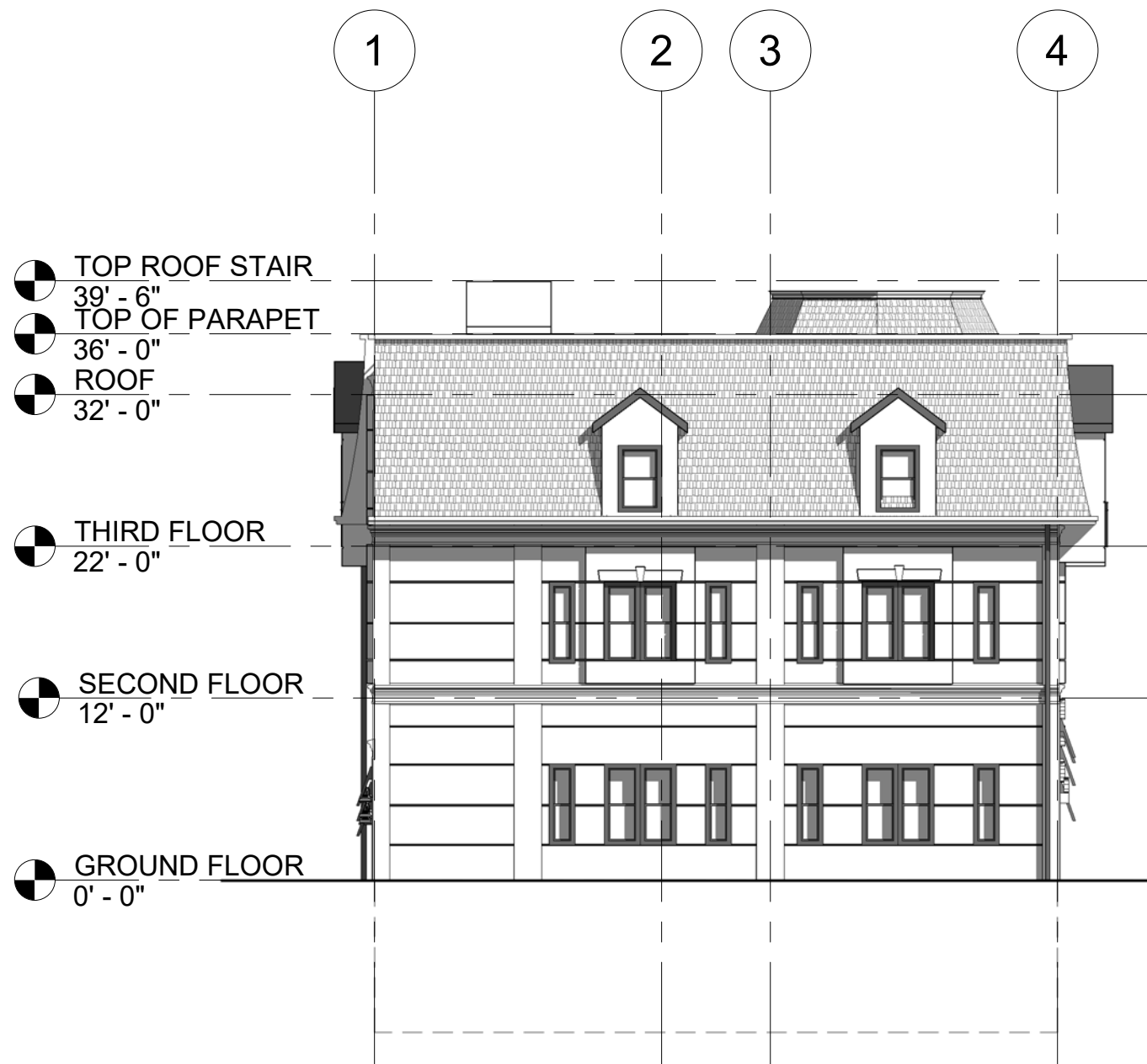


MIXED USED CONSHOHOCKEN - OPTION 1

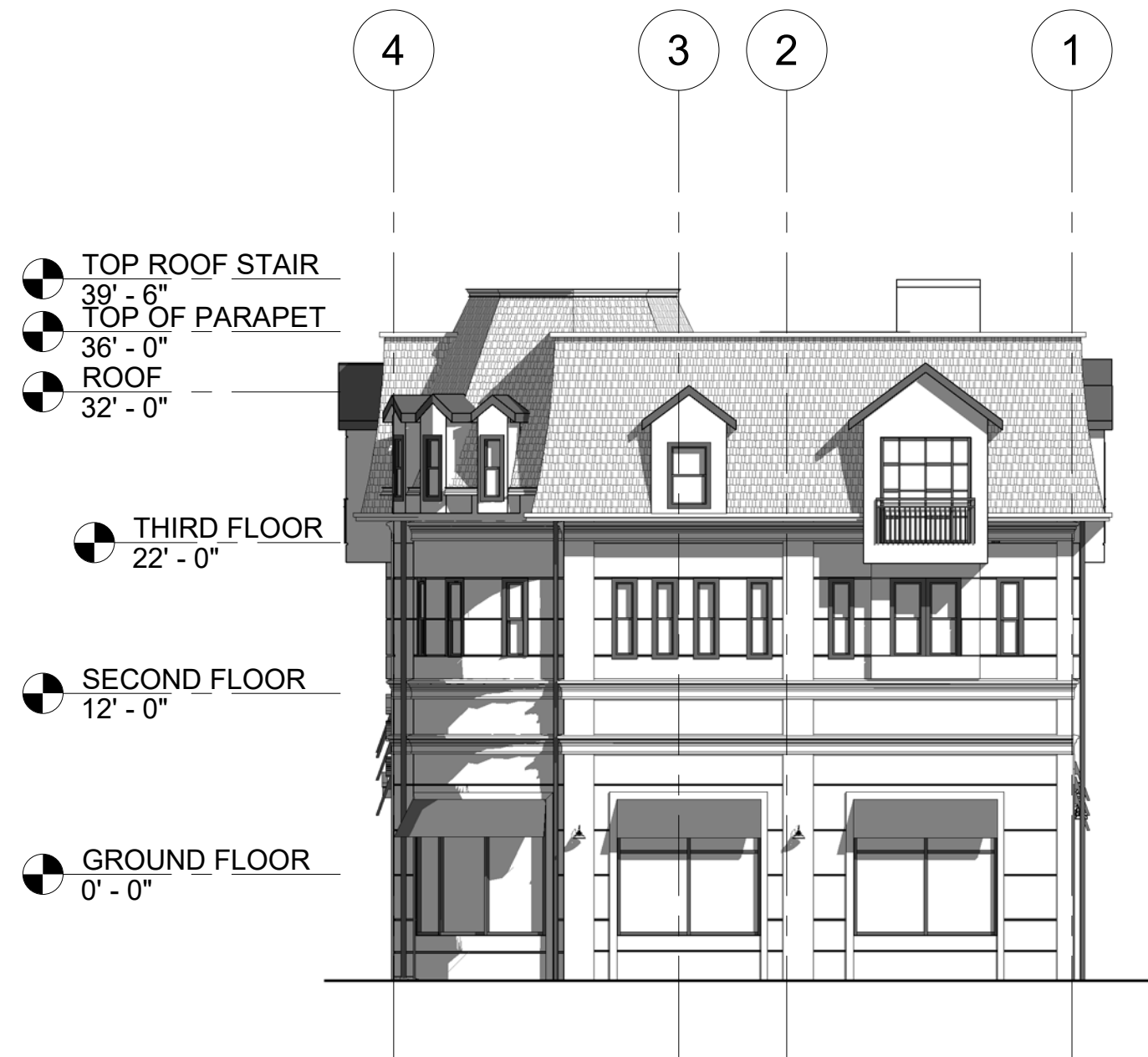
SCALE: AS SHOWN

DATE: 02.27.2020

PROJECT # 19046



1 LEFT ELEVATION
3/32" = 1'-0"



2 RIGHT ELEVATION
3/32" = 1'-0"



MIXED USED CONSHOHOCKEN - OPTION 1 AT FAYETTE ROAD

SCALE: AS SHOWN

DATE: 02.27.2020

PROJECT # 19046

SK.7



MIXED USED CONSHOHOCKEN - OPTION 1 VIEW AT EAST 7TH AVENUE

SCALE: AS SHOWN

DATE: 02.27.2020

PROJECT # 19046

SK.8



MIXED USED CONSHOHOCKEN - OPTION 1 VIEWS AT NIGHT

SCALE: AS SHOWN

DATE: 02.27.2020

PROJECT # 19046

APRIL 5 8:00 AM











APRIL 5 NOON









APRIL 5 4:00 PM











APRIL 5 7:30 PM











APRIL 7 8:30 AM



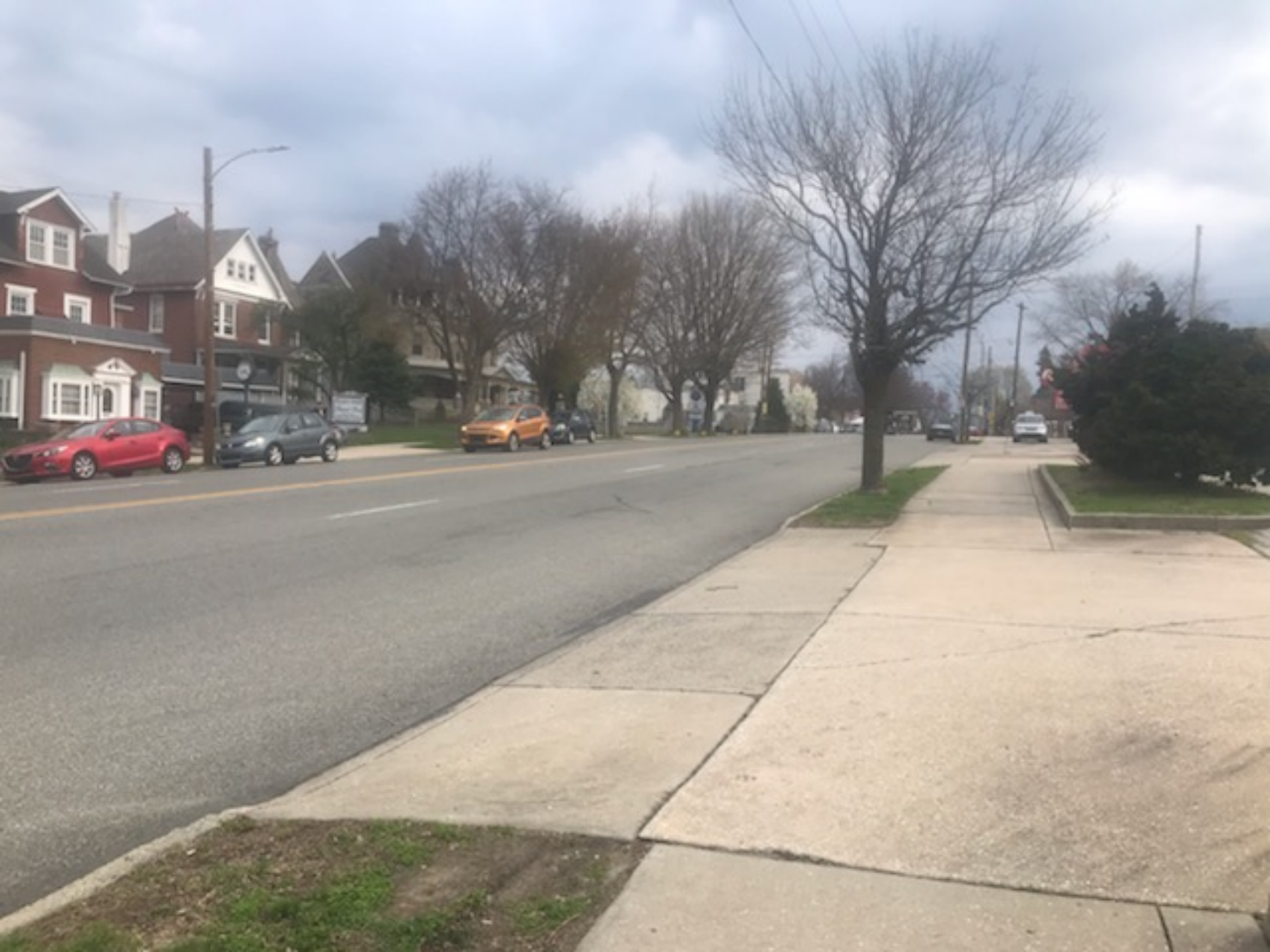


CVS
pharmacy

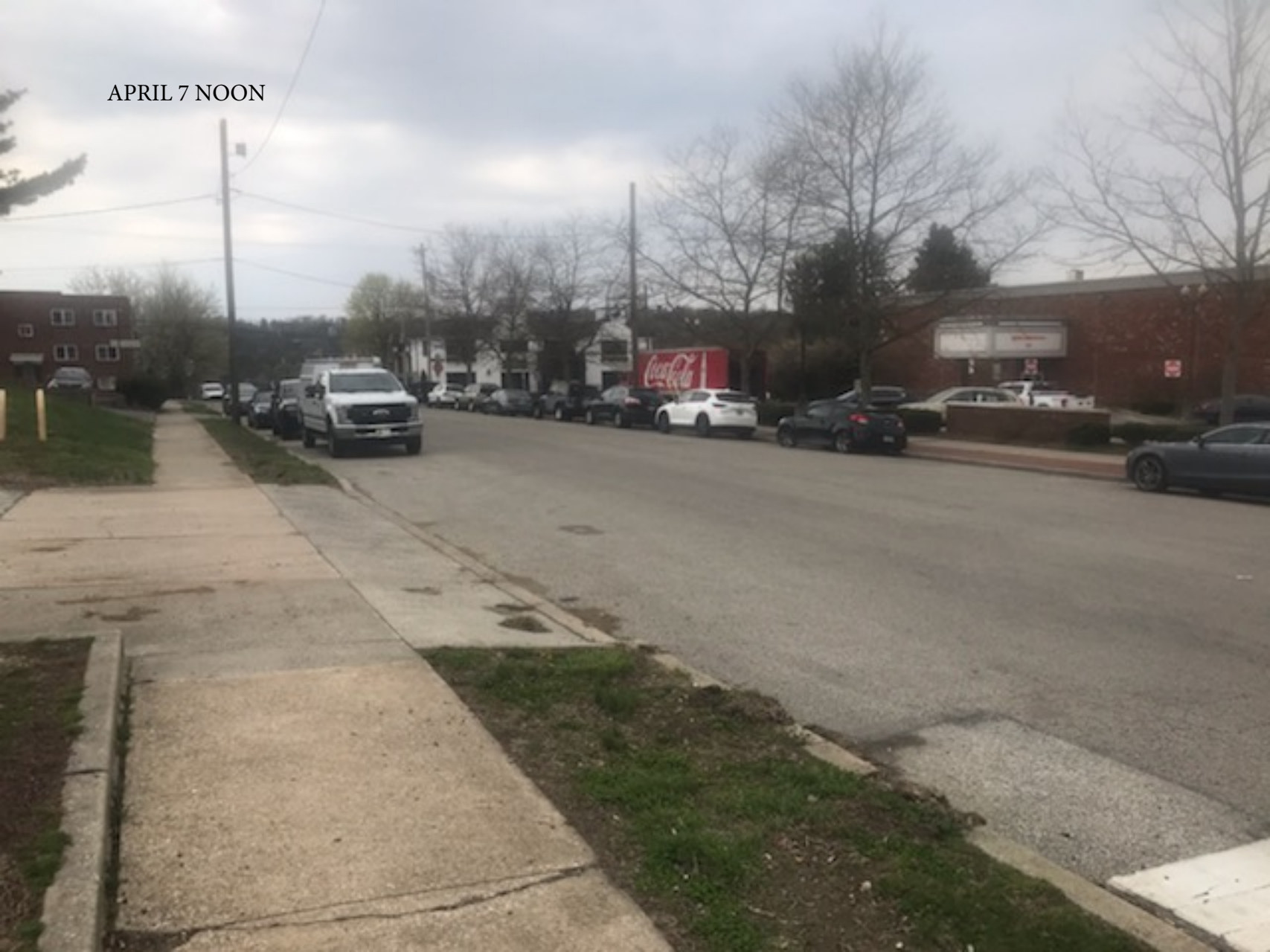
CVS
pharmacy

CVS





APRIL 7 NOON











APRIL 7 4:30 PM













Dynamic Traffic, LLC
826 Newtown Yardley Road,
Suite 201 Newtown, PA 18940
T. 732.681.0760

April 9, 2021
Via Fed-Ex

The Danek Law Firm, LLC
1255 Drummers Lane – Suite 105
Wayne, PA 19087

Attn: Mark Danek

**RE: Parking Assessment
Proposed Mixed-Use Development
701 Fayette Street
Conshohocken, Montgomery County, PA
DT#: 3803-99-001TE**

Dear Mr. Danek:

Dynamic Traffic has prepared the following parking assessment to determine if the proposed parking supply is sufficient to support the parking demand generated by the proposed redevelopment of the northeast quadrant of the intersection of Fayette Street (SR 3016) and East 7th Avenue in Conshohocken, Montgomery County, Pennsylvania. The site was previously developed with a gasoline service station, inclusive of fueling positions and service bays. It is proposed to raze the existing site and construct a three-story mixed use building fronting along Fayette Street with associated parking to the rear of the site. The proposed building will provide 5,155 SF of commercial space on the ground floor, along with five (5) two-bedroom apartments on each of the second and third floors (The Project). The Project will be supported by 27 parking spaces on the site as well 5 new on-street parking spaces where the previous gas station driveways were located. This assessment presents an evaluation of the proposed parking conditions to determine an appropriate parking supply. It should be noted that on-street parking is permitted along both sides of Fayette Street and both sides of East 7th Avenue in the vicinity of the site.

Local Ordinance Parking Requirements

The Conshohocken parking schedule was obtained from the Local Ordinance, Section § 27-2002. For shopping center land uses, the Ordinance requires 1 parking space per 200 SF of Gross Floor Area (GFA). The Ordinance also requires 2 spaces per dwelling unit for the two-bedroom units proposed. For The Project this equates to a parking requirement of 46 spaces, with 26 spaces required for the retail space and 20 spaces required for the apartments.

www.dynamictraffic.com

Lake Como, NJ • Chester, NJ • Toms River, NJ • Newark, NJ • Newtown, PA • Philadelphia, PA
Bethlehem, PA • Allen, TX • Houston, TX • Austin, TX • Delray Beach, FL

ITE Parking Demand

National parking demand data has been collected by the Institute of Transportation Engineers (ITE) within their publication *Parking Generation, 5th Edition*. This publication establishes peak parking demands for multiple land uses based upon different independent variables, such as GFA and residential units. For Land Use Code (LUC) 820 – Shopping Center ITE sets forth an average maximum demand of 2.91 vehicles per 1,000 SF of GFA. This equates to a demand of 15 parking spaces. For LUC 220 – Multifamily Housing (Low-Rise) ITE sets forth a demand of 1.21 vehicles per unit. This equates to a demand of 12 parking spaces. Consequently, the ITE parking demand data calculates a maximum demand of 27 spaces for the site and the proposed 27 on-site spaces and 5 additional on street parking spaces will be sufficient to support The Project.

Shared Parking Demand

It should also be noted that the proposed uses on the site will have different peak times of demand throughout the day. The commercial space will have its highest demand during daytime business hours, while the apartments typically peak overnight and on the weekend. This allows the proposed parking for the site to be shared by both uses. National parking demand data has been collected by the Urban Land Institute (ULI), a non-profit education and research institute whose mission is to provide responsible leadership in the use of land in order to enhance the total environment. This data is compiled within their publication *Shared Parking, 3rd Edition*, which documents temporal distributions of parking demands throughout the day, week, and year for individual land uses. Based on the temporal distributions for the residential and retail uses, as well as the anticipated parking demand for the site, the shared parking demand data calculates a demand of 20 spaces for the site on a weekday and 24 spaces on the weekend. Consequently, the proposed 27 on-site spaces and 5 additional on street parking spaces will be sufficient to support The Project.

Conclusion

The Applicant proposes to construct a three-story mixed use building fronting along Fayette Street with associated parking to the rear of the site. The proposed building will provide 5,155 SF of commercial space on the ground floor, along with five (5) two-bedroom apartments on each of the second and third floors. The project will be supported by 27 parking spaces on the site and another 5 new on-street parking spaces created by the elimination of the existing gas station driveways. Dynamic Traffic has performed parking analyses based upon nationally published parking data that has determined that the proposed parking supply is sufficient to support the parking demands. The results of the parking analyses are detailed in the table below.

Parking Criteria	Parking Demand/Requirement
Local Ordinance	46
ITE Parking Demand	27
Shared Parking Demand	24
Proposed Parking Supply	27 (plus 5 new on-street)

Based upon our Parking Assessment as detailed in the body of this report, it is the professional opinion of Dynamic Traffic that the proposed parking supply will be sufficient to support the anticipated demand with no detrimental impact to the proposed lot or adjacent properties. The different peaking characteristics of the residential and retail uses allow for the proposed parking to be shared between both uses. Should you have any questions on the above, please do not hesitate to contact me.

Sincerely,

Dynamic Traffic, LLC


Justin Taylor, PE, PTOE, LEED AP
Principal

JPT
Enclosures
c:



Kevin Savage

Kevin Savage, PE
Project Manager



Justin Taylor is a Principal of Dynamic Traffic. He holds licenses in Professional Engineering in New Jersey, Pennsylvania, and Texas. Justin has gained over 20 years of experience in private and public traffic engineering, inclusive of highway design projects, transportation planning, traffic signals, intersection design, traffic calming design, and maintenance and protection

of traffic plan design. Included within his private sector experience is preparation of traffic impact/parking studies for numerous private, retail, office, residential, institutional, and industrial/warehouse developments. His public experience involves traffic master plans and circulation plans for townships and planning/zoning board reviews for a number of municipalities. He has conducted transportation planning and traffic engineering studies for the New Jersey Meadowlands Commission, Port Authority of New York and New Jersey.

Mr. Taylor brings a professional and organized approach to all projects he is involved with. His comprehensive knowledge and experience with local and state access permitting has made him a valuable leader and contributor to any project team.

During his career, Mr. Taylor has provided consulting services for numerous corporate and developer projects including Costco Wholesale, Exxon, Investors Bank, CVS, Wawa, 7- Eleven, Rite Aid, Walgreens, Dollar General, Chick-fil-A, Valley National Bank, Dunkin Donuts, Group 1 Automotive, Tractor Supply Co., ALDI, and CARMAX.

Licenses:

- New Jersey Professional Engineer License
- Pennsylvania Professional Engineer License
- Texas Professional Engineer License
- Delaware Professional Engineer License
- Professional Traffic Operations Engineer

Education:

- University of Delaware, Bachelor of Science in Mechanical Engineering, 2000

Agency Experience:

- New Jersey Department of Transportation
- Pennsylvania Department of Transportation
- Texas Department of Transportation
- New Jersey Meadowlands Commission (NJSEA)
- Port Authority of New York and New Jersey
- Gloucester County Division of Engineering
- Monmouth County Division of Engineering
- Ocean County Division of Engineering
- Bergen County Division of Engineering
- Morris County Division of Engineering
- Sussex County Division of Engineering

Expert Testimony:

Mr. Taylor has testified before over 100 boards throughout the State of New Jersey as well as several boards within Pennsylvania. He regularly provides traffic and parking testimony at Land Use Boards in support of his client's projects.

Employment History:

- 2012 – Present Dynamic Traffic
Principal
- 2012 – 2012 Maser Consulting, PA
Traffic Planning Department Manager
- 2010 – 2012 KZA Engineering, PA
Traffic Project Manager
- 2000 – 2010 CMX/Schoor DePalma
Traffic Project Manager

Professional Affiliations:

- Institute of Transportation Engineers

EAST 8TH AVENUE

EAST 7TH AVENUE

HARRY STREET

CVS PHARMACY
(45 SPACES)

LAUNDROMAT
(20 SPACES)

SITE
(27 SPACES)

FAYETTE STREET

SANTANDER
BANK BUILDING
(48 SPACES)

WEST 7TH AVENUE

FORREST STREET

ZONING REQUIREMENTS

	REQUIRED	EXISTING	PROVIDED
MINIMUM LOT AREA	2,000 SF	18,000 SF	18,000 SF
MINIMUM LOT WIDTH	25 FT.	150 FT.	150 FT.
MINIMUM FRONT YARD (FAYETTE ST)	15 FT OR BACK WALK	25.34 FT.	9 FT.
MINIMUM SIDE YARD	10 FT.	23.9 FT.	10 FT.
MINIMUM SIDE YARD (E 7TH AVE)	15 FT OR BACK WALK	65.56 FT.	9 FT.
MINIMUM REAR YARD	20 FT.	21.0 FT.	75 FT.
MAXIMUM BUILDING HT	40 FT.	< 40 FT.	< 40 FT.
MAXIMUM BLDG COVER	~ %	11.0 %	35.0 %
MAXIMUM IMPERV COVER	85 %	75.0 %	89.9 % W/ ALLEY

PARKING SETBACKS (FROM REAR PROP LINES)	10 FT.	0 FT. +	10 FT.
PARKING SETBACKS (FROM SIDE PROP LINES)	5 FT.	0 FT. +	5 FT.
PARKING SETBACKS (FROM BUILDING)	5 FT.	0 FT. +	5 FT.
PARKING REQUIREMENTS	SEE PARKING COUNT BELOW		

* MAY REQUIRE VARIANCE IF ALLEY PAVING IS INCLUDED

* EXISTING NON-COMFORMITY

PARKING COUNT:

PROPOSED OFF-STREET PARKING -
TOTAL OFF-STREET PARKING ON PROPERTY 27 SPACES
(PLUS 5 NEW ON-STREET)

PARKING REQUIRED -

CONSHOHOCKEN BOROUGH ORDINANCE (REQUIRES VARIANCE OF SEC. 27-2002)
TOTAL REQUIRED FOR 10 UNITS ON 2ND & 3RD FLOORS 10 X 2 SPACES/UNIT = 20 SPACES
TOTAL REQUIRED FOR RETAIL SPACE ON GROUND FLOOR 1 SPACE/200 SF (GFA) = 26 SPACES

ITE PARKING DEMAND

SHOPPING CENTER ITE 15 SPACES

MULTIFAMILY (LOW RISE) ITE 12 SPACES

27 SPACES

SHARED PARKING DEMAND

WEEKDAY DEMAND 20 SPACES

WEEKEND DEMAND 24 SPACES

THEREFORE 27 SPACES(5) IS SUFFICIENT FOR THE PROJECT

REFERENCE TRAFFIC REPORT:

PREPARED BY DYNAMIC TRAFFIC, NEWTOWN, PA

PARKING ASSESSMENT

PROPOSED MIXED-USE DEVELOPMENT

701 FAYETTE STREET

CONSHOHOCKEN BOROUGH, MONTCO CO, PA

DT#: 3803-99-001TE

EAST 8TH AVENUE

EAST 7TH AVENUE

HARRY STREET

FAYETTE STREET

WEST 7TH AVENUE

FORREST STREET

LAUNDROMAT
(20 SPACES)

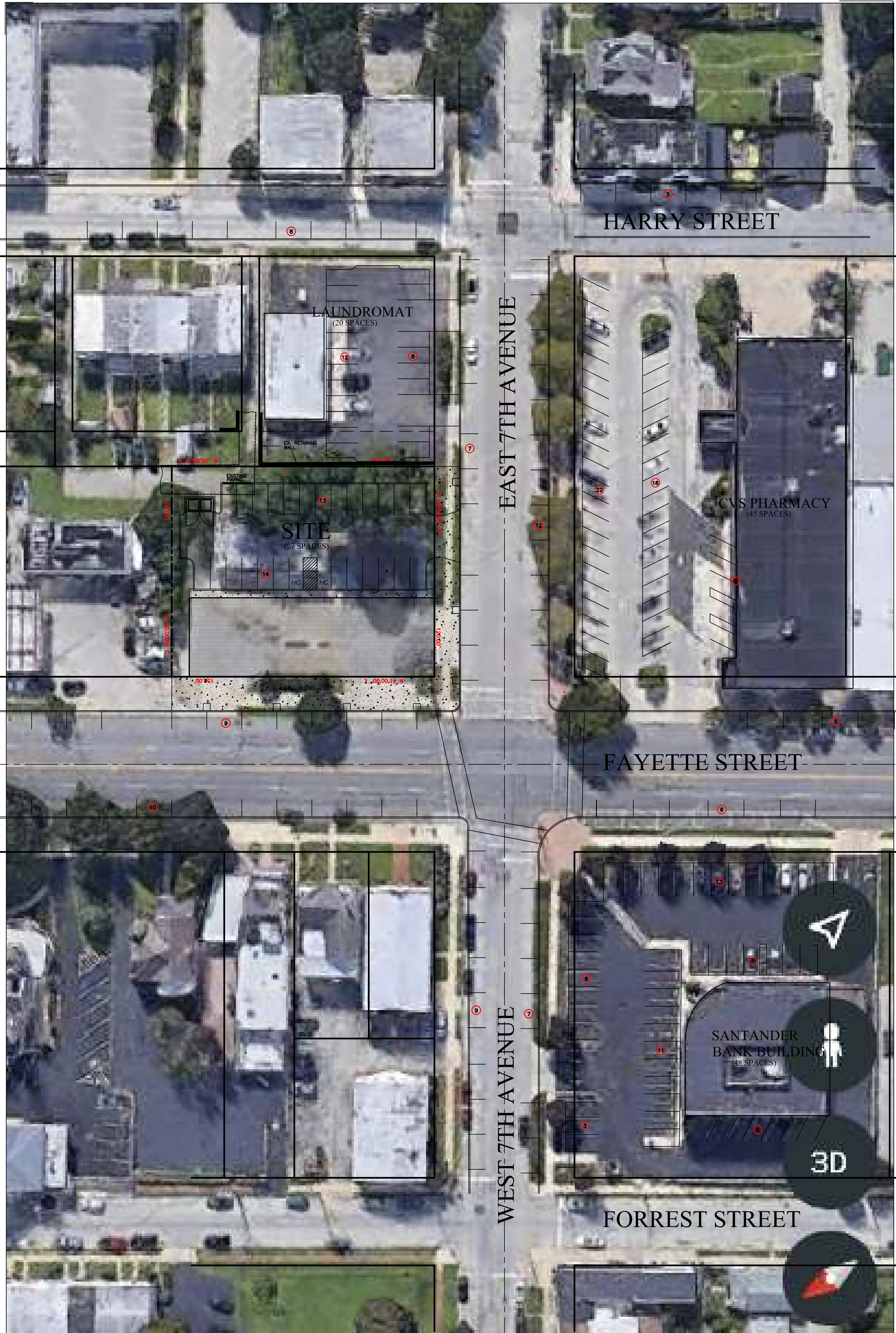
POSITIVE
PARKING
SITE
(27 SPACES)

CVS PHARMACY
(45 SPACES)

SANTANDER
BANK BUILDING
(48 SPACES)

PARKING COUNT:

PROPOSED OFF-STREET PARKING -	
TOTAL OFF-STREET PARKING ON PROPERTY	27 SPACES
EXISTING ON-STREET PARKING WITHIN 200' OF PROPERTY -	
TOTAL ON-STREET PARKING ALONG FAYETTE STREET	30 SPACES
TOTAL ON-STREET PARKING ALONG EAST & WEST 7TH AVENUE	35 SPACES
TOTAL ON-STREET PARKING ALONG HARRY STREET	13 SPACES
TOTAL ON-STREET PARKING	78 SPACES
EXISTING OFF-STREET PARKING TO POSSIBLY LEASE -	
TOTAL OFF-STREET PARKING ON LAUNDROMAT PROPERTY	20 SPACES
TOTAL OFF-STREET PARKING ON CVS PROPERTY	45 SPACES
TOTAL OFF-STREET PARKING ON SANTANDER PROPERTY	48 SPACES
PARKING REQUIRED -	
TOTAL REQUIRED FOR 10 UNITS ON 2ND & 3RD FLOORS	10 X 2 SPACES/UNIT = 20 SPACES
TOTAL REQUIRED FOR 4 RETAIL SPACES ON GROUND FLOOR	TO BE DETERMINED BASED ON USE



We, the Citizens and Business Owners of Conshohocken, petition the Borough to allow for the redevelopment of an outdated gas station. The lot has been a sore sight for several years since the gas station was abandoned.

Specifically, Applicant, is seeking approval for a development at 7th & Fayette Street for retail use on the first floor, along with rental units on the 2nd & 3rd floor for residents, while simultaneously increasing the walkable nature to the lower-end Business District.

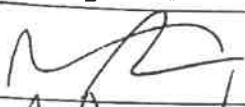
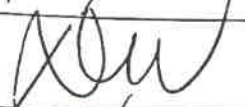
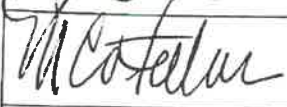
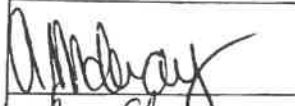
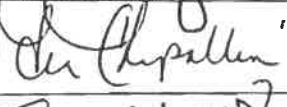
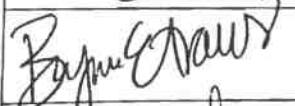
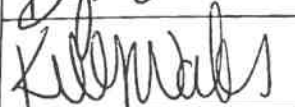
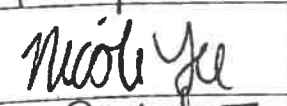
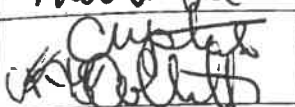
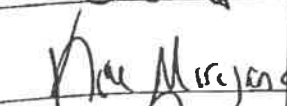

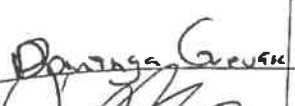
We request that this crucial improvement to our Borough be approved to bring an essential missing link on 7th & Fayette.

Signature	Full Name	Email Address	Telephone
	Kim Gider	Kimxgider@yahoo.com	267 210 0775
	Crystal Colletti	ccolletti20@gmail.com	484 804 3366
	Samantha Mascio	SLinberg524@gmail.com	610 487-4520
	Jessica Sheridan	jessicasheridan3@yahoo.com	484 571-2428
	Maudie Oler	maudie2nd@gmail.com	484 486 452
	Cassandra Demasius	cdemastus123@gmail.com	484 271 9002
	Rebecca Kroll	becky210@gmail.com	610 828-5525
	Nancy Luna	n/luna0013@yahoo.com	215-872-0408
	Kalen Flynn	Kalen.Flynn@gmail.com	215-421-1464
	Victoria Taurmina	tori.taurmina333@gmail.com	610 761 2522
	Nicole Stanley	rx52231@gmail.com	484 576-6864
	Wm M Tsoulanos	wmtbc@ccmcast.net	610-518-9020
	Christopher J. Ciavarella	chris@ciavarelli-funeralhomes.com	610 828-1336

We, the Citizens and Business Owners of Conshohocken, petition the Borough to allow for the redevelopment of an outdated gas station. The lot has been a sore sight for several years since the gas station was abandoned.

Specifically, Applicant, is seeking approval for a development at 7th & Fayette Street for retail use on the first floor, along with rental units on the 2nd & 3rd floor for residents, while simultaneously increasing the walkable nature to the lower-end Business District.

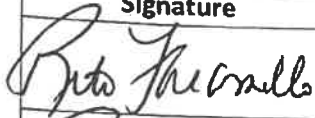

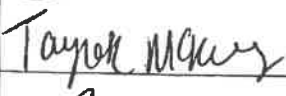







We request that this crucial improvement to our Borough be approved to bring an essential missing link on 7th & Fayette.

Signature	Full Name	Email Address	Telephone
	Marissa Barbish	rissy17@gmail.com	484.213.3517
	Danielle Wineburg	daniellewineburg@yahoo.com	610.802.1449
	M. Costello	None	
	A. McEvoy		
	Lia Chipollini		
	Brynne Travis	brynne.travis@gmail.com	610.955.6935
	Kelly Walser	kwalser@gmail.com	610.956-6139
	Nicole Lee	Nickymajersa@gmail.com	215.740.082
	Crystal Colletti	ccolletti20@gmail.com	484.804.3366
	Kim King	Kingjider.com	610.825.8261
	Kiki Costalos		
	Jessica Sheridan		484.571.2428

We, the Citizens and Business Owners of Conshohocken, petition the Borough to allow for the redevelopment of an outdated gas station. The lot has been a sore sight for several years since the gas station was abandoned.

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We request that this crucial improvement to our Borough be approved to bring an essential missing link on 7th & Fayette.

Signature	Full Name	Email Address	Telephone
	RITA FARAMELLI	rdafasting75@ cwb.org	(570) 332 8496
	Sam Carbone	ericcarbone@gmail.com	
	Taylor McKeay	Taylor.mckeay@gmail.com	
	Andy Gidder	Andy.Gidder@talor.com	610 864.7710
	Kristi McBean	Kristimcbean@gmail.com	484 200 3500
	GWARRA	gwarraw@comcast.net	484 804 0688
	MIKE OWENS		
	MIKE BOTTOS	mikebottos@verizon.net MASTERPIECE GALLERY	484 3445250
	Mary Bownley	mgow75@gmail.com	510-815 -7536
	Jen Walsh	jenwalsh@regis.com	484 201 8114

We, the Citizens and Business Owners of Conshohocken, petition the Borough to allow for the redevelopment of an outdated gas station. The lot has been a sore sight for several years since the gas station was abandoned.

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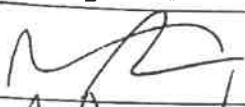
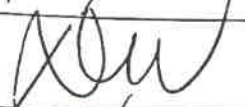
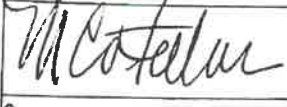
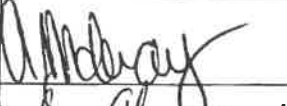
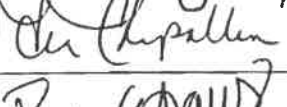
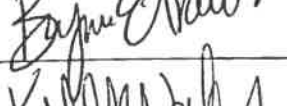
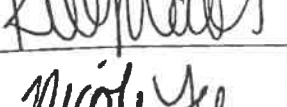
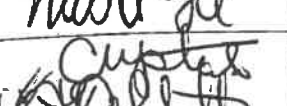
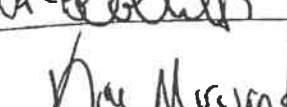
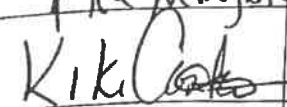
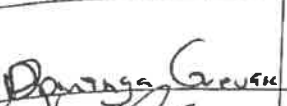
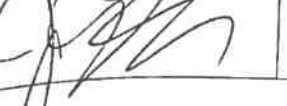
We request that this crucial improvement to our Borough be approved to bring an essential missing link on 7th & Fayette.

Signature	Full Name	Email Address	Telephone
	Kim Gider	Kimxgider@yahoo.com	267 210 0775
	Crystal Colletti	ccolletti20@gmail.com	484 804 3366
	Samantha Mascio	SLinberg524@gmail.com	610 487-4520
	Jessica Sheridan	jessicasheridan3@yahoo.com	484 571-2428
	Maudie Oler	maudie2nd@gmail.com	484 486 452
	Cassandra Demasius	cdemastus123@gmail.com	484 271 902
	Rebecca Kroll	becky210@gmail.com	610 828-5525
	Nancy Luna	n/luna0013@yahoo.com	215-872-0488
	Kalen Flynn	Kalen.Flynn@gmail.com	215-421-1464
	Victoria Taurmina	tori.taurmina333@gmail.com	610 761 2522
	Nicole Stanley	rx52231@gmail.com	484 576-6864
	Wm M Tsoulanos	wmtbc@ccmcast.net	615-518-9020
	Christopher J. Ciavarella	chris@ciavarelli-funeralhomes.com	610 828-1336

We, the Citizens and Business Owners of Conshohocken, petition the Borough to allow for the redevelopment of an outdated gas station. The lot has been a sore sight for several years since the gas station was abandoned.

Specifically, Applicant, is seeking approval for a development at 7th & Fayette Street for retail use on the first floor, along with rental units on the 2nd & 3rd floor for residents, while simultaneously increasing the walkable nature to the lower-end Business District.

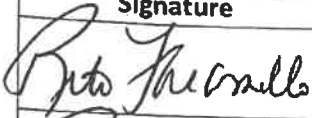

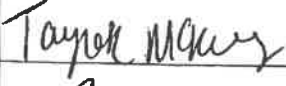







We request that this crucial improvement to our Borough be approved to bring an essential missing link on 7th & Fayette.

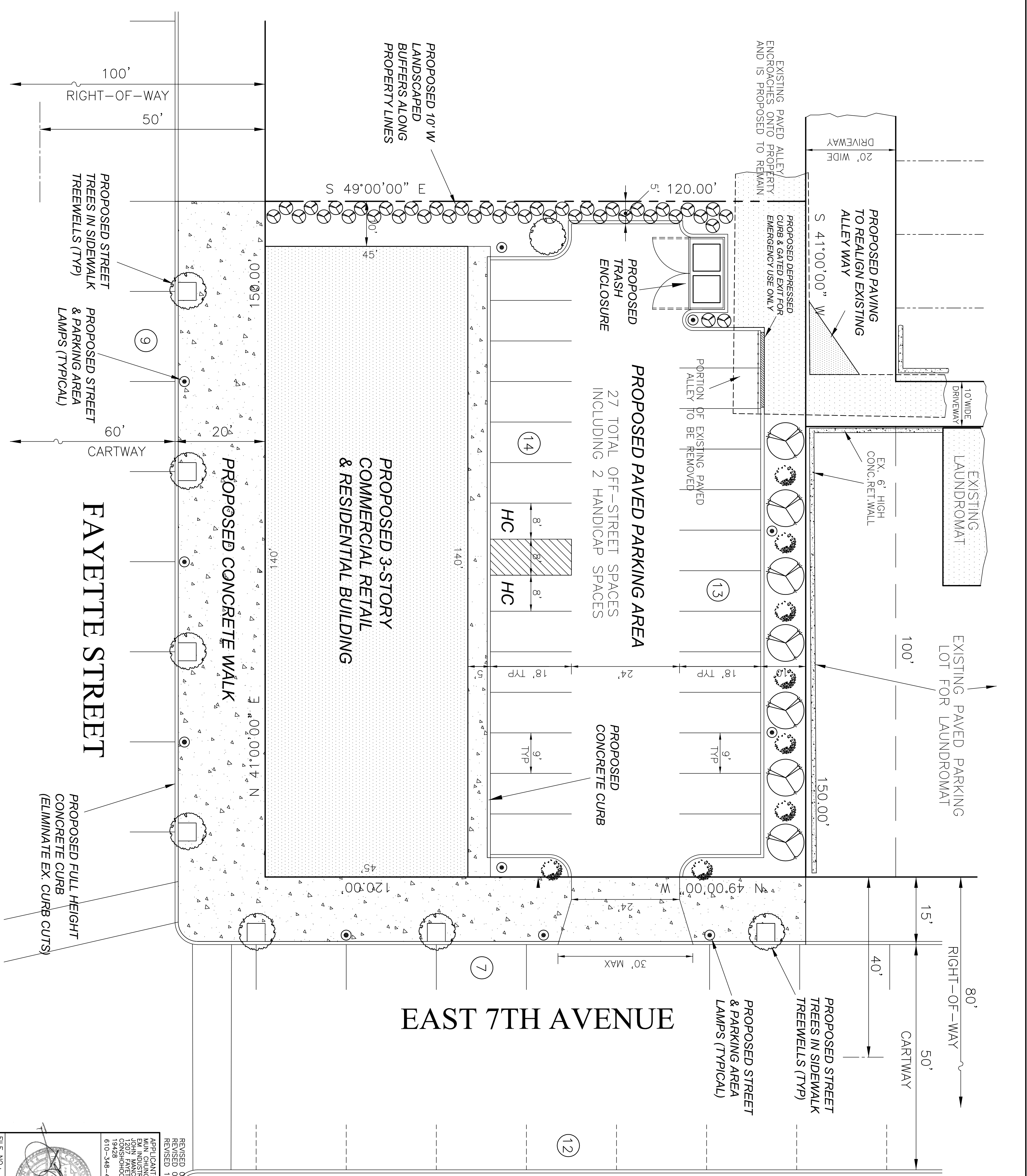
Signature	Full Name	Email Address	Telephone
	Marissa Barbish	rissy17@gmail.com	484.213.3517
	Danielle Wineburg	daniellewineburg@yahoo.com	610.802.1449
	M. Costello	None	
	A. McEvoy		
	Lia Chipollini		
	Brynne Travis	brynne.travis@gmail.com	610.955.6935
	Kelly Walser	kwalser@gmail.com	610.956-6139
	Nicole Lee	Nickymajersa@gmail.com	215.740-0882
	Crystal Colletti	ccolletti20@gmail.com	484.804.3366
	Kim King	Kingjoker.com	610.825.8261
	Kiki Costalos		
	Jessica Sheridan		484.571.2428

We, the Citizens and Business Owners of Conshohocken, petition the Borough to allow for the redevelopment of an outdated gas station. The lot has been a sore sight for several years since the gas station was abandoned.

Specifically, Applicant, is seeking approval for a development at 7th & Fayette Street for retail use on the first floor, along with rental units on the 2nd & 3rd floor for residents, while simultaneously increasing the walkable nature to the lower-end Business District.

We request that this crucial improvement to our Borough be approved to bring an essential missing link on 7th & Fayette.

Signature	Full Name	Email Address	Telephone
	RITA FARAMELLI	rdafasting75@clwb.com	(570) 332-8496
	Sam Carbone	ericcarbone@gmail.com	
	Taylor McKeay	Taylor.mckeay@gmail.com	
	Andy Gidder	Andy.Gidder@talun.com	610 864-7710
	Kristi McBean	Kristimcbean@gmail.com	484 200-3500
	GWARRA	gwarraw@comcast.net	484 804-0688
	MIKE OWENS		
	MIKE BOTTES	mikebottes@verizon.net MASTERPIECE GOLF	484-344-5250
	MARY GOW	mgow75@gmail.com	510-815-7536
	JEN WALSH	jenwalsh@regis.com	484 201-8114



ZONING REQUIREMENTS
ZONED 90-C - RESIDENTIAL OFFICE DISTRICT

REQUIRED	EXISTING	PROVIDED
MINIMUM LOT AREA	2,000 SF	18,000 SF
MINIMUM LOT WIDTH	25 FT.	150 FT.
MINIMUM FRONT YARD (FAYETTE ST)	15 FT. w/ BACK WALK	63.94 FT.
MINIMUM SIDE YARD (FAYETTE ST)	10 FT.	0 FT.
MINIMUM SIDE YARD (E 7TH AVE)	15 FT. w/ BACK WALK	23.91 FT.
MINIMUM SIDE YARD (E 7TH AVE)	10 FT.	10 FT.
MINIMUM SIDE YARD (E 7TH AVE)	15 FT. w/ BACK WALK	63.91 FT.
MINIMUM SIDE YARD (E 7TH AVE)	10 FT.	7.6 FT.
MINIMUM BUILDING HT	40 FT.	< 40 FT.
MAXIMUM BLDG COVER	85 %	11.0 %
MAXIMUM IMPERV COVER	85 %	75.0 %
PARKING SETBACKS (FROM REAR PROP LINES)	10 FT.	0 FT. +
PARKING SETBACKS (FROM SIDE PROP LINES)	5 FT.	0 FT. +
PARKING SETBACKS (FROM BUILDING)	5 FT.	5 FT.
PARKING REQUIREMENTS	SEE PARKING COUNT BELOW	SEE PARKING COUNT BELOW
* MAY REQUIRE VARIANCE IF ALLEY PAVING IS INCLUDED		
+ EXISTING NON-COMFORMITY		

PARKING COUNT:
PROPOSED OFF-STREET PARKING -
 TOTAL OFF-STREET PARKING ON PROPERTY (PLUS 5 NEW ON-STREET)
PARKING REQUIRED -
 CONSHOHOCKEN BOROUGH ORDINANCE (REQUIRES VARIANCE OF SEC. 27-2002)
 TOTAL REQUIRED FOR 10 UNITS ON 2ND & 3RD FLOORS 10 X 2 SPACES/UNIT = 20 SPACES
 TOTAL REQUIRED FOR RETAIL SPACE ON GROUND FLOOR 1 SPACE/200 SF (GFA) = 26 SPACES
 TOTAL REQUIRED 46 SPACES
 TIE PARKING DEMAND 15 SPACES
 SHOPPING CENTER TIE 12 SPACES
 MULTIFAMILY (LOW RISE) TIE 27 SPACES

SHARED PARKING DEMAND 20 SPACES
WEEKDAY DEMAND 24 SPACES
WEEKEND DEMAND 24 SPACES
 THEREFORE 27 SPACES (45) IS SUFFICIENT FOR THE PROJECT

REFERENCE TRAFFIC REPORT:
 PREPARED BY DYNAMIC TRAFFIC, NEWTOWN, PA
 PARKING ASSESSMENT
 PROPOSED MIXED-USE DEVELOPMENT
 701 FAYETTE STREET
 CONSHOHOCKEN BOROUGH, MONTGOMERY COUNTY, PA
 DTR# 3803-980111E

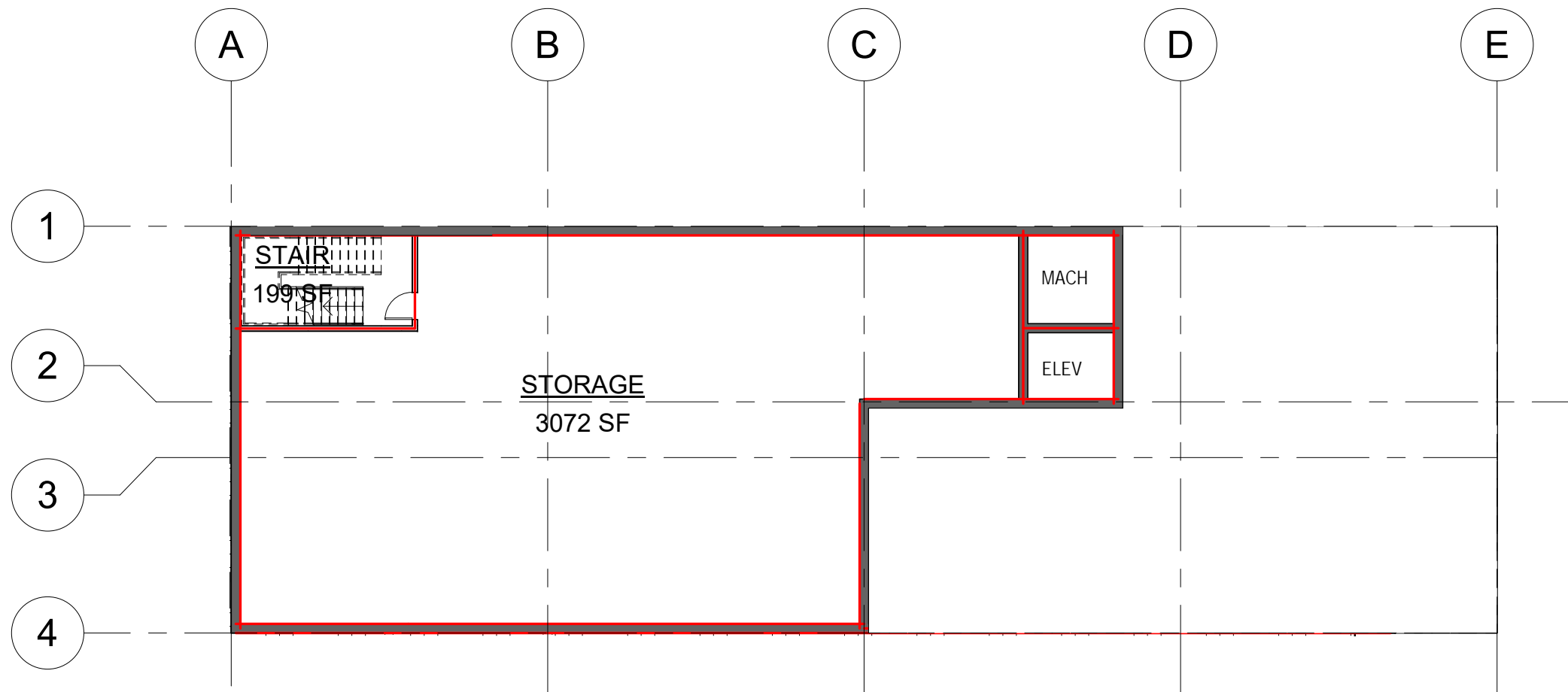
REVISOR: 08/18/21 FOR PARKING ZONING HEARING
 REVISED 09/15/21 AS PER INFORMAL REVIEW FOR
 REVISED 12/06/19 AS PER INFORMAL REVIEW

APPLICANT:
 GEM LLC
 701 FAYETTE STREET
 CONSHOHOCKEN, PA
 19428
 610-348-4101

PREPARED FOR:
 CGEM LLC
 701 FAYETTE STREET
 CONSHOHOCKEN BOROUGH, MONTGOMERY COUNTY, PA

SKETCH PLAN FOR PARKING & IMPROVEMENTS

BORUSIEWICZ SURVEYORS AND SITE PLANNERS
 718 GRAVEL PIKE
 COLLEGEVILLE, PA 19426
 610-941-7181
 EMAIL: TBORUSIEWICZ@GOL.COM



1 BASEMENT
1/16" = 1'-0"

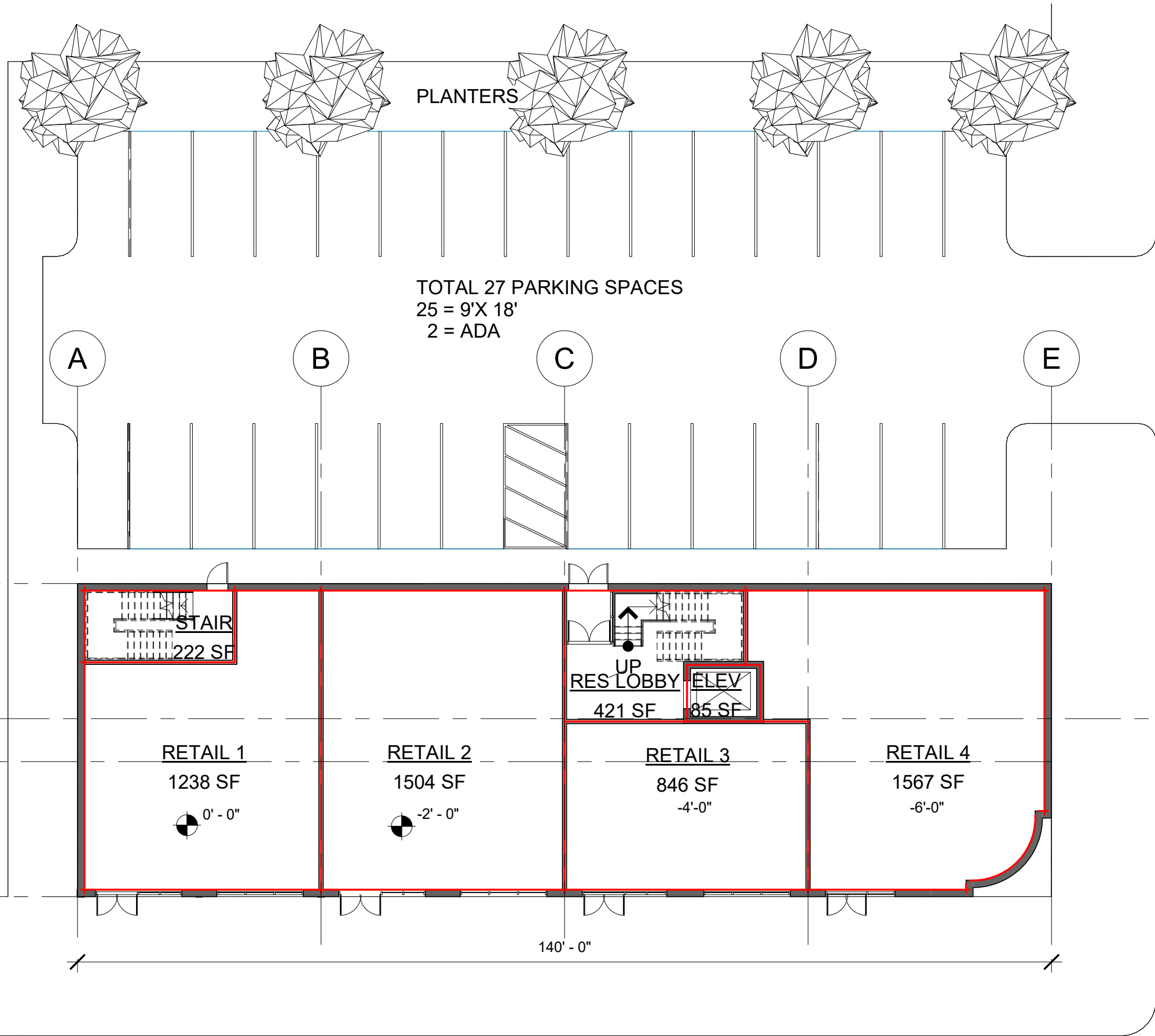


MIXED USED CONSHOHOCKEN - OPTION 1

SCALE: AS SHOWN

DATE: 11.19.19

PROJECT # 19046



1 GROUND FLOOR
1/16" = 1'-0"

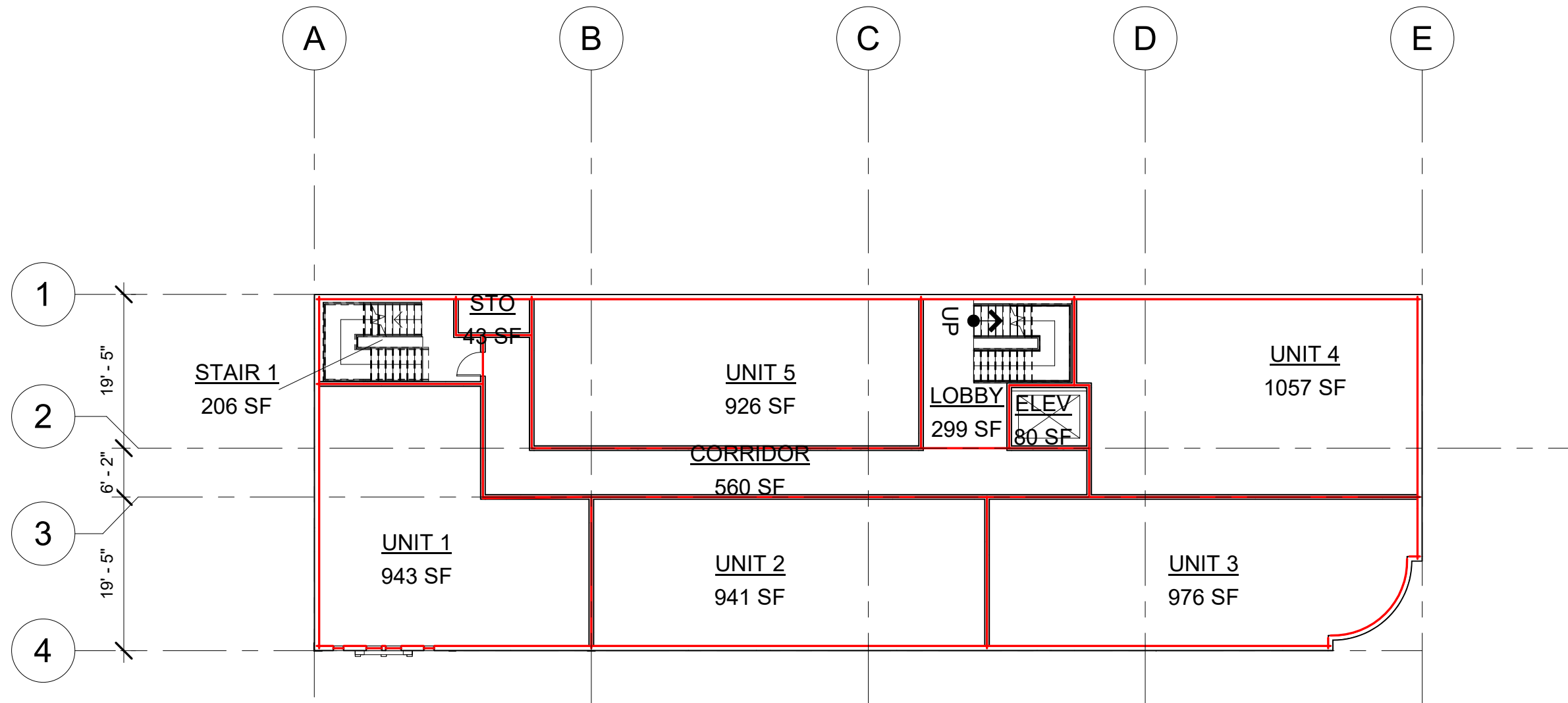


MIXED USED CONSHOHOCKEN - OPTION 1

SCALE: AS SHOWN

DATE: 11.19.19

PROJECT # 19046



1 SECOND AND THIRD FLOOR
 1/16" = 1'-0"



MIXED USED CONSHOHOCKEN - OPTION 1

SCALE: AS SHOWN

DATE: 11.19.19

PROJECT # 19046



1 FRONT ELEVATION
3/32" = 1'-0"



MIXED USED CONSHOHOCKEN - OPTION 1

SCALE: AS SHOWN

DATE: 11.27.19

PROJECT # 19046



1 REAR ELEVATION
3/32" = 1'-0"

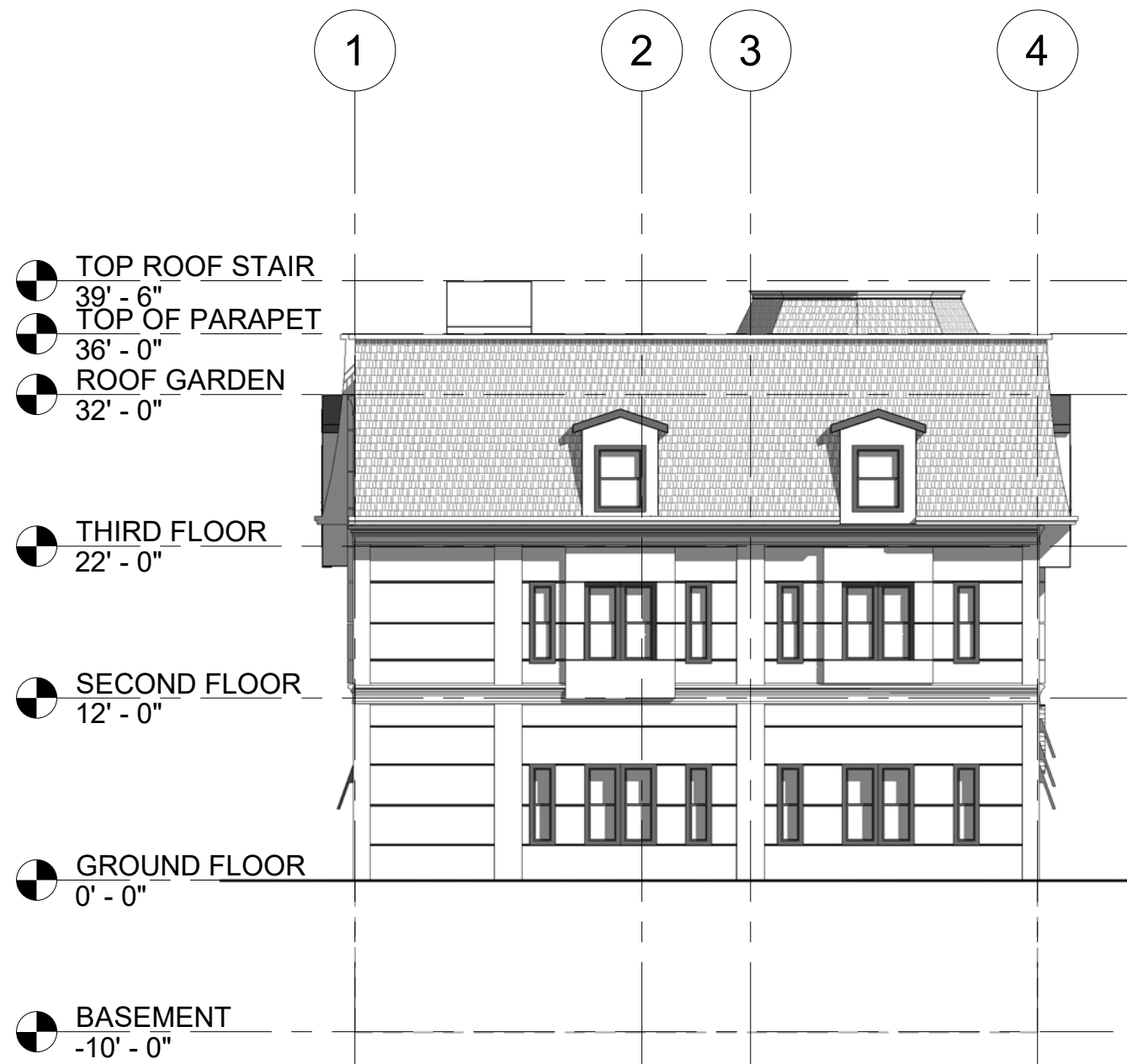


MIXED USED CONSHOHOCKEN - OPTION 1

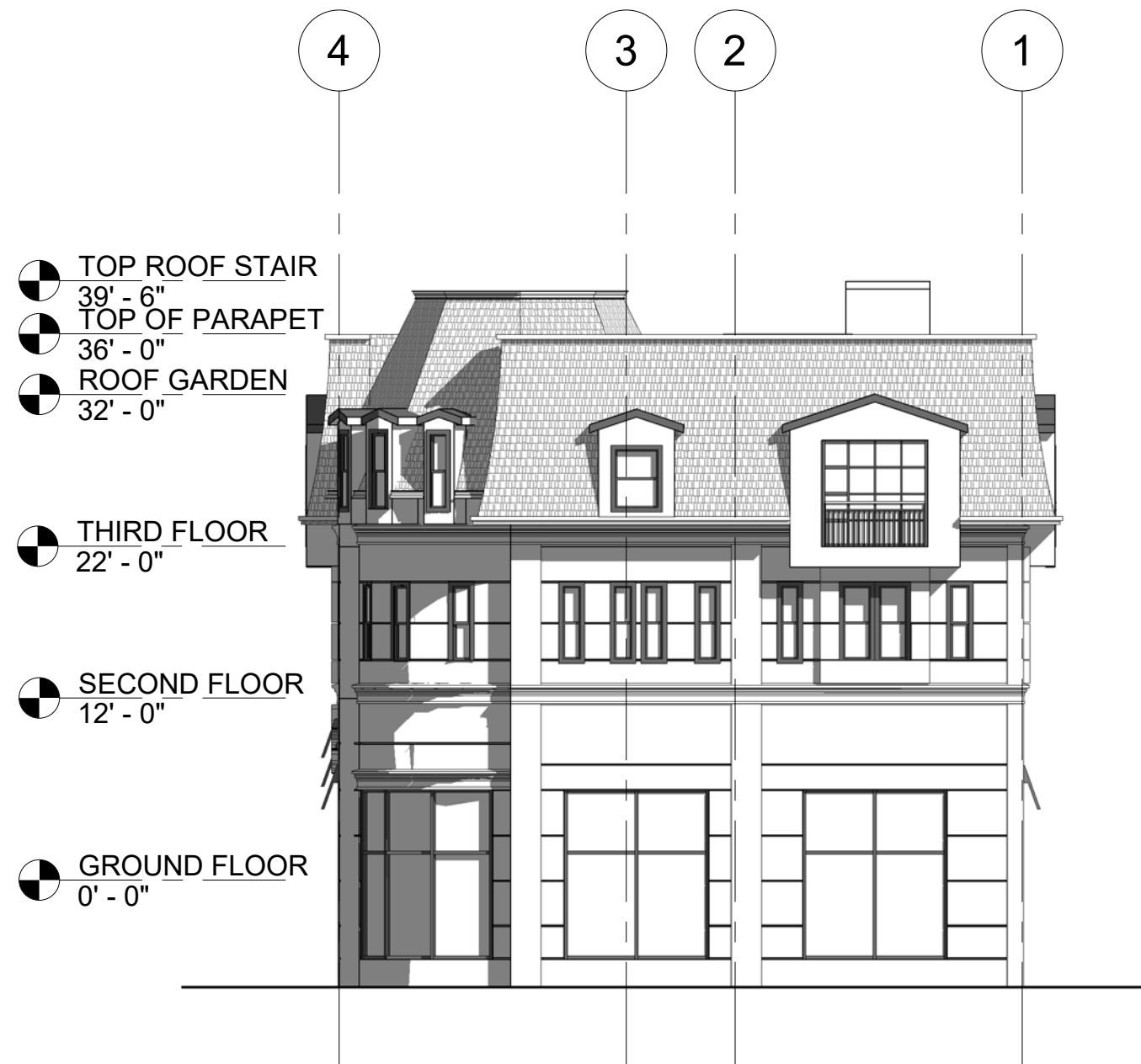
SCALE: AS SHOWN

DATE: 11.27.19

PROJECT # 19046



1 LEFT ELEVATION
3/32" = 1'-0"



2 RIGHT ELEVATION
3/32" = 1'-0"

**BEFORE THE ZONING HEARING BOARD
OF THE BOROUGH OF CONSHOHOCKEN**

IN RE: 701 Fayette Street Zoning Application - ADDENDUM

This Addendum provides supplemental information not able to be typed into the application form.

CGEM LLC (“CGEM”) proposes to construct a three story shopping center containing first floor commercial - retail space together with five (5) two (2) bedrooms on the second and third floors. Applicant proposes to provide twenty-seven (27) off-street parking stalls with an additional five (5) on-street parking stalls (due to the removal of existing curb cuts for the abandoned gas station use).

As part of the Application, CGEM seeks several dimensional variances from the Borough’s Zoning Ordinance (the “Code”).

1. §27-1303(C) – BC District Dimensional Standards. Applicant seeks a dimensional variance from the requirements of this section. The Code requires that the Building Front setback be the public sidewalk or fifteen feet (15’) from the curblines of the public street. Applicant proposes to locate the Building at the existing public sidewalk (believed to be twenty feet (20’) wide). Applicant believes that it meets the Code requirements, but is asking for an interpretation in an abundance of caution.
2. §27-1303(D) – BC District Dimensional Standards. Applicant seeks a dimensional variance from the requirements of this section. The Code requires that the Side Yard Setback for a corner lot be the public sidewalk or fifteen feet (15’) from the curblines of the public street. Applicant proposes to locate the Building at the existing sidewalk (believed to be fifteen feet (15’) wide). Applicant believes that it meets the Code requirements, but is asking for an interpretation in an abundance of caution.
3. §27-1303(F) – BC District Dimensional Standards. Applicant seeks a dimensional variance from the requirements of this section. The Code requires a maximum impervious coverage 85% of the lot area. Applicant proposes a maximum of 88.9% impervious coverage (if an existing paving area in the rear upper left of the Subject Property remains as an accommodation to the neighbors that currently use a paved area that encroaches onto the Subject Property). Applicant believes that it meets the Code requirements, but is asking for an interpretation in an abundance of caution.
4. §27-2002 – Off-Street Parking. Applicant seeks a dimensional variance from the requirements of this section. The Code requires a maximum of forty-six (46) stalls for the shopping center (26) /residential uses (20). Applicant proposes to provide twenty-seven (27) off-street stalls, together with five (5)

new on-street parking stalls due to the removal of existing curb cuts. Applicant submits concurrently herewith the Shared Parking Analysis of Dynamic Traffic which comes to the conclusion that the expected parking demand of the proposed shopping center/residential use is twenty-seven (27) stalls. By following current shared parking guidelines, Applicant easily meets the “real world” expected parking demand for the development.

EAST 8TH AVENUE

EAST 7TH AVENUE

WEST 7TH AVENUE

HARRY STREET

FAYETTE STREET

FORREST STREET

LAUNDROMAT
(20 SPACES)

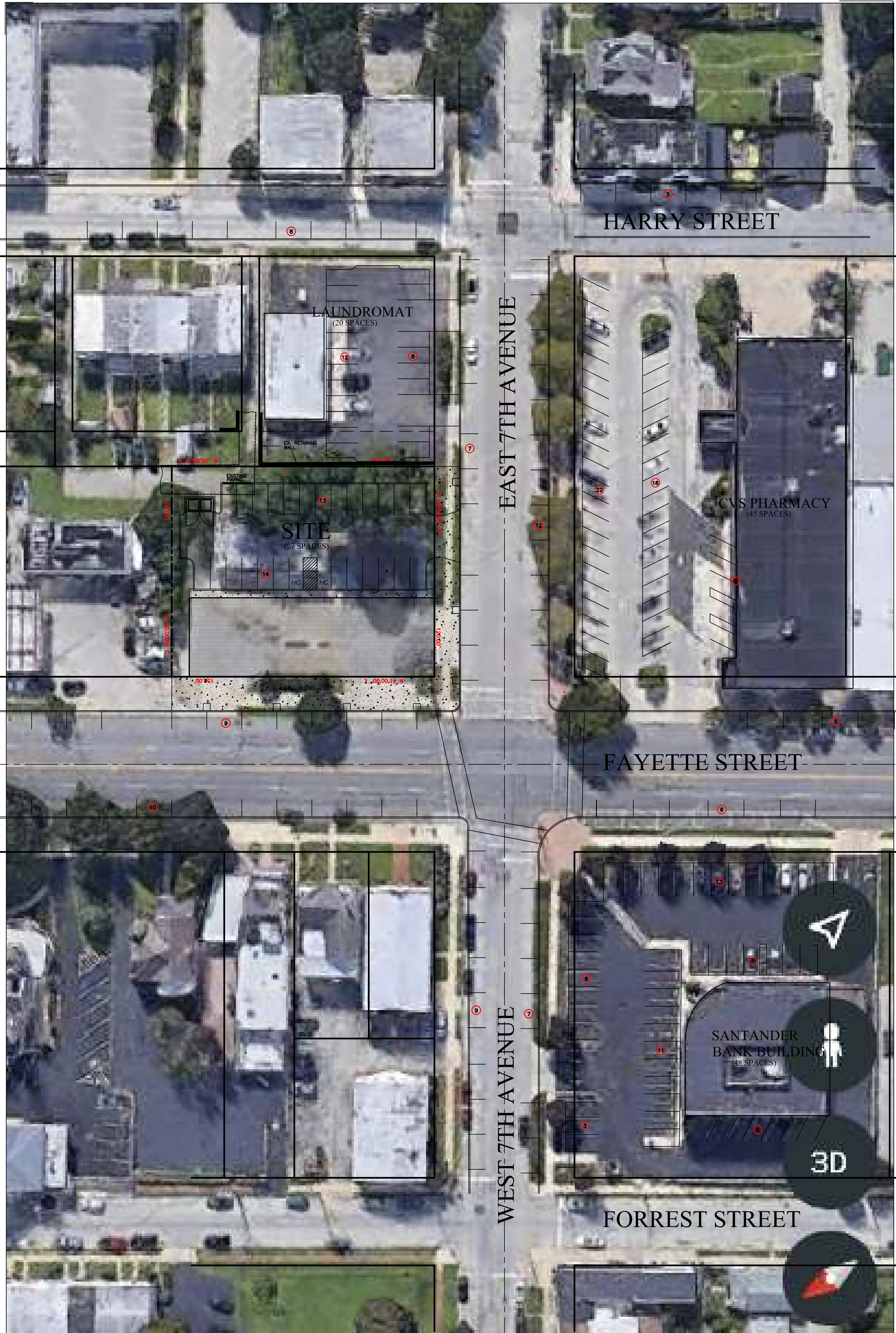
POSITIVE
PARKING
SITE
(27 SPACES)

CVS PHARMACY
(45 SPACES)

SANTANDER
BANK BUILDING
(48 SPACES)

PARKING COUNT:

PROPOSED OFF-STREET PARKING -	
TOTAL OFF-STREET PARKING ON PROPERTY	27 SPACES
EXISTING ON-STREET PARKING WITHIN 200' OF PROPERTY -	
TOTAL ON-STREET PARKING ALONG FAYETTE STREET	30 SPACES
TOTAL ON-STREET PARKING ALONG EAST & WEST 7TH AVENUE	35 SPACES
TOTAL ON-STREET PARKING ALONG HARRY STREET	13 SPACES
TOTAL ON-STREET PARKING	78 SPACES
EXISTING OFF-STREET PARKING TO POSSIBLY LEASE -	
TOTAL OFF-STREET PARKING ON LAUNDROMAT PROPERTY	20 SPACES
TOTAL OFF-STREET PARKING ON CVS PROPERTY	45 SPACES
TOTAL OFF-STREET PARKING ON SANTANDER PROPERTY	48 SPACES
PARKING REQUIRED -	
TOTAL REQUIRED FOR 10 UNITS ON 2ND & 3RD FLOORS	10 X 2 SPACES/UNIT = 20 SPACES
TOTAL REQUIRED FOR 4 RETAIL SPACES ON GROUND FLOOR	TO BE DETERMINED BASED ON USE



EAST 8TH AVENUE

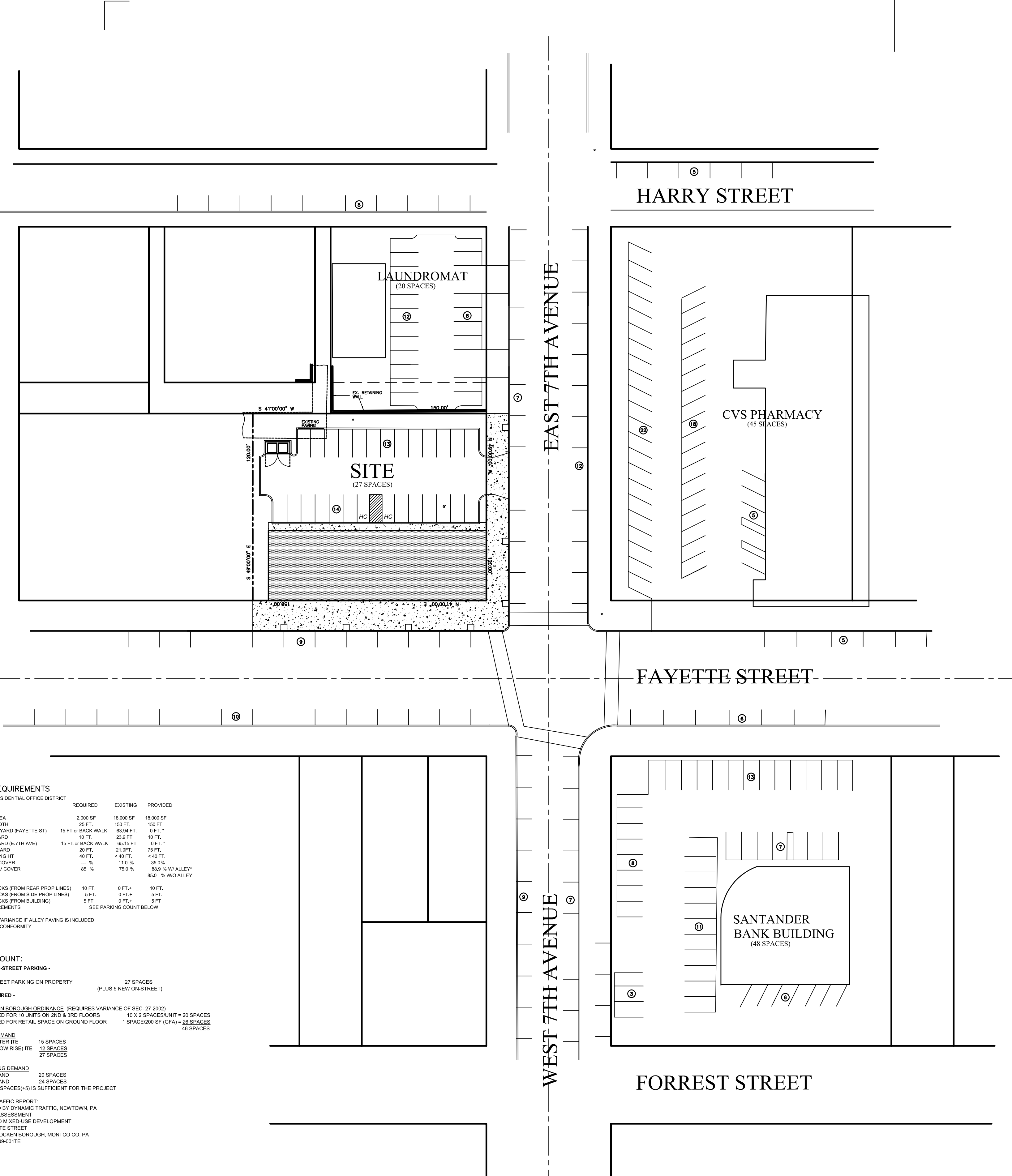
EAST 7TH AVENUE

HARRY STREET

FAYETTE STREET

WEST 7TH AVENUE

FORREST STREET



ZONING REQUIREMENTS

	REQUIRED	EXISTING	PROVIDED
MINIMUM LOT AREA	2,000 SF	18,000 SF	18,000 SF
MINIMUM LOT WIDTH	25 FT.	150 FT.	150 FT.
MINIMUM FRONT YARD (FAYETTE ST)	15 FT OR BACK WALK	25.34 FT.	9 FT.
MINIMUM SIDE YARD	10 FT.	23.9 FT.	10 FT.
MINIMUM SIDE YARD (E 7TH AVE)	15 FT OR BACK WALK	65.56 FT.	9 FT.
MINIMUM REAR YARD	20 FT.	21.0 FT.	75 FT.
MAXIMUM BUILDING HT	40 FT.	< 40 FT.	< 40 FT.
MAXIMUM BLDG COVER	~ %	11.0 %	35.0 %
MAXIMUM IMPERV COVER	85 %	75.0 %	89.9 % W/ ALLEY

PARKING SETBACKS (FROM REAR PROP LINES)	10 FT.	0 FT. +	10 FT.
PARKING SETBACKS (FROM SIDE PROP LINES)	5 FT.	0 FT. +	5 FT.
PARKING SETBACKS (FROM BUILDING)	5 FT.	0 FT. +	5 FT.
PARKING REQUIREMENTS	SEE PARKING COUNT BELOW		

* MAY REQUIRE VARIANCE IF ALLEY PAVING IS INCLUDED
 * EXISTING NON-CONFORMITY

PARKING COUNT:

PROPOSED OFF-STREET PARKING -
 TOTAL OFF-STREET PARKING ON PROPERTY 27 SPACES
 (PLUS 5 NEW ON-STREET)

PARKING REQUIRED -
 CONSHOHOCKEN BOROUGH ORDINANCE (REQUIRES VARIANCE OF SEC. 27-2002)
 TOTAL REQUIRED FOR 10 UNITS ON 2ND & 3RD FLOORS 10 X 2 SPACES/UNIT = 20 SPACES
 TOTAL REQUIRED FOR RETAIL SPACE ON GROUND FLOOR 1 SPACE/200 SF (GFA) = 26 SPACES

ITE PARKING DEMAND
 SHOPPING CENTER ITE 15 SPACES
 MULTIFAMILY (LOW RISE) ITE 12 SPACES
 27 SPACES

SHARED PARKING DEMAND
 WEEKDAY DEMAND 20 SPACES
 WEEKEND DEMAND 24 SPACES
 THEREFORE 27 SPACES(5) IS SUFFICIENT FOR THE PROJECT

REFERENCE TRAFFIC REPORT:
 PREPARED BY DYNAMIC TRAFFIC, NEWTOWN, PA
 PARKING ASSESSMENT
 PROPOSED MIXED-USE DEVELOPMENT
 701 FAYETTE STREET
 CONSHOHOCKEN BOROUGH, MONTCO CO, PA
 DTR: 3803-99-001TE



BOROUGH OF CONSHOHOCKEN
400 Fayette Street, Suite 200, Conshohocken, PA 19428
Phone (610) 828-1092 Fax (610) 828-0920

Zoning Application

Application: _____

Date Submitted: _____

Date Received: _____

1. Application is hereby made for:

Special Exception Variance

Appeal of the decision of the zoning officer

Conditional Use approval Interpretation of the Zoning Ordinance

Other _____

2. Section of the Zoning Ordinance from which relief is requested:

27-1303 - Permitted Use Dimensional Standards; 27-2002 - Off-Street Parking: Shopping Center/Residential Use.

3. Address of the property, which is the subject of the application:

701 Fayette Street

4. Applicant's Name: CGEM LLC, Mun Chung, Member

Address: 6142 Creekside Drive, Flourtown, PA 19031

Phone Number (daytime): 484-344-5429 (thru counsel)

E-mail Address: msd@daneklawfirm.com

5. Applicant is (check one): Legal Owner ; Equitable Owner ; Tenant

6. Property Owner: CGEM LLC

Address: 6142 Creekside Drive, Flourtown, PA 19031

Phone Number: 484-344-5429 (thru counsel)

E-mail Address: msd@daneklawfirm.com

7. Lot Dimensions: 120'x150' Zoning District: BC

8. Has there been previous zoning relief requested in connection with this Property?

Yes No If yes, please describe.

Unaware of any relief for the prior gas station.

9. Please describe the present use of the property including any existing improvements and the dimensions of any structures on the property.

Current use is an abandoned gas station.

10. Please describe the proposed use of the property.

Applicant proposes to construct a three story shopping center containing first floor commercial - retail space together with five (5) two (2) bedrooms on the second and third floors. The applicant proposes 27 on-site parking stalls together with five (5) new on-street stalls.

11. Please describe proposal and improvements to the property in detail.

See architect's renderings submitted herewith.

12. Please describe the reasons the Applicant believes that the requested relief should be granted.

Applicant proposes a substantial shopping center development at 701 Fayette Street. The lot has been a blight on Fayette Street for several years since the gas station use was abandoned. The proposal provides a necessary missing link along Fayette Street to continue the commercial corridor from the lower streets through to the upper streets.

Likewise, the proposed residential use provides much needed housing for residents that may not necessarily be ready to purchase.

13. If a Variance is being requested, please describe the following:

a. The unique characteristics of the property: The existing alleyway and unopened paper street at the laundrymat cut into the useable space at the site, thereby reducing the overall utilization of

b. How the Zoning Ordinance unreasonably restricts development of the property:

The Ordinance requires 46 stalls. 26 stalls for the shopping center use together with 20 stalls for the residential uses. Under current engineering guidelines, 27 stalls would only be required. See Dynamic Traffic Shared Parking Analysis submitted herewith. Thus, the Ordinance as written does not reflect current professional thinking on the parking demand in the main commercial corridor of a municipality. Likewise, the existing Ordinance places an unreasonable barrier to development that stands in contrast to the goals of the Borough's Comprehensive Plan to foster mixed-use development uses and varying housing types for

c. How the proposal is consistent with the character of the surrounding neighborhood. _____

The three story shopping center is consistent with the commercial neighborhood.

d. Why the requested relief is the minimum required to reasonably use the property; and why the proposal could not be less than what is proposed.

The proposal is the minimum relief needed since the Applicant's proposal meets the minimum number of parking stalls under a Shared Parking Analysis prepared by Dynamic Traffic. The Proposal could not be less since the three story structure maintains the building lines along Fayette Street. Likewise, even if the Applicant would reduce the footprint or stories, the Project would not have the same street presence or provide the missing link along the Fayette Street commercial corridor between the lower and upper streets.

14. The following section should be completed if the applicant is contesting the determination of the zoning officer.

a. Please indicate the section of the zoning ordinance that is the subject of the zoning officer's decision (attach any written correspondence relating to the determination).

b. Please explain in detail the reasons why you disagree with the zoning officer's determination.

15. If the Applicant is requesting any other type of relief, please complete the following section.

a. Type of relief that is being requested by the applicant.

b. Please indicate the section of the Zoning Ordinance related to the relief being requested.

c. Please describe in detail the reasons why the requested relief should be granted.

16. If the applicant is being represented by an attorney, please provide the following information.

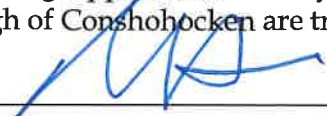
a. Attorney's Name: Mark S. Danek, Esq.

b. Address: 1255 Drummers Lane, Suite 105, Wayne, PA 19087

c. Phone Number: 484-344-5429

d. E-mail Address: msd@daneklawfirm.com

I/we hereby certify that to the best of my knowledge, all of the above statements contained in this Zoning Application and any papers or plans submitted with this application to the Borough of Conshohocken are true and correct.


Applicant

Mark S. Danek, Esq. on behalf of CGEM LLC

Legal Owner

April 16, 2021

Date

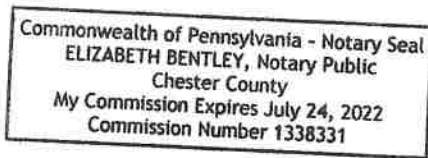
COMMONWEALTH OF PENNSYLVANIA

COUNTY OF MONTGOMERY

As subscribed and sworn to before me this 16th day of April, 2021.


Notary Public

(Seal)





BOROUGH OF CONSHOHOCKEN
400 Fayette Street, Suite 200, Conshohocken, PA 19428
Phone (610) 828-1092 Fax (610) 828-0920

Decision

(For Borough Use Only)

Application Granted

Application Denied

MOTION:

CONDITIONS:

BY ORDER OF THE ZONING HEARING BOARD

	Yes	No
_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>

DATE OF ORDER: _____

**BEFORE THE ZONING HEARING BOARD
OF THE BOROUGH OF CONSHOHOCKEN**

**IN RE: 701 Fayette Street Zoning Application – ADDENDUM
(As Amended April 26, 2021)**

This Addendum provides supplemental information not able to be typed into the application form.

CGEM LLC (“CGEM”) proposes to construct a three story shopping center containing first floor commercial - retail space together with five (5) two (2) bedrooms on the second and third floors. Applicant proposes to provide twenty-seven (27) off-street parking stalls with an additional five (5) on-street parking stalls (due to the removal of existing curb cuts for the abandoned gas station use).

As part of the Application, CGEM seeks several dimensional variances from the Borough’s Zoning Ordinance (the “Code”).

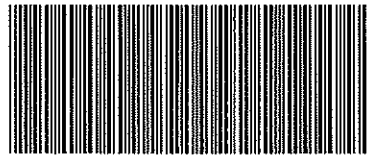
1. §27-1303(C) – BC District Dimensional Standards. Applicant seeks a dimensional variance from the requirements of this section. The Code requires that the Building Front setback be the public sidewalk or fifteen feet (15’) from the curblines of the public street. Applicant proposes to locate the Building at the existing public sidewalk (believed to be twenty feet (20’) wide). Applicant believes that it meets the Code requirements, but is asking for an interpretation in an abundance of caution.
2. §27-1303(D) – BC District Dimensional Standards. Applicant seeks a dimensional variance from the requirements of this section. The Code requires that the Side Yard Setback for a corner lot be the public sidewalk or fifteen feet (15’) from the curblines of the public street. Applicant proposes to locate the Building at the existing sidewalk (believed to be fifteen feet (15’) wide). Applicant believes that it meets the Code requirements, but is asking for an interpretation in an abundance of caution.
3. §27-1303(F) – BC District Dimensional Standards. Applicant seeks a dimensional variance from the requirements of this section. The Code requires a maximum impervious coverage 85% of the lot area. Applicant proposes a maximum of 88.9% impervious coverage (if an existing paving area in the rear upper left of the Subject Property remains as an accommodation to the neighbors that currently use a paved area that encroaches onto the Subject Property). Applicant believes that it meets the Code requirements, but is asking for an interpretation in an abundance of caution.
4. §27-2002 – Off-Street Parking. Applicant seeks a dimensional variance from the requirements of this section. The Code requires a maximum of forty-six (46) stalls for the shopping center (26) /residential uses (20). Applicant

proposes to provide twenty-seven (27) off-street stalls, together with five (5) new on-street parking stalls due to the removal of existing curb cuts. Applicant submits concurrently herewith the Shared Parking Analysis of Dynamic Traffic which comes to the conclusion that the expected parking demand of the proposed shopping center/residential use is twenty-seven (27) stalls. By following current shared parking guidelines, Applicant easily meets the “real world” expected parking demand for the development.

As part of the Application, CGEM also seeks, in the alternative (or in addition), a Special Exception pursuant to §27-2006 and §27-2009, which allow the Zoning Hearing Board to reduce the overall number of off-street parking stalls needed. Thus, the Applicant requests a Special Exception (at the lower evidentiary threshold) to reduce the number of off-street parking stalls for the non-residential use down to 21 total stalls from the required 26 stalls for the shopping center use. And, Applicant requests a variance to further reduce the overall parking to meet the number of stalls as provided on-site. Applicant asserts that the foregoing is consistent with the Shared Parking Analysis submitted with the initial Application.



DEED BK 6136 PG 01408 to 01412
 INSTRUMENT # : 2019031000
 RECORDED DATE: 05/20/2019 01:19:45 PM



5635172-0008U

**RECORDER OF DEEDS
 MONTGOMERY COUNTY**

Jeanne Sorg

One Montgomery Plaza
 Swede and Airy Streets ~ Suite 303
 P.O. Box 311 ~ Norristown, PA 19404
 Office: (610) 278-3289 ~ Fax: (610) 278-3869

MONTGOMERY COUNTY ROD


OFFICIAL RECORDING COVER PAGE

Page 1 of 5

Document Type: Deed	Transaction #: 5844392 - 3 Doc (s)
Document Date: 05/17/2019	Document Page Count: 4
Reference Info:	Operator Id: ebossard
RETURN TO: (Pickup) SUBURBAN PHILADELPHIA ABSTRACT INC 922 W. RIDGE PIKE CONSHOHOCKEN, PA 19428	PAID BY: SUBURBAN PHILADELPHIA ABSTRACT INC

* PROPERTY DATA:	
Parcel ID #:	05-00-03296-00-2
Address:	701 FAYETTE ST
Municipality:	PA Conshohocken Borough (100%)
School District:	Colonial

*** ASSOCIATED DOCUMENT(S):**

CONSIDERATION/SECURED AMT: \$1,000,000.00	DEED BK 6136 PG 01408 to 01412 Recorded Date: 05/20/2019 01:19:45 PM I hereby CERTIFY that this document is recorded in the Recorder of Deeds Office in Montgomery County, Pennsylvania.	
FEES / TAXES:	 <i>Jeanne Sorg</i> Jeanne Sorg Recorder of Deeds	
Recording Fee: Deed		\$86.75
State RTT		\$10,000.00
Conshohocken Borough RTT		\$5,000.00
Colonial School District RTT		\$5,000.00
Total:	\$20,086.75	

Rev1a 2016-01-29

PLEASE DO NOT DETACH

THIS PAGE IS NOW PART OF THIS LEGAL DOCUMENT

NOTE: If document data differs from cover sheet, document data always supersedes.

*COVER PAGE DOES NOT INCLUDE ALL DATA, PLEASE SEE INDEX AND DOCUMENT FOR ANY ADDITIONAL



Prepared by and Return to:

Suburban Philadelphia Abstract, Inc.
922 West Ridge Pike
Conshohocken, PA 19428
610-828-6133

RECORDER OF DEEDS
MONTGOMERY COUNTY

2019 MAY 20 P 1: 08

File No. 469-556

UPI # 05-00-03296-00-2

MONTGOMERY COUNTY COMMISSIONERS REGISTRY

05-00-03296-00-2 CONSHOHOCKEN
701 FAYETTE ST

IVENS PROPERTIES LLC
B 037 U 052 L 4260 DATE: 05/20/2019

\$15.00
JE

000

This Indenture, made the 17th day of May, 2019,

Between

IVENS PROPERTIES, LLC, A PENNSYLVANIA LIMITED LIABILITY COMPANY

(hereinafter called the Grantor), of the one part, and

C G E M, LLC

(hereinafter called the Grantee), of the other part,

Witnesseth, that the said Grantor for and in consideration of the sum of **One Million And 00/100 Dollars (\$1,000,000.00)** lawful money of the United States of America, unto it well and truly paid by the said Grantee, at or before the sealing and delivery hereof, the receipt whereof is hereby acknowledged, has granted, bargained and sold, released and confirmed, and by these presents does grant, bargain and sell, release and confirm unto the said Grantee

ALL THAT CERTAIN lot, tract or parcel of land, hereditaments and appurtenances, situate lying and being in Conshohocken Borough, County of Montgomery, Commonwealth of Pennsylvania and more particularly bounded and described according to a survey and plan thereof prepared by Ezra Golub & Associates, Professional Engineers and Land Surveyors of Levittown, Pennsylvania, dated 4/7/88 and numbered D-23521501 as follows to wit:

BEGINNING at a point, said point being the intersection of the Northeasterly right-of-way line of 7th Avenue (80 feet wide) and the Southeasterly right-of-way line of Fayette Street (100 feet wide), and running thence (1) along said right-of-way line of Fayette Street (100 feet wide) North 41 degrees 00 minutes 00 seconds East a distance of 150 feet to a P K Nail, thence (2) along the lands now or formerly of Texaco Refining and Marketing, Inc. South 49 degrees 00 minutes 00 seconds East a distance of 120 feet to a PK Nail, thence (3) partly along a 20 feet wide public driveway and along land now or formerly of Carl D. and Rita M. Hamilton South 41 degrees 00 minutes 00 seconds West a distance of 150 feet to an iron pin, thence (4) along said right-of-way of 7th Avenue (80 feet wide) North 49 degrees 00 minutes 00 seconds West a distance of 120 feet to an iron pin and first mentioned point and place of beginning.



CONTAINING 18,000 square feet on 413 acres of land, more or less
LESS AND EXCEPT any deeds, condemnations, takings, or declarations of record.

UNDER AND SUBJECT to agreements, easements, rights of way, covenants, conditions
and restrictions of record.

BEING Parcel No. 05-00-03296-00-2

BEING THE SAME premises which 701 Fayette St. Conshohocken, LLC, a Pennsylvania limited liability company by indenture bearing date the 14th day of December 2004 and as recorded at Norristown in the Office for the Recorder of Deeds in and for the County of Montgomery on the 3rd day of March 2005 in Deed Book 5545 page 1061 granted and conveyed unto Ivens Properties, LLC, a Pennsylvania limited liability company in fee.

Together with all and singular the buildings and improvements, ways, streets, alleys, driveways, passages, waters, water-courses, rights, liberties, privileges, hereditaments and appurtenances, whatsoever unto the hereby granted premises belonging, or in anywise appertaining, and the reversions and remainders, rents, issues, and profits thereof; and all the estate, right, title, interest, property, claim and demand whatsoever of it, the said grantor, as well at law as in equity, of, in and to the same.

To have and to hold the said lot or piece of ground described above, with the buildings and improvements thereon erected, hereditaments and premises hereby granted, or mentioned and intended so to be, with the appurtenances, unto the said Grantee, its successors and assigns, to and for the only proper use and behoof of the said Grantee, its successors and assigns, forever.

And the said Grantor, for itself, its successors and assigns, does, by these presents, covenant, grant and agree, to and with the said Grantee, its successors and assigns, that it, the said Grantor, and its successors and assigns, all and singular the hereditaments and premises herein described and granted, or mentioned and intended so to be, with the appurtenances, unto the said Grantee, its successors and assigns, against it, the said Grantor, and its successors and assigns, will **WARRANT SPECIALLY** and defend against the lawful claims of all persons claiming by, through or under the said Grantor but not otherwise.

In Witness Whereof, the party of the first part has caused its common and corporate seal to be affixed to these presents by the hand of its Member, and the same to be duly attested by its Member.
Dated the day and year first above written.



ATTEST

[SEAL]

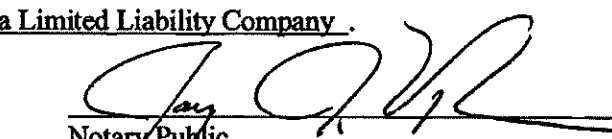
IVENS PROPERTIES, LLC, A PENNSYLVANIA LIMITED LIABILITY COMPANY

By: 
William P. Ivens, Member

By: 
Karen Ann Ivens, Member

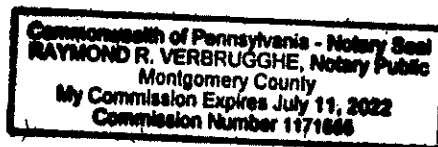
Commonwealth of Pennsylvania }
County of MONTGOMERY } ss

This record was acknowledged before me on May 17, 2019 by William P. Ivens as Member, and by Karen Ann Ivens as Member, who represent that they are authorized to act on behalf of Ivens Properties, LLC, a Pennsylvania Limited Liability Company.


Notary Public
My commission expires _____

The precise residence and the complete post office address of the above-named Grantee is:

6142 CREEKSIDE DRIVE
FLOURTOWN, Pa. 19031



On behalf of the Grantee

File No. 469-556

Record and return to:
Suburban Philadelphia Abstract, Inc.
922 West Ridge Pike
Conshohocken, PA 19428



<h1>Deed</h1>	<p>UPI # 05-00-03296-00-2</p> <p>Ivens Properties, LLC, a Pennsylvania Limited Liability Company</p> <p>TO</p> <p>CGEM, LLC</p>	<p>Suburban Philadelphia Abstract, Inc. 922 West Ridge Pike Conshohocken, PA 19428</p>
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JULIAN V. MIRAGLIA
529 Fayette St.
Conshohocken, PA 19428

24 July 2021

Conshohocken Zoning Hearing Board Members
Richard Barton, Chairman
Greg Scharff
Marlowe Doman
Alan Chmielewski
400 Fayette St.
Conshohocken, PA 19428

RE: 701 Fayette St (CGEM LLC) Variance Request:

Gentlemen,

You were kind enough to grant the applicant a 30-day extension in order find further information regarding the use of on street parking. I do have standing based on my presence at the June Zoning Board meeting. Therefore, while he and his counsel pursue that course, I thought it would be appropriate (in the interest of saving time) that I put into writing the essence of my opposition granting the variance requested including other information.

Because of the limitations caused by the necessity of Zoom type hearings, I am respectfully requesting that I am able to read this into the record, before closing the meeting on this issue.

My history and educational background are:

Education: BA 1960 University of Pennsylvania, EMBA Wharton 1967, Law Degree LaSalle Extension University 1977 (Business Law), 1978 certified as a Property Manager through the Institute of Real Management of the National Association of Realtors.

Real Estate History: 1967 Licensed as a PA Real Estate Agent, 1970 Licensed as a PA Real Estate Broker. I have appeared as an expert witness, have appraised real estate, and managed the operations of over 2000 apartments and several shopping centers over my 50-year career.

My offices are at 529 Fayette St., Conshohocken, PA and from that office we own and manage a substantial real estate portfolio.

Sincerely,


Julian Miraglia

Zoning Variance Appeal of CGEM, LLC re: 701 Fayette St.

A “variance” may be sought where an applicant can prove that the strict application is or will create an “unnecessary hardship” if the variance is not granted. Further, “a variance will not be granted solely because the petitioner will suffer an economic hardship if he does not receive one”.

1.

The petitioner in this case has requested that he be able to construct a 3-story building containing 10, 2-bedroom apartments over a “shopping center” space of 5200 sq.ft. requiring in total 46 parking spaces.

On page 19 of the definitions section of the ordinance, SHOPPING CENTER is defined as “A group of commercial establishments, planned and developed as an integrated architectural and functional unit, providing convenient on-site parking and controlled common vehicular and pedestrian access”.

By using this designation, the parking requirements are 1 space per 200 sq.ft. of commercial space. However, the only logical definition of the first-floor space in this instance is RETAIL space under 7500 sq.ft. which requires 1 space per 150 sq.ft.

Therefore, under Section 13 B of the application for the variance for relief as a SHOPPING CENTER is false. The 26 spaces noted would demonstrate 5200 sq.ft. of RETAIL space requiring 34.66 spaces plus 20 spaces for residential parking for a total of 54.66 spaces.

Therefore, the application itself is not grounded in the actual language or definitions of the ordinance. Common sense would clearly indicate that the application should be denied on those issues.

2.

A HARDSHIP must be present to grant a variance. A variance may be sought where an applicant can show that application of the ordinance, where there are unique and exceptional characteristics of the subject property, would result in undue hardship to the applicant.

There is no HARDSHIP in this case. If the applicant /owner wishes to construct a building containing 8, 1-bedroom apartments requiring 12 parking spaces or 6, 2-bedroom apartments requiring 12 parking spaces, or a combination of the two alternatives plus 3000 sq.ft. of RETAIL space he could easily accommodate 27 spaces on site and seek the use of 5 new on-street spaces.

The PA Supreme Court has held.....“a variance will not be granted solely because the petitioner will suffer an economic hardship if he does not receive one”. This application appears to seek an economic benefit to the Petitioner.

3.

In closing, the BC zoning district in Conshohocken has served the Borough residents well over the years and has been modified when better planning is has been studied and presented comprehensively. Granting the variance requested in this application would diminish the strength and purpose of the zoning ordinance.

BCONS21013

July 14, 2021

Stephanie Cecco
Borough Manager
Borough of Conshohocken
400 Fayette Street, Suite 200
Conshohocken, PA 19428

**RE: Parking Assessment Review
701 Fayette Street - Proposed Mixed-Use Development**

Dear Ms. Cecco:

We have completed our review of the Parking Assessment for the referenced application, prepared by Dynamic Traffic, dated April 9, 2021. The proposed development consists of 5,155 square feet (SF) of retail use, and ten (10) 2-bedroom apartments. As noted in the assessment, the Borough ordinance (27-2002) requires 1 space per 200 square feet of retail space, and 2 spaces per dwelling unit (apartment), which equates to a total requirement of 46 off-street spaces. The applicant is proposing 27 off-street parking spaces. We offer the following comments and information for your consideration:

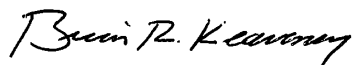
1. In the Borough ordinance (27-2002), there is a separate parking requirement for 'retail stores' that requires 1 space per 150 SF, which would increase the required parking from 46 off-street spaces to 54 spaces.
2. The parking assessment should include an appendix of the referenced information from the Institute of Transportation Engineers (ITE) *Parking Generation*, 5th Edition, and Urban Land Institute (ULI), *Shared Parking*, 3rd Edition for the ZHB's information.
3. Regarding the assessment that was completed, we concur with the use of ITE land use 220 (multi-family housing, low-rise). Also, without knowing the specific retail tenants at this stage, we concur that the use of ITE land use 820 (Shopping Center) is the closest available set of data for comparison. However, we would note that the average size of the Shopping Centers studied by ITE were significantly larger (174,000 – 313,000 SF). Additionally, beyond the average parking demand information that was used for the assessment, data is also available regarding the 85% parking demand for both uses, as well as December versus Non-December parking demand data for the Shopping Center use. While accommodating December parking demand for retail and shopping center uses is typically not practical, we do believe it is good practice to consider the 85% parking demand information, which results in a total site demand of 38 parking spaces.
4. The parking assessment should include documentation of actual parking demand on Fayette Street and 7th Avenue during both weekday and weekend peak periods.

5. The parking assessment should identify whether any areas of reserve parking, other than on-site or on-street parking, are available for the development.
6. Regarding the proposed on-street parking, the applicant should evaluate the required corner sight distance utilizing PennDOT criteria for the intersection of Fayette Street and 7th Avenue to ensure that the proposed on-street parking spaces are feasible.
7. In general, dead-end parking is undesirable for efficient traffic circulation. In the case of unavoidable dead-end parking lot configurations, adequate area must be provided at the dead-end for vehicles to turn around in case the lot is full, such that vehicles do not need to travel in reverse for the entire length of the lot to exit and seek on-street parking.
8. For information, the Borough is planning to install a flashing warning device at the intersection of Fayette Street & 7th Avenue for the existing pedestrian crossing of Fayette Street. If this plan moves forward, the proposed site design must be coordinated with the planned construction work at the intersection.

We would welcome a discussion regarding these items with the applicant's engineer. If you have any questions or require additional information, please do not hesitate to contact me.

Very truly yours,

PENNONI ASSOCIATES INC.



Brian R. Keaveney, PE, PTOE
Transportation Division

cc: Ray Sokolowski, Executive Director of Operations
George Metz, Chief of Police
Timothy Gunning, Fire Chief and Fire Marshal
Karen MacNair, PE, Borough Engineer
Michael Peters, Esq., Borough Solicitor
Brittany Rogers, Executive Assistant
Eric P. Johnson, PE, Zoning Officer