



# Request for Action

Town of Clarence | Office of Planning & Zoning  
(716)741-8933 | 1 Town Place, Clarence, NY 14031

## Town Use Only

Date: \_\_\_\_\_

Received By: \_\_\_\_\_

APPLICANT REQUEST:

Project Address: \_\_\_\_\_

SBL #: \_\_\_\_\_

Action Desired: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Reason: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

CONTACT INFO:

### APPLICANT INFO

Name / Business: \_\_\_\_\_

E-Mail: \_\_\_\_\_

Phone #: \_\_\_\_\_

Address: \_\_\_\_\_

Town: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

### PROJECT SPONSOR INFO (If Different Than Applicant)

Name / Business: \_\_\_\_\_

E-Mail: \_\_\_\_\_

Phone #: \_\_\_\_\_

Address: \_\_\_\_\_

Town: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

### SIGNATURE

Request for Action shall be filled out completely in the spaces provided. The complete Request for Action shall be submitted to the Office of Planning and Zoning along with all necessary plans, maps, and supporting documentation. By signing below I certify that I have the authority to submit this Request for Action, and further certify its contents to be true and correct.

Signed: Bill Burke

### CORRESPONDENCE

Please indicate the preferred entity that shall receive the appropriate correspondence and billing associated with this Request for Action. Please select only one.

<input type="checkbox"/>	Applicant
<input type="checkbox"/>	Project Sponsor

Town Use Only:

Action: \_\_\_\_\_ By: \_\_\_\_\_ On: \_\_\_\_\_ Fee: \_\_\_\_\_ Paid: \_\_\_\_\_

Action: \_\_\_\_\_ By: \_\_\_\_\_ On: \_\_\_\_\_ Fee: \_\_\_\_\_ Paid: \_\_\_\_\_

Action: \_\_\_\_\_ By: \_\_\_\_\_ On: \_\_\_\_\_ Fee: \_\_\_\_\_ Paid: \_\_\_\_\_

Action: \_\_\_\_\_ By: \_\_\_\_\_ On: \_\_\_\_\_ Fee: \_\_\_\_\_ Paid: \_\_\_\_\_

Action: \_\_\_\_\_ By: \_\_\_\_\_ On: \_\_\_\_\_ Fee: \_\_\_\_\_ Paid: \_\_\_\_\_

Action: \_\_\_\_\_ By: \_\_\_\_\_ On: \_\_\_\_\_ Fee: \_\_\_\_\_ Paid: \_\_\_\_\_

## Access Consent Form

I hereby consent to allow members of the Town of Clarence Zoning Board of Appeals to access my property, identified below, for the purpose of considering a request for a variance.

Address of Property \_\_\_\_\_  
\_\_\_\_\_

Name \_\_\_\_\_

Signature *Bill Burke* \_\_\_\_\_

Date \_\_\_\_\_

\*The members of the Zoning Board of Appeals may be visiting your premises during any reasonable hour of the day in order to better understand your request. Please follow the directions for preparing your property for inspection included in this packet.\*

## Property Variance Staking Agreement

Please Take Notice, that the property must be staked prior to 10:00am one week before the Tuesday Zoning Board of Appeals meeting.

Property that is not staked so as to properly identify the requested variance may be subject to tabling same to a future meeting.

I \_\_\_\_\_ (*print name*) hereby understand and agree to properly stake the property to identify the requested variance and understand that failing to do so may result in my matter being tabled to a future meeting.

Signature *Bill Burke*

Date \_\_\_\_\_

February 21, 2025

Jonathan Bleuer, Director of Community Development  
Town of Clarence Planning & Zoning Department  
1 Town Place  
Clarence, NY 14031

**Re: Area Variance Application & Supporting Documentation**  
Sheridan Drive Mixed-Use Redevelopment  
9105 Sheridan Drive [SBL No. 71.13-2-3]  
Applicant/Project Sponsor: Edge Development LLC

Dear Jonathan:

This letter and the attached project documentation shall serve to accompany the Request for Action form dated February 21, 2025 submitted on behalf of Edge Development LLC (the “Applicant”) for area variances being sought in connection with the proposed mixed-use redevelopment consisting of 7,000 sq. ft. of commercial space and 22 multiple-family dwellings (the “Project”) to be located on a 2.83 acre parcel [SBL No. 71.13-2-3] with an address of 9105 Sheridan Drive (the “Project Site”) in the Town of Clarence, NY.

Attached please find the following project documentation:

1. **Exhibit A**: Project Description;
2. **Exhibit B**: Description of the requested area variances;
3. **Exhibit C**: Justification for the requested area variances;
4. **Exhibit D**: Additional information to consider in connection with the requested area variances;
5. **Exhibit E**: Aerial Image of the Project Site;
6. **Exhibit F**: Site Plan Concept [Drawing C-100, dated 02/17/2025], prepared by Christopher Wood, P.E. of Carmina Wood Design, Full-sized copy also enclosed;
7. **Exhibit G**: Site Landscape Plan [Drawing L-100, dated 09/16/2024], prepared by Christopher Wood, P.E. of Carmina Wood Design;
8. **Exhibit H**: Architectural Renderings of the proposed mixed-use concept building design, prepared by David Sutton, R.A. of Sutton Architecture PLLC;
9. **Exhibit I**: Architectural Renderings of the proposed residential townhome building designs, prepared by David Sutton, R.A. of Sutton Architecture PLLC;



10. **Exhibit J**: State of Development: Town of Clarence Invitation
11. **Exhibit K**: Copy of the SEQRA response letter to Jonathan Bleuer dated January 7, 2025 with attached Exhibits “1” to “5”
12. **Exhibit L**: Copy of the Negative Declaration dated January 29, 2025 issued by the Planning Board pursuant to SEQRA
13. **Exhibit M**: Section 229-83 through Section 229-90.2 of the Zoning Code; Use and design criteria for C Commercial Zoning District;
14. **Exhibit N**: Section 229-126 of the Zoning Code; Use and design criteria for Multiple-family dwellings within the C Commercial Zoning District;
15. **Exhibit O**: View of properties surrounding the Project Site
16. **Exhibit P**: Excerpt from the Town of Clarence Zoning Map;
17. **Exhibit Q**: Willow Square of Clarence – Approved Site Plan, dated November 4, 2011;
18. **Exhibit R**: Main Center of Clarence - Approved Site Plan, dated March 23, 2017;
19. **Exhibit S**: 9150 Sheridan Drive – Approved Site Plan, dated June 8, 2021;
20. **Exhibit T**: Grading Plan & Stormwater Plan [Drawing C-200 and C-300, dated 01/24/2025], prepared by Anthony Pandolfe, P.E. of Carmina Wood Design; and
21. **Exhibit U**: Financial Projections of the Project with the requested area variances and without the requested area variances

The Applicant requests that the Zoning Board of Appeals grant the requested area variances being sought in connection with the proposed mixed-use project. The granting of the requested area variances is justified since the benefits that will be received by Applicant if the requested area variances are granted clearly outweighs any resulting detriments per the statutorily mandated balancing test and five criteria.

If there are any questions regarding the requested area variances or the proposed mixed-use project, please feel free to contact Sean Hopkins, Esq. at 716.510-4338 or via e-mail at [shopkins@hsmlegal.com](mailto:shopkins@hsmlegal.com) or me at 716.225-6117 or via e-mail at [bill@goedgeco.com](mailto:bill@goedgeco.com).

Sincerely,

**EDGE DEVELOPMENT LLC**

A handwritten signature in blue ink that reads "Bill Burke". The signature is written in a cursive style with a light blue background behind the text.

Bill Burke

T. (716) 225-6117

E. bill@goedgeco.com

Enc.

cc: Ryan Mills, Chairman  
Gerald Drinkard, Zoning Board of Appeals  
Patrick Krey, Zoning Board of Appeals  
Steven Dale, Zoning Board of Appeals  
Richard McNamara, Zoning Board of Appeals  
Andrew Schaefer, Junior Planner  
Sean Hopkins, Esq., Hopkins, Sorgi, & McCarthy PLLC  
Christopher Wood, P.E., Carmina Wood Design

# **Exhibit A**

*Project Description*

## EXHIBIT A

### PROJECT DESCRIPTION

#### **I. Project Site Details – 9105 Sheridan Drive:**

The Project Site consists of 2.83± acres with approximately 324 ft. of frontage on the south side of Sheridan Drive approximately 1,000 ft. northwest of the intersection of Sheridan Drive and Main Street. An aerial image of the Project Site is attached as **Exhibit “E”**. The Project Site was previously home to a locally operated diner. The Project Site was purchased by 9105 Sheridan Drive LLC (the “Property Owner”) on September 14, 2006, after permanent closure of the diner. The Property Owner intended to renovate the existing building, but due to the state of disrepair, the building was demolished, providing the opportunity for the Project Site to be redeveloped.

The Property Owner has previously proposed multiple projects, including a large self-storage facility on the Project Site. Ultimately, the Property Owner decided to list the Project Site for sale in 2023. The Applicant and the Property Owner entered into a Purchase and Sale Agreement dated July 22, 2024, which includes a contingency period for the purpose of allowing the Applicant to pursue the required approvals for a mixed-use development plan.

#### **II. Site Plan Overview – Site Plan Concept [Drawing C-100, dated 10/02/2024], prepared by Christopher Wood, P.E. of Carmina Wood Design**

The Project proposes a variety of uses to include commercial retail, multiple family apartment dwellings and multiple family townhome dwellings with attached garages. The layout of the mixed-use Project is depicted on the Site Plan Concept [Drawing C-100, dated 02/17/2025], prepared by Christopher Wood, P.E. of Carmina Wood Design (the “Site Plan”). A reduced-size copy of the Site Plan is attached as **Exhibit “F”**. A full-sized copy of the Site Plan is also enclosed.

The Project Site is accessible via a single two-lane driveway along Sheridan Drive, which is a NYS Highway. A public sidewalk is proposed along the Sheridan Drive Right-of-Way. While the adjacent parcels do not contain municipal sidewalks, the Comprehensive Plan specifically identifies pedestrian access and connectivity as a priority within the Commercial zoning classification. The recently constructed Clarence Community & School Federal Credit Union building is located one parcel east of the Project Site and includes sidewalks, allowing for future connectivity towards the Sheridan Drive and Main Street intersection. A split-rail fence and landscape feature are proposed along the driveway access to draw visual attention to the mixed-use building and landscape features. A reduced-size copy of the proposed Landscape Plan [Drawing L-100, dated September 16, 2024], prepared by Christopher Wood, P.E. of Carmina Wood Design (the “Landscape Plan”) is attached hereto as **Exhibit “G”**. A full-size copy of the Landscape Plan is also enclosed.

As the driveway meanders towards the rear of the Project Site, it offers access to additional parking, recreational space, and three (3) 4-unit townhome buildings with attached garages. A dumpster will be located towards the center of the Project Site, out of view from Sheridan Drive. The dumpster will be screened with specified fencing and landscaping as required in the Town of Clarence Zoning Code (the “Zoning Code”) requirements.

In designing the Concept Site Plan, the Applicant and its design team paid particular attention to the Business Center Design Criteria outlined in the Clarence 2030: Town of Clarence Comprehensive Plan (the “Comprehensive Plan”), adopted on December 14, 2016. The following excerpt provides insight into the methodology utilized by the project team in connection with the project layout:

**Future Land Use Summary: Business Center Design Criteria**

*The Town has placed an increasing emphasis on providing pedestrian connectivity throughout these areas as well as building and site design requirements in order to achieve a higher standard of development.*

*Site requirements include limiting the percentage of lot frontage that can be used for parking, placing parking behind the front wall of the building.<sup>1</sup>*

The Site Plan achieves the stated goals of the Business Center Design by presenting the mixed-use commercial building along Sheridan Drive with a 15 ft. building setback, in excess of the 10 ft. minimum required building setback in accordance with Section 229-87 C. (1). All parking spaces are located behind the front wall of the mixed-use building satisfying the goals of the Comprehensive Plan. The proposed municipal sidewalk will offer connectivity opportunities for future development projects. The Project is designed to feature the mixed-use building as a visual enhancement of the Project Site along with additional landscape and fencing accents to achieve a higher standard of development.

Exclusively residential buildings are located to the rear of the Project Site in accordance with Section 229-126 D. (1) (g), which states:

Exclusively residential buildings within a multiple-family development shall have a sufficient setback from the fronting road to preserve the open character of the Town. The required front yard setback area shall be enhanced with landscaping to ensure a visual buffer. Where appropriate, exclusively residential buildings shall be located to the rear of the required commercial component or integrated through a mixed-use format.

The exclusively residential townhome buildings are located behind the commercial mixed-use building and are screened with extensive landscaping and fencing accents.

---

<sup>1</sup> Steinmetz Planning Group, “Clarence 2030: Town of Clarence Comprehensive Plan, December 14, 2016, page 52, [clarence 2030 plan adopted.pdf](#)

### **III. Architectural Overview:**

The Applicant's vision for the Project Site began with the opportunity to design a unique concept for the proposed three-story mixed-use building containing approximately 7,000 sq. ft. of first floor commercial retail space along with ten (10) multiple family apartments. Conceptual Architectural Renderings for the proposed mixed-use building prepared by David Sutton of Sutton Architecture PLLC are attached as **Exhibit "H"**.

The renderings identify a unique building design featuring tasteful pitched rooflines and alternating gables to create a prominent streetscape appearance. The street front commercial space includes store-front glass façade with a high degree of transparency and attractive signage bands for commercial tenants. A metal roof is positioned over the recessed center entrance of the mixed-use building. Gooseneck lighting fixtures are included over the signage band for decorative illumination. The exterior is proposed with multiple textures of white siding, black doors, windows, black shutters and black railings to create a modern farmhouse residential style. A gray stone water table is featured along all elevations to create a durable and attractive union with the landscaping and sidewalk accesses. The building includes six (6) second-floor apartments and four (4) third-floor apartments, each with a Juliet balcony.

The residential townhome buildings positioned in the rear of the Project Site each feature two (2) 1,520 square foot, 2 bedroom, 2.5 bathroom townhomes with attached garages and two (2) 1,640 square foot, 3 bedroom, 2.5 bathroom townhomes with attached garages. The townhomes feature an upscale architectural design intended to maintain consistency with the mixed-use building. The townhome buildings feature multiple cladding textures, black windows and doors, and stone accents to ensure a strong architectural design. Conceptual Architectural Renderings of the townhomes are attached hereto as **Exhibit "I"**.

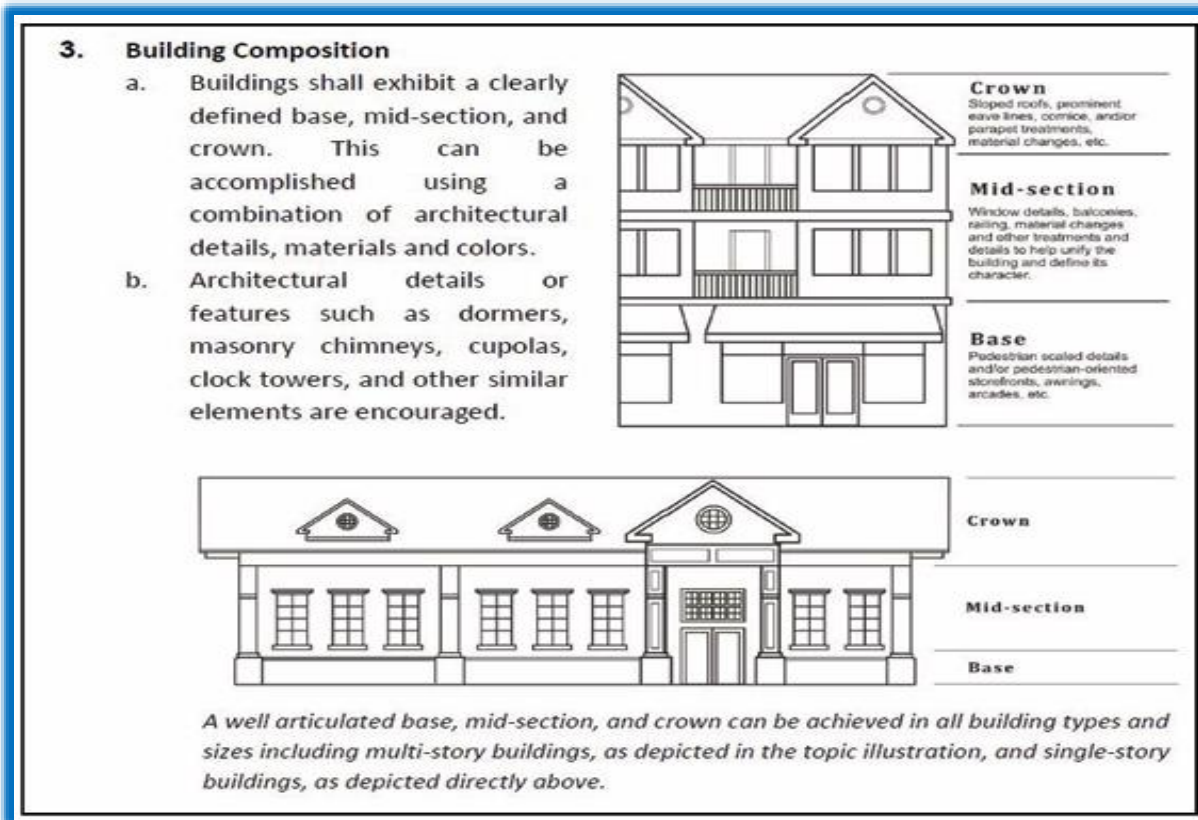
The Applicant and its design team also drew architectural inspiration from the Comprehensive Plan in designing the mixed-use and residential buildings:

#### **Future Land Use Summary: Business Center Design Criteria**

Building Requirements include architectural detailing of facades, providing a minimum amount of transparency, and breaking up of large blank walls.<sup>2</sup>

---

<sup>2</sup> Steinmetz Planning Group, "Clarence 2030: Town of Clarence Comprehensive Plan, December 14, 2016, page 52, [clarence 2030 plan adopted.pdf](#)



*Business Center Design Criteria*

The proposed building designs highlight the attention to detail paid by the Applicant and Sutton Architecture. The Comprehensive Plan included a depiction of the intended building composition using the Town of Greece, NY – Dewey Avenue Mixed-Use Zoning Amendment Graphic. The text highlights the need for sloped roofs, prominent eave lines, cornice, and/or parapet treatments, material changes, etc. The proposed mixed-use building captures each criteria including the division of large blank walls by utilizing horizontal offsets in the building envelope, further accentuated by articulating roof lines and strong eave lines. The streetscape and curb appeal of the proposed building designs will serve as a strong asset to the Town of Clarence and encourage similarly higher standards for future projects along the Sheridan Drive corridor.

The Project architectural design has received positive feedback from the members of the Town Board and the Planning Board. The Project was featured on the State of Development: Town of Clarence invitation, to be hosted by the Clarence Chamber of Commerce, Inc. A copy of the State of Development invitation is attached as **Exhibit “J”**.

**IV. Project History:**

The Applicant submitted a Request for Action to the Town Board dated September 18, 2024 for the purpose of requesting referral of the Project to the Planning Board by the Town Board. The Applicant attended a Town Board Work Session held on September 14, 2024 and engaged in

conceptual discussion with the members of the Town Board regarding the Project. In response to comments received from the Town Board, the Applicant submitted an Updated Concept Plan Review submission dated October 2, 2024 which included a revised Site Plan eliminating two (2) of the previously proposed first floor apartments in the mixed-use building and an increase in the amount of first floor commercial square footage from 5,250 sq. ft. to 7,000 sq. ft.

The Applicant attended the Town Work Session held on October 9, 2024 to discuss the updated Site Plan. The Town Board expressed positive opinions of the Project during this meeting and adopted a resolution during its meeting on October 23, 2024 referring the Project to the Planning Board.

The Applicant and its design team attended a virtual meeting of the Planning Board Executive Committee (“PBX”) held on November 4, 2024. In response to input from PBX, the Applicant revised the Site Plan to increase the front setback from the minimum required front yard building setback of 10 ft. to 15 ft. Additionally, the Applicant extended the split rail entrance feature to the entire length of the western portion of the front yard and extended the internal sidewalk proposed along the western side of the mixed-use building to connect with the proposed Sheridan Drive public sidewalk.

The Applicant appeared before the Planning Board on November 13, 2024 to formally introduce the Project to the Planning Board and to request that the Planning Board commence a coordinated environmental review of the Project pursuant to the State Environmental Quality Review Act (“SEQRA”). The Town of Clarence issued a Lead Agency Solicitation letter dated November 18, 2024 pursuant to SEQRA with a thirty (30) day lead agency solicitation response deadline that expired on December 31, 2024. The Town of Clarence received five (5) responses from involved and interested agencies as follows:

1. Erie County Division of Planning, dated November 19, 2024;
2. Erie County Water Authority, dated November 22, 2024;
3. New York State Parks, Recreation and Historic Preservation, dated November 22, 2024;
4. New York State Department of Environmental Conservation, dated December 3, 2024; and
5. New York State Department of Transportation, dated December 27, 2024

The involved agencies that responded all concurred with the request of the Planning Board to be the designated Lead Agency for the purpose of the coordinated environmental review of the Project pursuant to SEQRA.



The Applicant submitted a detailed letter responding to the comments received from the interested and involved agencies on January 5, 2025.<sup>3</sup> The Applicant appeared before the Planning Board on January 29<sup>th</sup> to discuss the comments received from the interested and involved agencies and to discuss the responses provided to the Planning Department. The Planning Board adopted a motion by a unanimous vote during its meeting on January 29<sup>th</sup> for the purpose of issuing a Negative Declaration pursuant to the State Environmental Quality Review Act.<sup>4</sup> The Planning Board also adopted a motion to deny the Concept Plan based on the need for relief from the Zoning Board of Appeals.

## V. Zoning Analysis:

The Project Site is zoned C Commercial pursuant to the Town of Clarence Zoning Map. A copy of Section 229-83 through Section 229-90.2 of the Zoning Code which sets forth the use and design standards of the C Commercial zoning district are attached as **Exhibit “M”**. The intent of the C Commercial zoning district is set forth in Section 229-83 of the Zoning Code as follows:

Developments in the commercial districts are intended to achieve the high-quality site layout and use flexibility inherent in campus design. This is accomplished through attention to architectural compatibility with other buildings and the relationship of building facades to public roadways. These regulations are intended to encourage commercial facilities on Main Street between the hamlets of Harris Hill and Clarence Hollow, Wehrle Drive near Transit Road, certain parts of Sheridan Drive, and any other area designated as a commercial zone in the future to be designed so as to minimize traffic congestion, reduce conflict points, and maintain a pleasing community character. The Commercial Zone shall encourage a mix of uses, improved walkability, connectivity with adjoining uses and an overall enhancement of neighborhood appeal.

Commercial retail uses are expressly permitted within C Commercial zoning district. Multiple-family dwelling units are also included as a use permitted within the Commercial zoning district subject to the issuance of a Special Exception Use Permit by the Town Board in accordance with Section 229-85 E. of the Zoning Code.

A copy of Section 229-126 Multiple-family developments of the Zoning Code which stipulates additional design and use criteria for Multiple-family developments within the C Commercial zoning district is attached as **Exhibit “N”**.

---

<sup>3</sup> A copy of the SEQRA response letter to Joathan Bleuer with attached Exhibits “1” to “5” is provided as **Exhibit “K”**.

<sup>4</sup> A copy of the Negative Declaration issued by the Planning Board by a unanimous vote pursuant to SEQRA on January 29, 2025 is provided at **Exhibit “L”**.

# **Exhibit B**

*Description of the requested area variances*

## EXHIBIT B

### DESCRIPTION OF REQUESTED AREA VARIANCES

The Project requires two (2) variances from the Zoning Board of Appeals. Below are the two applicable Zoning Code sections with additional narrative describing the relief sought.

**(1) Three-Story Building Construction:**

**Section 229-126 D. (1) (f) of the Zoning Code: Buildings within a multiple-family development shall be limited to a maximum of two stories.**

The Applicant is proposing to construct a three-story mixed-use building. This would require relief from the two-story maximum allowed per Section 229-126 D. (1) (f). It is important to note that the building height will not exceed the 45 ft. maximum building height allowed for commercial only buildings in the C Commercial zoning district in accordance with Section 229-87 F. (1). For example, a three-story hotel building would be considered an As-of-Right use on the Project Site.

**(2) Residential Project Density:**

**Section 229-126 D. (1) (b) of the Zoning Code: Where feasible and appropriate, multiple-family developments may be considered on properties without sanitary sewer access. The maximum on-site waste treatment allowance determination shall be consistent with the approvals of regulatory agencies and the Town Engineer, including residential and projected commercial waste. The maximum number of residential units that can be developed on properties without sewer access in a multiple-family development shall be four units per acre with a maximum total number of 16 units.**

The Applicant is proposing to build twenty-two (22) total residential units on the Project Site. In accordance with Section 229-126 D.(1) (b), the Project Site yields an allowed density of ten (10) residential units. The Project therefore requires a variance for twelve (12) units.

# **Exhibit C**

*Justification for the requested area variances*

### **EXHIBIT 3**

#### **NARRATIVE PROVIDING JUSTIFICATION FOR THE REQUESTED AREA VARIANCES FOR THE MIXED-USE PROJECT**

##### **I. Introduction:**

NYS Town Law §267-b(3)(b) sets forth a statutorily mandated balancing test to be considered by a zoning board of appeals in connection with its review of a request for area variances. The statutorily mandated balancing test requires a zoning board of appeals to balance the benefits that will be realized against the resulting detriments to the health, safety and welfare of the community.

The granting of the requested area variances will result in substantial benefits to the Applicant including the ability of the Applicant to proceed with the proposed mixed-use project pursuant to the current project layout depicted on the Site Plan.<sup>5</sup>

The granting of the requested area variances will not result in any detriment to the health, safety and welfare of the community. The Project Site is located within the C Commercial zoning district as depicted on **Exhibit “O”**, an excerpt of the Town of Clarence Zoning Map. All properties abutting the Project Site are also zoned C Commercial.

In applying the statutorily mandated balancing test set forth above, NYS Town Law §267-b(3)(b) requires a ZBA to consider five (5) criteria as described below:

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

The granting of the requested area variances will not produce any undesirable changes to the character of the neighborhood or detriments to nearby properties. Sheridan Drive is a State Highway consisting of numerous land uses on both sides of the highway, including commercial uses, retail uses, industrial uses, residential homes, and manufactured housing. The Project will result in a desirable change to the character of the neighborhood and is consistent with the planning goals and objectives that have been established by the Town per the Comprehensive Plan.

The Project was designed with careful application of the goals of the Comprehensive Plan and the “Business Center Design Criteria” in tandem with the Intent of the Zoning Code. The Project incorporates the goals of pedestrian connectivity as well as building and site design requirements that achieve a higher standard of development. The Project features visually pleasing and creative architectural design with a site layout that satisfies the directives identified in the Comprehensive Plan. The parking and residential buildings are effectively de-emphasized with

---

<sup>5</sup> A reduced-size copy of the Site Plan is attached as **Exhibit “F”**. A full-sized copy of the Site Plan is also enclosed.

all parking oriented behind the front wall of the mixed-use building, while abundant landscaping and fencing accents enhance the streetside curb appeal of the Project.

The Sheridan Drive corridor is identified as an area ripe with opportunity within the Comprehensive Plan. The Comprehensive Plan calls for a blend of office uses, civic uses, multi-family living opportunities and limited retail operations that meet the needs of the surrounding neighborhood and the traveling public. The Project effectively encapsulates the potential for office and retail uses mixed with high quality residential opportunities.

### **No Detriments to Nearby Properties**

The granting of the requested area variances will not result in any detriments to nearby properties. All properties abutting the Project Site are zoned C Commercial with uses consisting of commercial retail, commercial office and industrial uses. As depicted on the aerial image of the Project Site, attached as **Exhibit “E”**, the vacant land abutting the Project Site to the west is owned by the New York State Department of Transportation (“NYSDOT”). The NYSDOT also operates a facility across Sheridan Drive from the Project Site located at 9070 Sheridan Drive. A view of the NYSDOT property from Sheridan Drive is included in **Exhibit “O”**. The property abutting the Project Site to the east at 9135 Sheridan Drive is a retail plaza occupied by local retail establishments and a marketing firm. An image of the retail plaza is depicted in **Exhibit “O”**.

There are two properties with addresses along Main Street that abut the Project Site to the south, with addresses at 9110 Main Street and 9120 Main Street. The properties feature retail establishments, commercial offices and a mixed-use industrial building.

There are two homes located northeast of the Project Site across Sheridan Drive, a three-lane New York State Highway. Both of these properties are zoned C Commercial. A view of the residential homes from Sheridan Drive is included in **Exhibit “O”**.

Given the status of the surrounding properties, the Project represents a positive change to the community character and will establish precedent for a higher standard of design for future developments along Sheridan Drive.

### **2. Whether the benefits sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than area variances:**

The Applicant and the Property Owner have attempted to pursue alternative development opportunities. The Property Owner previously proposed a self-storage facility on the Project Site. A self-storage facility would not have contributed to the vibrancy and vitality of the immediate surroundings and would offer low curb appeal. A self-storage facility does not fit within the vision of the Comprehensive Plan, nor does it promote pedestrian activity. A self-storage facility does not fit within the allowable uses for the Project Site, which includes retail, office, multi-family living, and civic uses.

The Applicant has explored alternative layouts. If the Applicant were to utilize the Transfer Incentives in accordance with Section 229-126 D. (6) (a), the Project Site would be entitled to sixteen (16) residential units in the mixed-use building. That would serve to create a larger

mixed-use building along Sheridan Drive that would not efficiently utilize the Project Site and would not offer the variety of living options presented within the Project. Furthermore, a larger mixed-use building by itself would not be financially feasible. In the case of the Project, the residential units oriented towards the rear of the Project Site effectively subsidize the mixed-use building.

### **3. Whether the requested area variances are substantial:**

The area variances requested are not substantial. The reason the magnitude of the variance is relevant is that, generally, the larger the difference the more likely it is that a negative effect would be generated. See Matter of Human Development Services of Port Chester v. Zoning Board of Appeals of the Village of Port Chester, 110 A.D.2d 135, aff'd, 67 N.Y.2d 702. However, in any particular case, the facts may demonstrate that while a variance may seem noteworthy on paper, no negative effect would be produced and, accordingly, the sought-after variance should be granted.

For example, in Matter of Frank v. Scheyer, 227 A.D.2d 558, 642 N.Y.S.2d 956 (2d Dept. 1996), the parcel was 19,983 square feet. However, the zoning code required a minimum lot size of one acre or 43,560 square feet. The variance at issue was more than 54%. Nevertheless, based on the facts presented, no harm would befall the community and the Court directed the zoning board of appeals to grant the application. The Court took similar action in Matter of Shaughnessy v. Roth, 204 A.D.2d 333, 611 N.Y.S.2d 281 (2d Dept. 1994), in which the premises contained 50 feet of frontage and 5,000 square feet of area. The zoning code required 80 feet of frontage and a minimum lot size of 10,000 square feet. Accordingly, the application concerned a 50% reduction in lot area coupled with a second area variance seeking a 62.5% reduction from the required frontage. Nevertheless, based on the facts in the record, the Court directed the respondents to issue the variances. Additionally, in Matter of Sasso v. Osgood, 86 N.Y.2d 374 (1995), the applicant sought area variances for a 60% reduction in lot area and a 50% reduction in lot width. Based on all of the facts presented, the Court of Appeals, the State's highest court, overturned the holding of the appellate court and directed that the requested area variances be granted.

Merely because requested area variances may seem noteworthy on paper does not mean that any "harm" would be generated on the surrounding community, and it is "harm" that is balanced against the interest of the applicant according to the Town Law §267-b(3) test. The granting of the requested area variances as set forth in **Exhibit "B"** of this Variance Application in furtherance of the proposed mixed-use project will not result in any "harm" on the surrounding community.

If the Project Site was serviced by a sanitary sewer system, there would be no need for the requested density variance. There are multiple projects within the Town of Clarence that were developed within the last ten (10) years that consist nearly identical residential density to the Project.

Willow Square of Clarence features a density of 7.89 units per acre, while Main Center of Clarence features a density of 7.97 units per acre, as compared to the proposed density of the Project of 7.77 units per acre. Neither Willow Square of Clarence, nor Main Center of Clarence are serviced by a sanitary sewer system.

The third-floor variance for mixed-use building request is not substantial. The mixed-use building complies with the allowable building height of 45 ft. within the C Commercial zoning district. The Applicant would be entitled to construct a three-story commercial building on the Project Site without an area variance for the third story.

The recently approved 3-story mixed-use building located at 9150 Sheridan Drive received an area variance to allow a 3-story building. This building included similar features to the Project, including first floor retail uses and residential units on the upper floors. 9150 Sheridan Drive is located immediately northeast of the Project Site, across Sheridan Drive.<sup>6</sup>

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

The granting of the requested area variances will not have adverse effects or impacts on the physical or environmental conditions in the neighborhood or district. The Project has undergone an extensive review by the Planning Board. The Planning Board conducted a coordinated environmental review of the Project pursuant to the State Environmental Quality Review Act (“SEQRA”).<sup>7</sup> The Planning Board issued a Negative Declaration pursuant to the State Environmental Quality Review Act on January 29, 2025 based on its determination that the Project will not result in any potentially significant adverse environmental impacts.<sup>8</sup>

It also important to mention that the Project will comply with the numerous technical standards that apply in order to receive Development Plan Approval from the Planning Board as well as the required approvals and permits from involved agencies. The Applicant will be required to submit a fully engineered Site Plan for review by the Engineering Department along with additional involved agencies, to include the Erie County Water Authority, Erie County Health Department, New York State Department of Transportation, and the Building Department.

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

Town Law Section 267-b(3)(b) expressly states that the issue of whether an alleged difficulty is self-created cannot be utilized as the sole criteria in determining whether to grant a requested area variance. Since the Applicant has knowledge of the zoning classification of the Project Site

---

<sup>6</sup> Detailed information regarding comparable projects located in the C Commercial District is provided in Part I of **Exhibit “D”**.

<sup>7</sup> The Town of Clarence issued a Lead Agency Solicitation letter dated November 18, 2024 pursuant to SEQRA with a thirty (30) day lead agency solicitation response expiring on December 31, 2024. The Planning Board received responses from five interested and involved agencies. None of the responding agencies identified an adverse effect or impact on the physical or environmental conditions in the neighborhood.

<sup>8</sup> A copy of the Negative Declaration issued by the Planning Board by a unanimous vote pursuant to SEQRA on January 29, 2025 is provided at **Exhibit “L”**.



and the applicable sections of the Zoning Code, the alleged difficulty can be viewed as being self-created.

The economic challenges that have resulted in the need for the Applicant to seek the requested area variances is set forth in detail in Part II of **Exhibit "D"**. While the Applicant is not taking the position that it is the responsibility of the Zoning Board of Appeals to solve the financial challenges that would result from the development of the Project Site without the requested area variances, the Applicant believes this information is relevant by explaining the reasons the requested area variances are being sought in order for the Project to be feasible.

However, the overall balancing test and the other four statutory criteria provides strong justification for the granting of the requested area variances by the Zoning Board of Appeals.

## **II. Conclusion:**

The Applicant requests that the Zoning Board of Appeals grant the requested area variances being sought in connection with the proposed mixed-use project. The granting of the requested area variances is justified since the benefits that will be received by Applicant if the requested area variances are granted clearly outweighs any resulting detriments per the statutorily mandated balancing test and the five criteria.

# **Exhibit D**

*Additional Information to consider in connection with the requested  
area variances*

## EXHIBIT D

### **I. Comparable Projects within the Commercial District:**

Project Sponsors have pursued and successfully developed projects similar to the proposed Project in Clarence within a close proximity to the Project Site that have had a demonstrably positive effect on the neighboring properties and district. Stephen Development constructed Willow Square of Clarence located at 9500 Main Street and Main Center of Clarence located at 9560 Main Street. Both projects are located within one (1) mile of the Project Site. These two projects are highly regarded and well-planned developments that have re-shaped the landscape of the Main Street corridor by redeveloping modern mixed-use developments in place of older dilapidated buildings in a state of severe disrepair. Both projects are located within the same C Commercial zoning district that the Project Site is located within. In addition to Willow Square and Main Center, the Green Organization recently pursued and obtained Development Plan Approval for a mixed-use development with a three-story building consisting of 18 units and 6,400 square feet of commercial retail space located on Sheridan Drive, proximate to the Project Site (collectively the “Comparable Properties”).

The Comparable Properties are highlighted in **Exhibit “P”**, an excerpt of the Clarence Zoning Map. It is worth noting that the Project Site and the Comparable Properties are within the C Commercial zoning district and are between 2.83± acres and 3.30± acres in total size. The Applicant believes the Project would build off of the success of these projects and continue the positive, well-planned development that is consistent with the planning goals and objectives in the Comprehensive Plan.

#### **Willow Square of Clarence – 9500 Main Street**

Willow Square of Clarence is a mixed-use project located on 3.17± acres at 9500 Main Street at the corner of Goodrich Road consisting of 25 residential units and 12,050 sq. ft. of commercial retail space. This project was granted Concept Plan Approval by the Town of Clarence Planning Board on November 9, 2011, a Special Exception Use Permit by the Town Board on December 7, 2011 authorizing the residential component of the project and Development Plan Approval on November 27, 2013. A copy of the approved Willow Square Site Plan dated November 4, 2011 is attached hereto as **Exhibit “Q”**.

The Project features nearly identical use and relative density compared to the Project Site as illustrated in the table below:

Density Calculations	Site Size	Residential Units	Residential Units/Acre	Commercial SF	Commercial SF/Acre
Willow Square of Clarence	3.17	25	7.89	12,050	3,801
Proposed - 9105 Sheridan Drive	2.83	22	7.77	7,000	2,473

Willow Square is located within the same C Commercial zoning district and was approved without the need for any area variances. The Zoning Code was amended in 2013. Had Willow Square been proposed after the 2013 Zoning Code amendment, the project would require a variance of thirteen (13) residential units for relief from Section 229-126 D. (1) (b) of the Zoning Code in addition to a density variance in the amount of seven (7) residential units for relief from Section 229-126 D. (1) of the Zoning Code.

In the opinion of the Applicant, Willow Square is a successful, attractive and well-received mixed-use project that has contributed to the measured growth and vibrancy of the Main Street corridor. The Project would offer a similar vibrancy to Sheridan Drive and spur on additional projects of a similar high design standard.

**Main Center of Clarence – 9560 Main Street**

Main Center of Clarence is a mixed-use development located on 3.01± acres at 9560 Main Street, proximate to the intersection of Main Street and Goodrich Road, consisting of 24 residential units and 18,000 sq. ft. of commercial retail space. The mixed-use project was granted Development Plan Approval by the Town of Clarence Planning Board on November 8, 2017 and a Special Exception Use Permit by the Town Board on November 16, 2016. A copy of the Main Center of Clarence Site Plan dated March 23, 2017 is attached hereto as **Exhibit “R”**.

The Project features similar use and relative density compared to the Project Site as illustrated in the table below:

Density Calculations	Site Size	Residential Units	Residential Units/Acre	Commercial SF	Commercial SF/Acre
Main Center of Clarence	3.01	24	7.97	18,000	5,980
Proposed - 9105 Sheridan Drive	2.83	22	7.77	7,000	2,473

Main Center is located within the same C Commercial zoning district. Main Center received unanimous approval from the Zoning Board of Appeals for a variance of eight (8) units pursuant to Section 229-126 D. (1) (b) of the Zoning Code on September 13, 2016. In comparison, the Project would require a variance of six (6) units from the same Zoning Code section. In addition, the site features a density of 7.97 units per acre, in excess of the four (4) unit per acre maximum in accordance with Section 229-126 D. (1) of the Zoning Code.

Similar to Willow Square, Main Center is a successful, attractive and well-received mixed-use project that has contributed to the measured growth and vibrancy of the Main Street corridor.

**3-Story Mixed-Use Building – 9150 Sheridan Drive**

The Green Organization proposed a 3-Story Mixed-Use Building on 3.30± acres located at 9150 Sheridan Drive, across Sheridan Drive and slightly east from the Project Site consisting of 18

residential units and 6,400 sq. ft. of commercial retail space. The project was granted Development Plan Approval by the Town of Clarence Planning Board on November 10, 2021 and a Special Exception Use Permit by the Town Board on August 25, 2021. A copy of the 9150 Sheridan Drive Site Plan dated June 8, 2021 is attached hereto as **Exhibit “S”**.

9150 Sheridan Drive was granted two (2) variances from the Zoning Board of Appeals by unanimous vote on February 9, 2021. The first variance was for two (2) residential units over the maximum of 16 residential units allowed on a parcel serviced by an on-site wastewater treatment facility in accordance with Section 229-126 D. (1) b. The second variance provided relief from the two-story maximum height as required by Section 229-126 (D) (1) (f) of the Zoning Code, allowing the project to proceed with three-story building heights.

The proposed 3-story mixed-use building at 9150 Sheridan Drive is an example of a well-designed project that incorporated several elements detailed in the Comprehensive Plan. The lack of the necessary density and the impacts of construction and financing costs have prevented this project from advancing to construction.

---

## **II. Financial Challenges:**

There are a series of financial challenges inherent in developing the Project Site that are not self-created. The Project design and the requested area variances are methods intended to reduce the current financial challenges associated with pursuing a development plan on the Project Site that aligns with the goals and objectives of the Comprehensive Plan. Below is a summary of financial hardships encountered with any feasible development plan on the Project Site.

### **Public Water Supply**

The Project Site is located within a Erie County Water Authority Direct Service area. The Project Site will be required to connect to the Erie County Water Authority (“ECWA”) system. The nearest connection point for the ECWA system is located on the northern side of Sheridan Drive. In order to connect to the ECWA system, the Applicant will be required to compensate ECWA for a roadway bore across Sheridan Drive, a three-lane NYS Highway, to tap into the existing water supply on the northern side of Sheridan Drive. Given the existing shallow bedrock in this region and the distance of the required road bore, the expense associated with obtaining water service is anticipated to be between \$150,000 and \$200,000, a substantial financial hurdle for the Project.

### **Presence of Shallow Bedrock**

The Project Site features challenging geological conditions, highlighted by the presence of bedrock, which is anticipated to be between 24” and 48” sub-surface throughout the Project Site. The project engineering firm, Carmina Wood Design, team has designed a Preliminary Grading and Drainage Plan to account for the geological conditions on the Project Site. A reduced-size copy of the Preliminary Grading and Stormwater Drainage Plans [Drawing C-200 through C-300

– Date: 01/24/2025], prepared by Anthony Pandolfe, P.E. of Carmina Wood Design (the “Grading Plan”) are attached as **Exhibit “T”**.

Due to the shallow bedrock conditions, the Applicant will be required to hammer and bust the bedrock for certain utility and stormwater applications. Each water line, sanitary wastewater line, and stormwater structure will likely require rock hammering along with removal and replacement of bedrock material. The additional cost associated with the excavating bedrock for utility and stormwater structures is expected to be approximately \$250,000.

### **Construction Costs & Interest Rate Environment**

The construction industry has experienced substantial wage and material inflation from 2020 after the Covid 19 pandemic through 2025. The average cost of construction projects increased between 40% to 50% over this five-year period. Similarly, the cost of capital has increased dramatically throughout the same period. The 10-year treasury yield, a commonly utilized lending index, increased from 0.78% in February 2020 to 4.52% in February 2020. These two factors have severely impacted the economic viability of real estate projects.

The Project is no exception to the challenging economic conditions facing the real estate development industry. The Applicant prepared financial projections for the Project exploring two scenarios: (1) Project as proposed with the requested area variances, consisting of 22 residential units and 7,000 sq. ft. of commercial space; and (2) Project without area variances, utilizing the Transfer Incentive in accordance with Section 229-126 D. (6.) (a.), consisting of 16 residential units and 7,000 sq. ft. of commercial space. The financial projections are included as **Exhibit “U”**.

As illustrated, the Project as proposed with the requested area variances is expected to cost approximately \$7,105,000 to construct. With approximately \$1,500,000 in investor equity and a bank loan with 7.25% interest, the Project would be anticipated to generate approximately \$25,000 in annual cash flow. Comparatively, the Project without any variances would cost approximately \$6,020,000 to construct. With approximately \$1,500,000 in investor equity and a bank loan with 7.25% interest rate, the Project would be anticipated to generate negative cash flows of approximately (\$66,000) annually.

As designed, the Project benefits economically from highly desirable townhome buildings oriented towards the rear of the Project Site. These townhomes feature spacious living options with attached garages. The design layout achieves a more efficient construction profile than that of a large mixed-use building and yields a premium leasing rate. The townhomes units subsidize the mixed-use building and ensure the long-term economic viability of the Project.

### **III. Project Design – Factors Mitigating Variance Requests:**

The Applicant has made efforts to off-set the impacts of the requested variances to the maximum extent possible. These mitigation methods include the allocation of land area for redundant on-site wastewater treatment and enhancement of overall Open Space on the Project Site.

## **Redundant On-Site Wastewater Treatment**

The Project is designed with an allocation of open space for two on-site wastewater treatment fields. Based on the calculations generated by Christopher Wood, P.E. of Carmina Wood Design, the entire Project can be sustained by one septic field. However, in the case of a failure of the primary septic field, enough land area has been preserved to facilitate the installation of an ancillary second septic field. This serves to mitigate the limitation on overall density on a parcel without access to a sanitary sewer in accordance with Section 229-126 D. (1) (b), which caps the total number of residential units at sixteen (16) units, regardless of the size or characteristics of the parcel.

It is important to note that the Erie County Department of Health (“ECDOH”) will require complete review and approval of the proposed on-site wastewater system.

## **Open Space**

Despite the request for a variance in overall density, the Project design incorporates a high proportion of Open Space. The overall Open Space within the Project Site is 57%, in excess of the 30% minimum Open Space requirement in accordance with Section 229-90 of the Zoning Code. By comparison, Willow Square features only 46.7% Open Space and Main Center features only 35% Open Space. The enhanced Open Space of the Project Site represents an added benefit of the three-story mixed-use building design.

# **Exhibit E**

*Aerial Image of the Project Site*





# **Exhibit F**

*Site Plan Concept [Drawing C-100, dated 02/17/2024], prepared by  
Christopher Wood, P.E. of Carmina Wood Design*



Site Data	
SITE AREA = 2.83 AC	
ZONED: COMMERCIAL	
USE: MIXED-USE (RESIDENTIAL AND COMMERCIAL)	
SETBACKS - BUILDINGS	
FRONT	REQUIRED: 10 FT MIN/8 FT MAX* PROVIDED: 15 FT
SIDE (ABUTTING COM. / RES.)	25 FT / 45 FT 25 FT / 45 FT
REAR (ABUTTING COM. / RES.)	25 FT / 45 FT 34.84 FT MIN. / N/A
SETBACKS - PARKING	
FRONT	N/A
SIDE	N/A
REAR	N/A
PARKING STALLS	9x19'
STALL SITE	84
REQUIRED SPACES	30% (0.85 AC) 8% (0.23 AC)
GREENSPACE	57% (1.60 AC) > 8%
OVERALL SITE GREENSPACE	< 45 FT
INTERIOR GREENSPACE	70% MAX. (1.58 AC)
MAX. BUILDING HEIGHT	45 FT
MAX. BUILDING COVERAGE	15% (0.42 AC)
RECREATION SPACE (CAN BE INCLUDED IN GREENSPACE)	> 15%

**PARKING CALCULATION:**

OFFICE	1 PER 200 SQ. FT. OF FLOOR AREA
RETAIL	1 PER 150 SQ. FT. OF FLOOR AREA
RESTAURANT	1 PER 3 SEATS
RESIDENTIAL	1 PER 1 UNIT
TOTAL SPACES REQUIRED	= 84 SPACES

**NOTE LEGEND**

- INSTALL STOP SIGN - M.U.T.C.D. SIGN NO. R-1B
- RADIUS CURB IN 2' OR MATCH EXISTING CURB
- INSTALL "NO PARKING" SIGN, M.U.T.C.D. SIGN NO. P-1-C
- LANDSCAPED AREA - SEE LANDSCAPE PLAN, IF NO PLANTINGS, INSTALL TOPSOIL & SEED
- EDGE OF PAVEMENT

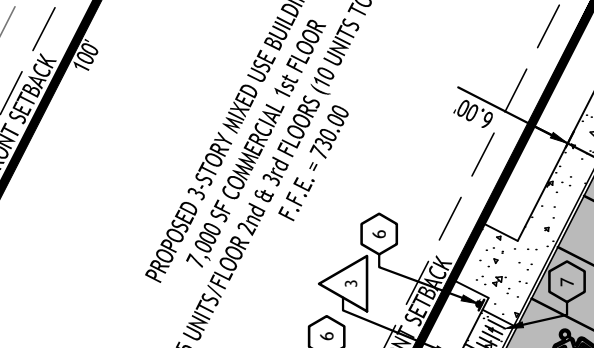
**DETAIL LEGEND** - SEE SITE DETAIL SHEET

- TYPE "X" CONCRETE CURB
- CONCRETE SIDEWALK
- 90° PARKING STALL
- STANDARD DUTY ASPHALT
- EXTERIOR CONCRETE SLAB ON GRADE
- HANDICAPPED PAVEMENT MARKINGS
- HANDICAPPED PARKING SIGN
- BUMPER ENCLOSURE
- STOP BAR
- LIGHT POLE FOUNDATION
- PAINTED TRAFFIC ARROWS

**SITE LEGEND**

- PROPERTY LINE
- PROPOSED CONCRETE CURB
- PROPOSED SIDEWALK / CONCRETE PAD
- NUMBER OF PARKING SPACES
- PROPOSED SIGN
- PROPOSED STANDARD DUTY ASPHALT PAVEMENT
- PROPOSED LIGHT POLE
- PROPOSED WALL MOUNTED LIGHT

NOTE: BOUNDARY AND TOPOGRAPHIC INFORMATION PROVIDED BY OTHERS. CARMINA WOOD DESIGN ASSUMES NO RESPONSIBILITY FOR ITS ACCURACY.



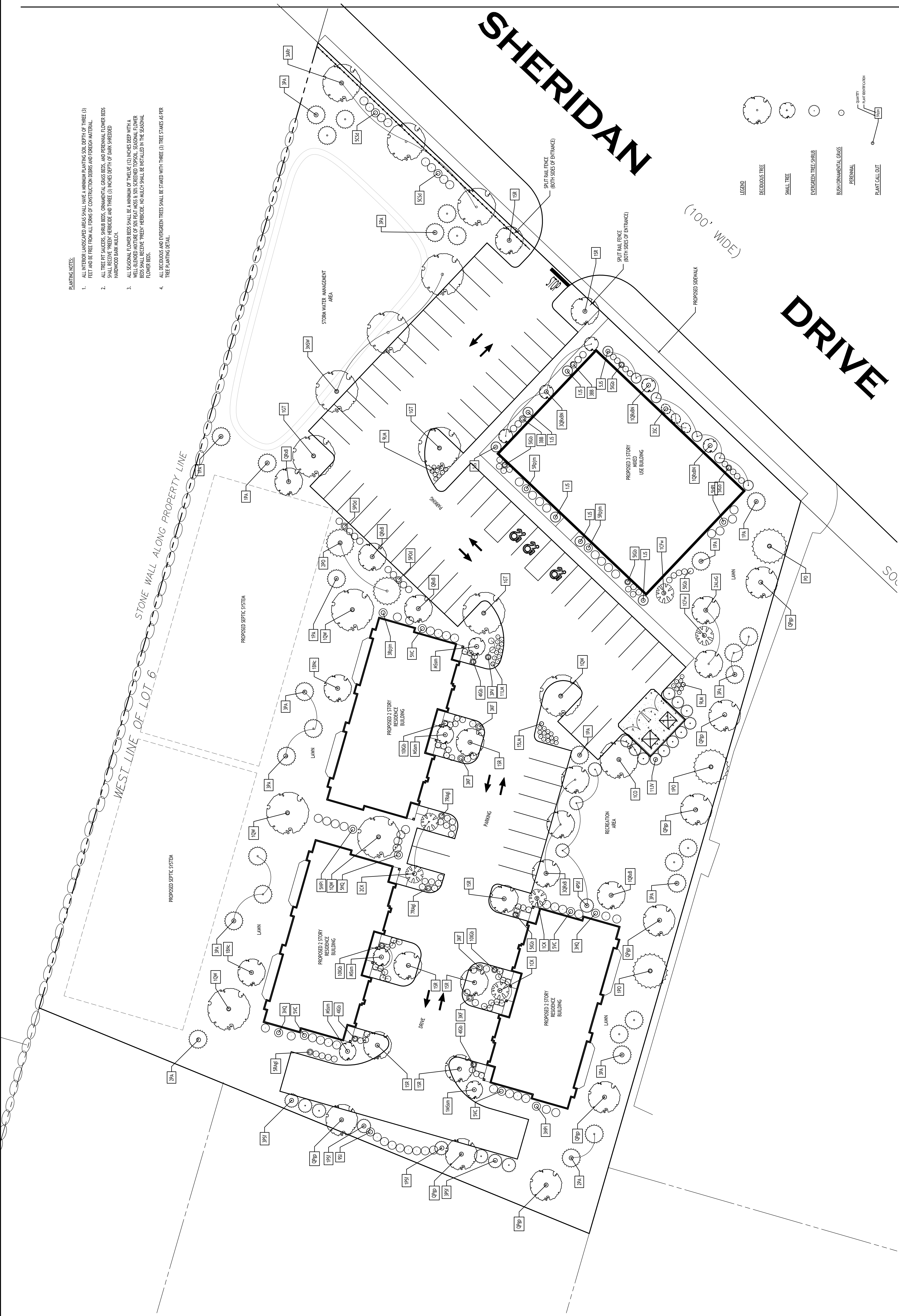
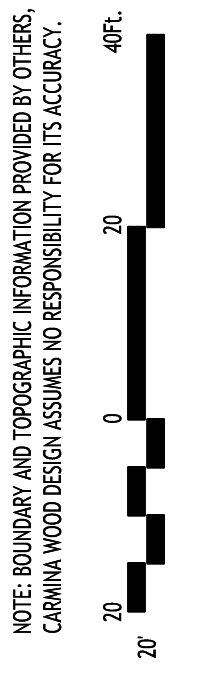
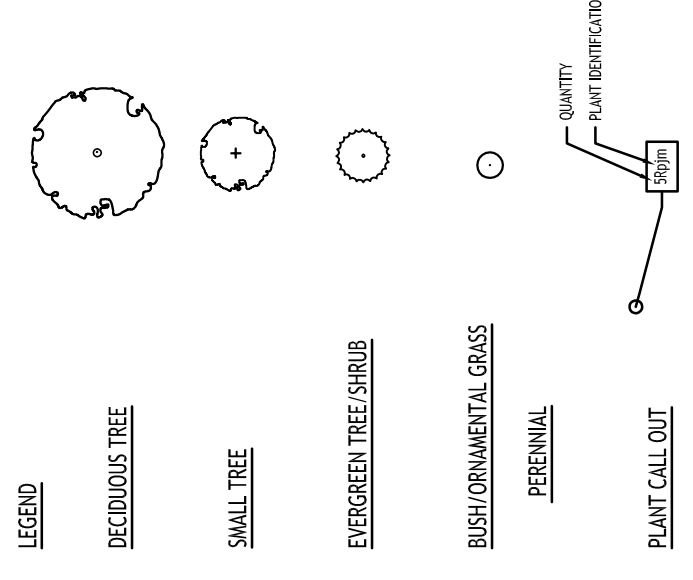
**Site Plan**  
SCALE: 1"=30'

All rights reserved. Reuse of these documents without the expressed written permission of CARMINA WOOD DESIGN is prohibited. WARNING: It is a violation of article 145 to alter this drawing. If altered such R.A., P.E. or L.S. shall affirm the alteration in their seal/signature, the date the alteration was made, and a specific description of the alteration. If no seal/signature, date, or description is provided, the alteration is unauthorized and the user assumes all liability for any errors, omissions, or damages resulting from the use of the altered drawing. CARMINA WOOD DESIGN is not responsible for any errors, omissions, or damages resulting from the use of the altered drawing.

# **Exhibit G**

*Site Landscape Plan [Drawing L-100, dated 09/16/2024], prepared  
by Christopher Wood, P.E. of Carmina Wood Design*

- PLANTING NOTES:**
- ALL EXTERIOR LANDSCAPED AREAS SHALL HAVE A MINIMUM PLANTING SOIL DEPTH OF THREE (3) FEET AND BE FREE FROM ALL FORMS OF CONSTRUCTION DEBRIS AND FOREIGN MATERIAL.
  - ALL TREE PIT SAUCERS, SHRUB BEDS, ORNAMENTAL GRASS BEDS, AND PERENNIAL FLOWER BEDS SHALL RECEIVE THREE" HERBICIDE AND THREE (3) INCHES DEPTH OF DARK SHREDED HARDWOOD BARK MULCH.
  - ALL SEASONAL FLOWER BEDS SHALL BE A MINIMUM OF TWELVE (12) INCHES DEEP WITH A WELL-BLENDED MIXTURE OF 50% PEAT MOSS & 50% SCREENED TOPSOIL. SEASONAL FLOWER BEDS SHALL RECEIVE THREE" HERBICIDE. NO MULCH SHALL BE INSTALLED IN THE SEASONAL FLOWER BEDS.
  - ALL DECIDUOUS AND EVERGREEN TREES SHALL BE STAKED WITH THREE (3) TREE STAKES AS PER TREE PLANTING DETAIL.



All rights reserved. Reuse of these documents without the expressed written permission of CARMINA WOOD DESIGN is prohibited. WARNING: It is a violation of article 145 to alter this drawing. If altered such R.A., P.E. or L.L.S. shall affix his or her seal, signature, the date, the notation "Altered By" and a specific description of the alteration. If altered 250% or more, the R.A., P.E. or L.L.S. shall affix his or her seal, signature, the date, the notation "Revised" and a specific description of the alteration.

# **Exhibit H**

*Architectural Renderings of the proposed mixed-use concept building design, prepared by David Sutton, R.A. of Sutton Architecture PLLC*





Sheridan Coffee Shop

Clarence Boutique





Boutique Store

Cafe





Urban Coffee Shop

Clarence Boutique



# **Exhibit I**

*Architectural Renderings of the proposed residential townhome  
building designs, prepared by David Sutton, R.A. of Sutton  
Architecture PLLC*



View of one of the proposed residential townhome buildings



View of one of the proposed residential townhome buildings

# **Exhibit J**

*State of Development: Town of Clarence Invitation*



# STATE OF DEVELOPMENT TOWN OF CLARENCE

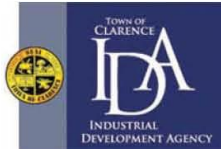
2024 RECAP  
FUTURE OUTLOOK  
VISION SHERIDAN

CLARENCE TOWN HALL  
THURS | FEB 27 | 8:30AM

HOSTED BY



IN PARTNERSHIP WITH



# **Exhibit K**

*Copy of the SEQRA response letter to Jonathan Bleuer dated January 7, 2025 with attached Exhibits "1" to "5"*

January 7, 2025

Jonathan Bleuer, Director of Community Development  
Town of Clarence Planning Department  
1 Town Place  
Clarence, NY 14031

**Re: Concept Plan Review**  
Sheridan Drive Mixed-Use Redevelopment  
9105 Sheridan Drive [SBL No. 71.13-2-3]  
Applicant/Project Sponsor: Edge Development LLC

Dear Jonathan:

This letter and the attached project documentation are being submitted on behalf of the Project Sponsor for the purpose of addressing the comments received from involved and interested agencies in response to the Lead Agency Solicitation letter, dated November 18, 2024 issued by the Town of Clarence pursuant the New York State Environmental Quality Review Act (“SEQRA”) in connection to the coordinated environmental review of the proposed Mixed-Use Redevelopment (the “Project”) to be located at 9105 Sheridan Drive in the Town of Clarence (the “Project Site”).

During the thirty (30) day lead agency solicitation response period that ended on December 31, 2024, the Town of Clarence received five (5) responses from involved and interested agencies as listed below:

1. Erie County Division of Planning, dated November 19, 2024;
2. Erie County Water Authority, dated November 22, 2024;
3. New York State Parks, Recreation and Historic Preservation, dated November 22, 2024;
4. New York State Department of Environmental Conservation, dated December 3, 2024; and
5. New York State Department of Transportation, dated December 27, 2024

The involved agencies that responded all concurred with the request of the Town of Clarence Planning Board to be as the designated Lead Agency for purpose of the coordinated environmental review of the Project pursuant to SEQRA.

The agencies listed above provided several comments for the Town of Clarence to consider in connection with the coordinated environmental review of the Project. This letter has been prepared to respond to the comments listed below in *italics* as follows:



**I. Erie County Division of Planning NYS Gen. Mun. Law Section 239-m Reply dated December 19, 2024:**

**Comment:** *The Reply of the Erie County Division of Planning dated December 19, 2024 stated that the proposed mixed-use project is “local concern”.*

**Response:** No response required.

**II. Lead Agency Concurrence Letter of the Erie County Water Authority dated November 22, 2024:**

**Comment:** *The anticipated development of the above subdivision may require additional water supplies and/or connections, all plans must be approved by the Erie County Water Authority prior to any additional water demands being accepted.*

**Response:** The Project Sponsor will collaborate with Carmina Wood Design (the “Project Engineer”) to design the water line in compliance with Erie County Water Authority (“ECWA”) requirements. The Project Sponsor will submit all designs to ECWA for review and approval.

**III. New York State Parks, Recreation and Historic Preservation Letter dated November 22, 2024:**

**Comment:** *The letter issued by Daniel Mackay dated November 22, 2024 stated as follows: “Thank you for requesting the comments of the Office of Parks, Recreation and Historic Preservation (OPRHP). We have reviewed the project in accordance with the New York State Historic Preservation Act of 1980 (Section 14.09 of the New York Parks, Recreation and Historic Preservation Law). These comments are those of the OPRHP and relate only to Historic/Cultural resources. They do not include potential environmental impacts to New York State Parkland that may be involved in or near your project. Based upon this review, it is the opinion of OPRHP that no properties, including archaeological and/or historic resources, listed in or eligible for the New York State and National Registers of Historic Places will be impacted by this project.”*

**Response:** The No Impact determination letter issued by SHPO provides the Planning Board with the necessary information to confirm that a “hard look” has been with respect to archaeological or cultural resources in connection the coordinated environmental review of the Project pursuant to SEQRA and also to determine that the Project will not result in any potentially significant impacts on archaeological or cultural resources.

**IV. Lead Agency Concurrence Letter of New York State Department of Environmental Conservation (“NYSDEC”) dated December 3, 2024:**

**Comment #1:** *Since project activities will involve land disturbance of 1 acre or more, the project sponsor, owner or operator is required to obtain a State Pollutant Discharge Elimination System General Permit for Stormwater Discharges from Construction Activity (GP-0-020-001). This General Permit requires the project sponsor, owner or operator to control stormwater runoff according to a Stormwater Pollution Prevention Plan (SWPPP), which is to be prepared prior to filing a Notice of Intent (NOI) and prior to commencement of the project.*



**Response #1:** The Project Sponsor will collaborate with the Project Engineer to prepare and submit a State Pollutant Discharge Elimination System (“SPDES”) permit application prior to commencing construction activities in furtherance of the Project. The Project Engineer will also prepare a SWPPP for review by the Town of Clarence Engineering Department. The Project Sponsor will employ all necessary stormwater control measures detailed in the SWPPP throughout the construction of the Project.

**Comment #2:** *Since an on-site treatment facility is proposed, in accordance with the New York State Environmental Conservation Law, a State Pollutant Discharge Elimination System (SPDES) Permit is required for a facility whose treated wastewater discharge to groundwater is greater than 1,000 gallons per day, and for all discharges to surface water.*

**Response #2:** The Project Sponsor will collaborate with the Project Engineer to submit the necessary SPDES permit and the design of an on-site treatment facility that adheres to the requirements of the Erie County Health Department. The Project Sponsor will submit the design of the on-site treatment facility to the Erie County Health Department for review and approval.

**Comment #3:** *The National Wetlands Inventory Map indicate the potential for federally-regulated wetlands within the proposed project site. The project sponsor should consult with the U.S. Army Corps of Engineers to determine if that agency has regulatory jurisdiction or requires approval from that agency. If federal wetlands are involved, the Corps may require the project sponsor to obtain 401 Water Quality Certification (WQC) from NYSDEC.*

**Response #3:** The Project Sponsor engaged Earth Dimensions Inc. (“EDI”) to perform a wetland investigation of the Project Site for the purpose of identifying any potential wetlands and waterways regulated by the U.S. Army Corps of Engineers (“USACE”). EDI issued a letter dated September 20<sup>th</sup>, a copy of which is attached hereto as “**Exhibit 1**”, stating it did not identify any jurisdictional federal wetlands as defined by the USACE wetland delineation methodology, nor did it detect the presence of any state regulated freshwater wetlands within or adjacent to the Project Site. Therefore, in EDI’s professional opinion, the Project may move forward without the need for a Section 404 permit from the USACE. The wetland investigation letter prepared by EDI provides the Planning Board with evidence confirming the Project will not result in any potentially significant adverse wetland impacts for the purpose of the environmental review of the Project pursuant to SEQRA.

Upon receipt of the New York State Department of Environmental Conservation (“NYSDEC”) Comment #3 and based on your conversation with Sean Hopkins, Esq. on Friday, January 3rd, Scott Livingstone from EDI issued a letter dated January 6, 2025 to the Town of Clarence stating that the USACE only requires consultation relative to Section 404 if an applicant is proposing impacts to federally regulated wetlands. A copy of the letter is attached hereto as “**Exhibit 2**”. In EDI’s professional opinion, there are no federally regulated wetlands on the Project Site and therefore, no coordination with the USACE is required. The wetland investigation prepared by EDI dated September 20, 2024 provides the Planning Board with the necessary information to take a “hard look” at potential wetland impacts in connection with the coordinated environmental review of the Project pursuant to SEQRA and also to determine that the Project will not result in any potentially significant wetland impacts.

V. **Lead Agency Concurrence E-mail issued by the New York State Department of Transportation dated December 27, 2014:**

**Comment #1:** *NYSDOT concurs with the Town of Clarence for it to act as the Lead Agency.*

**Response #1:** No response required.

**Comment #2:** *Based upon the information provided, the proposed project does not appear to have a significant impact to traffic on the State Highway System.*

**Response #2:** Sheridan Drive is a NYS Highway and the above comment provides the Planning Board with the necessary information to take a “hard look” at potential traffic impacts in connection with the coordinated environmental review of the Project pursuant to SEQRA and also to determine that the Project will not result in any potentially significant traffic impacts.

**Comment #3:** *The proposed driveway should be constructed in accordance with the NYSDOT Highway Design Manual and AASHTO guidance and aligned with driveway across the roadway. An updated site plan show the location of the proposed driveway in reference to the property across the road.*

**Response #3:** There are no driveways located across the roadway from the Project Site that would facilitate the need to consider alignment with the driveway onto Sheridan Drive for the Project. The Project Engineer will design the proposed driveway in accordance with the NYSDOT Highway Design Manual and AASHTO guidance as requested.

**Comment #4:** *A NYSDOT Highway Work Permit will be required for work located within the State Highway Right-of-Way. More detailed plans will be required for the Highway Work permit application and an additional site engineering review will be performed as part of the Highway Work Permit process.*

**Response #4:** The Project Sponsor will submit fully engineered drawings to the NYSDOT prior to commencing work within the State Highway Right-of-Way and apply for all applicable Highway Work permits.

**VI. Conclusion:**

The Planning Board has been provided with the necessary information to determine that the Project will not result in any potentially significant adverse impacts on the environment. The Project Sponsor is requesting that the Project be placed on the agenda of the Executive Committee to be held on January 21<sup>st</sup> for the purpose of placing the Project on the agenda of the Planning Board meeting to be held on January 29<sup>th</sup> for the purpose of considering the issuance of a negative declaration pursuant to SEQRA.

Please contact Sean Hopkins, Esq. at 510-4338 or e-mail at [shopkins@hsmlegal.com](mailto:shopkins@hsmlegal.com) if you have any questions regarding this letter.

Sincerely,

**EDGE DEVELOPMENT LLC**

A handwritten signature in blue ink that reads "Bill Burke". The signature is written in a cursive style with a large initial "B".

Bill Burke

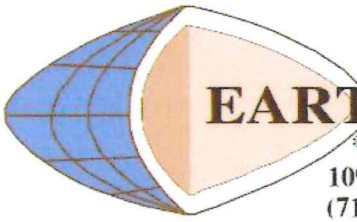
T. (716) 225-6117

E. [bill@goedgeco.com](mailto:bill@goedgeco.com)

cc: Robert Sackett, Chairman  
Wendy Salvati, Planning Board  
Jason Geasling, Planning Board  
Jason Lahti, Planning Board  
Richard Bigler, Planning Board  
Gregory Todaro, Planning Board  
Daniel Tytka, Planning Board  
Sean Hopkins, Esq., Hopkins, Sorgi, & McCarthy PLLC  
Christopher Wood, P.E., Carmina Wood Design

# **Exhibit 1**

*Letter from Earth Dimensions, Inc. to the Project Sponsor  
demonstrating the absence of wetlands on the Project Site*



# EARTH DIMENSIONS, INC.

\* Soil & Hydrogeologic Investigations \* Wetland Delineations  
1091 Jamison Road, Elma NY 14059  
(716) 655-1717 \* Fax (716) 655-2915 [www.earthdimensions.com](http://www.earthdimensions.com)

September 20, 2024

W12I24

Bill Burke  
Edge Development  
931 Bowen Road  
Elma, New York 14059

**Re: Preliminary Wetland Investigation - ±2.8 acres  
9105 Sheridan Drive (SBL# 71.13-2-3)  
Town of Clarence, Erie County, New York**

Dear Mr. Burke:

Earth Dimensions, Inc. (EDI) has completed a preliminary wetland investigation at the above referenced site for the purpose of identifying potential regulated wetlands and waterways. The site investigation was completed on September 20, 2024. The site location is depicted on the attached map from the Erie County On-Line Mapping Application. EDI did not identify any wetland as defined by the U.S. Army Corps of Engineers wetland delineation manuals.

The New York State Department of Environmental Conservation (NYSDEC) On-line Resource Mapper (attached) does not indicate the presence of any state regulated wetlands within or adjacent to the subject parcel. Therefore, NYSDEC does not regulate any wetlands on the site under Article 24 of New York Conservation Law.

Based on this investigation, it is our professional opinion that the proposed project may move forward without the need for a Section 404 permit from USACE.

If you have any questions, please contact our office at (716) 655-1717 or email [slivingstone@earthdimensions.com](mailto:slivingstone@earthdimensions.com).

Very truly yours,  
Earth Dimensions, Inc.

Scott J. Livingstone  
Wetlands Operations Manager

Encl.





# Erie County On-Line Mapping Application



## Legend

□ Parcels



0 0.07 0.1 Miles

WGS\_1984\_Web\_Mercator\_Auxiliary\_Sphere  
THIS MAP IS NOT TO BE USED FOR NAVIGATION

**ERIE COUNTY  
DEPARTMENT OF ENVIRONMENT & PLANNING  
OFFICE OF GIS**

This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.

1: 4,514



# Environmental Resource Mapper



July 8, 2024

1:4,514



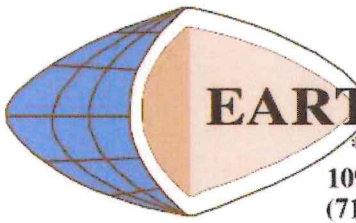
Province of Ontario, Ontario MNR, Esri Canada, Esri, HERE, Garmin, INCREMENT P, USGS, EPA, USDA

NYS Department of Environmental Conservation  
Not a legal document

# **Exhibit 2**

*Letter from Earth Dimensions, Inc. to the Town of Clarence  
addressing Comment #3 from the New York State Department of  
Environmental Conservation letter dated December 6, 2024*





# EARTH DIMENSIONS, INC.

\* Soil & Hydrogeologic Investigations \* Wetland Delineations  
1091 Jamison Road, Elma NY 14059  
(716) 655-1717 \* Fax (716) 655-2915 www.earthdimensions.com

January 6, 2025

W12I24

Jonathan Bleuer  
Town of Clarence Planning & Zoning Department  
1 Town Place  
Clarence, New York 14031

**Re: Mixed Use Development  
9105 Sheridan Drive  
Applicant: Edge Development LLC  
Town of Clarence, Erie County, New York**

Dear Mr. Bleuer:

Per your conversation with Sean Hopkins, Esq. today, I have been asked to provide a letter responding Comment No. 3 in the December 3, 2024 SEQR Lead Agency Response Letter issued by the NYSDEC 3 which is stated as follows:

*“The National Wetlands Inventory map indicate the potential for federally regulated wetlands within the proposed project site. The project sponsor should consult with the U.S. Army Corps of Engineers to determine if that agency has regulatory jurisdiction or requires approval from that agency. If federal wetlands are involved, the Corps may require the project sponsor to obtain 401 Water Quality Certification (WQC) from NYSDEC.”*

I completed a preliminary wetland investigation at this site on September 20, 2024. The site was thoroughly walked and evaluated to determine whether or not any potential federally regulated wetland were present.

The site conditions indicated that the site was historically developed/disturbed. No hydrophytic vegetation or wetland hydrology indicators are present and the site is mapped as Well to Somewhat Excessively drained soils. Although the National Wetlands Inventory (NWI) map does indicate the possible presence of a wetland along the western property boundary, field observations confirmed that no wetland was present in this location. The NWI mapping is generally not reliable, particularly in the southern portion of the Town of Clarence.

The U.S. Army Corps of Engineers (USACE) only requires consultation relative to Section 404 if an applicant is proposing impacts to federally regulated wetlands. Based on past precedent for numerous projects throughout Erie County, the USACE does not require the submission of a wetland delineation report for issuance of a jurisdictional determination in those instances in which a professional consulting firm has provided a professional opinion based on an on-site evaluation that no federal wetlands exist on a project site.

January 6, 2025

W12I24

In this case, it is my professional opinion that there are no federally regulated wetlands within the subject property and, therefore, no coordination with the USACE. is required. It is also my professional opinion that the preliminary wetland investigation prepared by our firm dated September 26, 2024 provides the Planning Board with more than adequate information demonstrating the proposed mixed-use project will not result in any potential adverse impacts to federal wetlands relative to the coordinated environmental review of the mixed-use project pursuant to SEQRA. Additionally, it is also important to mention that it would likely take 12 months or more to obtain a response from USACE if a jurisdictional determination request was submitted

If you have any questions, please contact our office at (716) 655-1717 or email [slivingstone@earthdimensions.com](mailto:slivingstone@earthdimensions.com).

Very truly yours,  
Earth Dimensions, Inc.



Scott J. Livingstone  
Wetlands Operations Manager

cc: Bill Burke, Edge Development LLC  
Sean Hopkins, Esq.  
Christopher Wood, P.E. Carmina Wood Design

# **Exhibit L**

*Copy of the Negative Declaration dated January 29, 2025 issued by  
the Planning Board pursuant to SEQRA*

**State Environmental Quality Review  
Negative Declaration  
Notice of Determination of Non-Significance**

Date: January 29, 2025

This notice is issued pursuant to Part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Act) of the Environmental Conservation Law.

The Town of Clarence Planning Board, acting as the designated Lead Agency in connection with the coordinated environmental review of the action, has determined that the proposed action described below will not have any potentially significant adverse impacts on the environment and as such a Draft Environmental Impact Statement will NOT be prepared.

**Project Name:** Sheridan Drive Mixed-Use Redevelopment

**Project Number:** TOC1113C2024

**Location of Project:** 9105 Sheridan Drive - SBL: 71.13-2-3  
South side of Sheridan Drive West of Main Street

**Lead Agency:** Town of Clarence Planning Board

**SEA Classification:** The proposed project is a Type I Action. The Town conducted a coordinated environmental review and none of the involved agencies expressed any objection to the Planning Board acting as the designated lead agency.

**Description of Action:** The applicant is proposing a mixed-use project containing multiple-family housing and commercial space. One 3-story mixed-use building fronting Sheridan Drive containing 7,000 sqft of commercial on the first floor, and 10 total apartments on floors 2-3. Three 2-story residential townhome buildings to the rear, each containing 4 units. Variances are requested for the proposed third story of the mixed-use building, and for the overall residential unit count for the project.

The Planning Board has thoroughly evaluated the Part 1 of the Environmental Assessment Form, the completed Parts 2 and 3 of the Environmental Assessment Forms, submitted plans, documents, reports, and letters, as well as all supporting documentation and meeting minutes associated with the coordinated environmental review of the action pursuant to SEQR.

Compared to the criteria listed in Section 617.7 of the SEQR Regulations, the Planning Board, acting as the designated lead agency, has determined that all identified areas of environmental concern have been identified and thoroughly evaluated, and that the proposed action will not have any potentially significant adverse impacts on the environment. The Planning Board's reasoned elaboration in support of its determination that the proposed project will not result in any potentially significant adverse environmental impacts is provided below.

### **1. Impact on Land:**

The "Project Site" is located at 9105 Sheridan Drive (SBL: 71.13-2-3) and consists of approximately 2.8 acres of vacant land, which previously contained a restaurant. The Project Site is zoned as Commercial ("C") pursuant to the Town of Clarence Zoning Map. The "Proposed Project" involves the construction of a mixed-use project containing commercial space, multi-family residential buildings, and associated facilities. The Proposed Project would contain one 3-story mixed-use building with 7,000 sq.ft. of commercial on the first floor and 10 total apartments on floors 2 through 3, and three 2-story residential townhome buildings to the rear of the site with 4 units in each building.

The depth to water table is greater than three feet on the Project Site. The Proposed Project does not involve construction on slopes of 15% or greater. The bedrock on the Project Site is not within 5 feet of the existing ground surface. The Proposed Project will not involve the excavation and removal of more than 1,000 tons of natural material. Since the Proposed Project will result in disturbance of more than one acre of land, a Stormwater Pollution Prevention Plan ("SWPPP") prepared by a licensed engineering firm will be required and the SWPPP will need to be reviewed and approved by the Town Engineering Department prior to site disturbance. The proposed action will result in physical disturbance and vegetation removal; however, this potential impact represents a small impact since construction activities will need to comply with required applicable erosion and sediment control measures. Such erosion and sediment control measures will be specified in the engineered plans to be prepared by a licensed engineering firm as well as the required Stormwater Pollution Prevention Plan ("SWPPP"). The proposed erosion control measures will be reviewed by the Town Engineering Department during the Development Plan Application review process. The Project Site is not located within a designated Coastal Erosion hazard area.

Construction of the Proposed Project is anticipated to occur in one (1) phase and the construction of the Proposed Project is anticipated to occur for a period of more than one year. However, construction activities in furtherance of the Proposed Project will be intermittent and represent a temporary and unavoidable adverse impact that is not potentially significant. During the construction phases, the Proposed Project will need to comply with the applicable stringent standards for stormwater quality and storm quantity management as well as applicable standards for required infrastructure improvements. This will be verified by the Town Engineering Department in connection with the Development Plan Application review process.

### **2. Impact on Ecological Features:**

There are no unique or unusual land forms on the Project Site.

### **3. Impact on Surface Water:**

The Project Site currently consists of vacant land containing vegetation with no surface water bodies. The management of stormwater from impervious surfaces on the Project Site will require the installation of a stormwater management system. The stormwater management system will be designed by a licensed engineering firm to collect, discharge and improve the quality of surface water. The stormwater management system will be required to comply with the applicable stringent stormwater quality and quantity standards of the New York State Department of Environmental Conservation ("NYSDEC") and the applicable drainage standards of the Town of Clarence.

There are no regulated freshwater wetlands subject to the jurisdiction of the NYSDEC on

the Project Site. In a letter dated September 20, 2024 from Scott □ Livingstone of Earth Dimensions, Inc., it was stated that no wetlands were present on the Project Site after a preliminary wetland investigation at the Project Site on September 20, 2024.

In a letter dated December 3, 2024 from Lisa M. Czechowicz of the NYSDEC, it was stated that the National Wetlands Inventory map indicates the potential for federally-regulated wetlands within the Project Site and the U.S. Army Corp of Engineers (“USACE”) may require the Project Sponsor to obtain a 401 Water □uality Certification from the NYSDEC.

In a subsequent letter dated □anuary 6, 2025 from Scott □ Livingstone, it was stated that the conditions of the Project Site indicate that the Project Site was historically developed and disturbed. Additionally, the letter also stated that the National Wetlands Inventory (“NWI”) map does indicate the possible presence of a wetland along the western property boundary; however, field observations confirmed that no wetland was present in this location. Due to the absence of federally-regulated wetlands within the Project Site, it is the opinion of the Project Sponsor’s professional wetland expert that the Proposed Project may move forward without the need for a Section 404 permit from the USACE. The wetland investigation letter prepared by Project Sponsor’s professional wetland expert provides evidence confirming the Proposed Project will not result in any potentially significant adverse wetland impacts.

#### **4. □mpact on □round□ater:**

There will be minimal additional ground water introduced as a result of the Proposed Project. A portion of the post developed site stormwater will be collected, managed and disbursed on-site for eventual percolation into the groundwater system, through stormwater detention areas, as designed and permitted to meet Federal, State and Local standards.

The Proposed Project will connect to existing water services and will require review and approval by the Erie County Water Authority (“ECWA”). The Project Sponsor identified that there will be a need for new water services requiring anticipated water usage/demand per day of approximately 7,400 gallons. In a letter dated November 22, 2024 from Mark S. Carney of the ECWA, it was stated that the anticipated development of the Proposed Project’s water supplies and/or connections must be approved by the ECWA prior to construction of the Proposed Project. The comment from the ECWA will be addressed during the Development Plan Application review process.

The Proposed Project includes treated wastewater discharge to groundwater in the form of an on-site sanitary system. In a letter dated December 3, 2024 from Lisa M. Czechowicz of the NYSDEC, it was stated that a State Pollutant Discharge Elimination System Permit, and additional permits and/or plan approvals from the NYSDEC and/or Erie County Health Department (“ECHD”), are required for the Proposed Project. The on-site sanitary system shall be designed and permitted to function per ECHD and NYSDEC standards.

#### **5. □mpact on □looding:**

The Project Site does not fall within a 100-year floodplain nor a 500-year floodplain. The Project Site is not located within a designated floodway. The Proposed Project will require modification of existing drainage patterns. Any future Development Plan submittal shall be prepared by a licensed engineering firm and shall include an Engineer’s Report and full grading and drainage plans with details. The aforementioned Development Plan submittal will be subject to review by the Town prior to Development Plan Approval. In addition, the Proposed Project will include the implementation of NYSDEC compliant stormwater management practices.

**6. Impacts on Air:**

This proposed mixed use project does not involve a State regulated air emission source.

**7. Impact on Plants and Animals:**

Although the Project Site was historically developed and disturbed, the Proposed Project will result in the clearing of existing vegetation on the Project Site. There was no documented presence of protected, threatened or endangered species on the Project Site as confirmed by lead agency concurrence letter issued by the NYSDEC dated December 3, 2024. A Landscape Plan prepared by a Registered Landscape Architect will need to be reviewed and approved by the Town Landscape Review Committee for the purpose of introducing native and beneficial vegetation to the Project Site.

**8. Impact on Agricultural Resources:**

The Project Site does not contain agricultural resources and is not located in a County Agricultural District. Additionally, there are no agricultural fields currently on the Project Site and a majority of the Project Site is naturally occurring vegetation and mowed fields.

**9. Impact on Aesthetic Resources:**

The Project Site is located on Sheridan Drive, which is a New York State Highway. The proposed mixed-use project is not in sharp contrast to the nearby land use patterns. Surrounding land use patterns include numerous commercial uses, residential homes, and manufactured housing. Furthermore, the proposed mixed-use project is consistent with the Town's Comprehensive Plan, Clarence 2030.

**10. Impact on Historical and Archeological Resources:**

The Project Site is located in, or is adjacent to, an area designated as sensitive by the New York State Historic Preservation Office ("SHPO") archeological site inventory. A No Impact Determination letter was issued by Daniel MacKay of the New York State Office of Parks, Recreation and Historic Preservation on November 22, 2024. SHPO determined that no historic properties, including archaeological and/or historic resources, listed in or eligible for the New York State and National Registers of Historic Places will be impacted by the Proposed Project; therefore, no further archaeological investigations are warranted.

**11. Impact on Open Space and Recreation:**

The Proposed Project that consists of privately owned property will not result in a loss of recreational opportunities or a reduction of protected open space. As part of the Proposed Project there will be a requirement to include a recreational component, as approved by the Town of Clarence, for the use of the residents. The Proposed Project currently includes the addition of a 5' wide sidewalk that runs the length of the Project Site's frontage along Sheridan Drive.

**12. Impact on Critical Environmental Areas:**

The Project Site is not located within or adjacent to a designated Critical Environmental Area.

**13. Impact on Transportation:**

After a thorough review by involved and interested agencies, including but not limited to

the New York State Department of Transportation (“NYSDOT”), Clarence Fire Review, and Clarence Highway Department, it has been determined that the Proposed Project will not have a significant adverse impact on the existing transportation system.

On December 27, 2024 Alyssa Schoenfeldt of the NYSDOT issued an e-mail communication stating that the Proposed Project does not appear to have a significant traffic impact on the State Highway System. Additionally, the letter stated that the proposed driveway should be constructed in accordance with the NYSDOT Highway Design Manual and AASHTO guidance and aligned with a driveway across the roadway. Finally, the letter stated that a NYSDOT Highway Work Permit will be required for work located within the State Highway Right-of-Way.

The primary access point for the Proposed Project is Sheridan Drive. The Proposed Project will result in the modification and reduction of the existing curb cut. The reconfiguration of the curb cut will result in a NYSDOT compliant vehicular ingress and egress. The Project Sponsor will be required to obtain all appropriate permits from NYSDOT for any proposed curb cut modifications.

**14. Impact on Energy:**

The Proposed Project will cause an increase in the use of energy. The Proposed Project shall be designed to meet energy compliance standards through the installation of energy efficient facilities and features resulting in minimal impact on the environment.

**15. Impact on Noise, Odor, and Light:**

The potential impacts from noise, odors, and lighting will be addressed through the installation of new landscaping to reduce noise impacts, the installation of enclosed dumpsters / tote garbage facilities to reduce odors, and the installation of dark-sky compliant shielded lighting to avoid off-site light pollution. In addition, the general impact to noise, odor and light will be consistent with existing surrounding commercial and residential land uses. There will be a temporary and unavoidable impact to noise, odor and lighting during construction; however, this is not a potentially significant adverse environmental impact.

**16. Impact on Human Health:**

The Project Site does not include a known source of regulated hazardous materials detrimental to human health. If regulated hazardous materials exceeding the applicable NYSDEC thresholds are unexpectedly encountered during the construction of the mixed-use project, clean-up activities compliant with Federal, State and Local standards will be completed prior to construction on the relevant portions of the Project Site.

**17. Consistency with Community Plans:**

Clarence 2030, the Town’s adopted Comprehensive Plan, encourages the development of mixed-use projects. The Proposed Project is consistent with the recommended land use, design guidelines and site layout guidance for the relevant portion of the Town along Sheridan Drive. Map 8 of the Comprehensive Plan (“Future Land Use Map”) designates the Project Site as appropriate for Business Center. The Business Center use is described on Pages 51-52 of the Comprehensive Plan. Business Center areas are generally characterized by a wider range of commercial activity within the community, and large-scale buildings and parking areas. These areas are located along travel routes with high daily traffic volume. Over the past two decades,



the Town has placed an increasing emphasis on providing pedestrian connectivity, as well as building and site design requirements throughout these areas, in order to achieve a higher standard of development. The Proposed Project will create a pedestrian friendly environment with connectivity between the project components.

The Proposed Project will require two (2) variances from the Zoning Board of Appeals. The first area variance would be for a third story associated with the mixed-use building. The second area variance would be to increase the multiple-family housing density by 12 residential units.

Should the area variance for the number of stories for the mixed-use building be granted by the Zoning Board of Appeals, it has been determined that this area variance does not represent a potentially significant adverse environmental impact. Two-story mixed-use buildings are permitted pursuant to the Town's Multifamily Law, and the Commercial zoning classification also allows a building height of up to forty-five feet. The Project Sponsor has indicated that the proposed three-story building would be under forty-five feet.

If the Zoning Board of Appeals does not grant the area variance for the number of stories, the Project Sponsor will be required to adjust the design of the proposed mixed-use building to comply with the relevant two-story height standard.

A density calculation for the number of multifamily units to be provided was prepared pursuant to the Section 229-1126D(1)(c) of the Zoning Code, and is as follows:

- Commercial (C) land area □ 2.8 acres
  - Allowed per section 229-126 (D)(1)(c) of the zoning code: 50% of the property shall be committed to a commercial use.
  - 2.8 acres / 2 □ 1.4 acres of required commercial use area
- Within the commercial component per section 229-126(D)(5)(a) of the zoning code:
  - Within the minimum 50% of the development committed to commercial uses, mixed use designs may be allowed with a density of 4 units per acre.
  - 1.4 acres x 4 units per acre □ 5.6 allowed units in commercial component
  - Proposed units within the commercial component □ 10 units (5 allowed)
- Within the residential component per section 229-126(D)(1)(b) of the zoning code:
  - Maximum density for multi-family developments without sanitary sewer shall be 4 units per acre with a maximum total number of 16 units (22 proposed).
  - 1.4 acres x 4 units per acre □ 5.6 allowed units in residential component
  - Proposed units within the residential component □ 12 units (5 allowed)
- The Project Sponsor is proposing a total of 22 units within the Proposed Project. A 12-unit variance will be required from the Zoning Board of Appeals.

Should the area variance to increase the multiple-family housing density by 12 residential units be granted by the Zoning Board of Appeals, it has been determined that this area variance does not represent a potentially significant adverse environmental impact. The Proposed Project remains in character with the long-term vision for Sheridan Drive, and the Project Sponsor shall obtain all appropriate permits from the appropriate regulatory agencies that ensure the density desired for the Proposed Project is achievable.

If the Zoning Board of Appeals does not grant the area variance for the housing density, the Project Sponsor will be required to adjust the design of the Proposed Project to comply with the relevant unit restrictions contained in the Town's Multifamily Law.

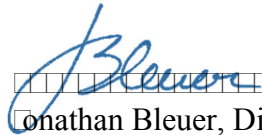
**18. Consistency with Community Character:**

Sheridan Drive is a State Highway made up of numerous existing land uses on both sides, including commercial uses, residential homes, and manufactured housing. The mixed-use project will not be in sharp contrast to existing community character. The Proposed Project will result in a more compliant community character per the Town’s allowable uses in the zone and vision per the adopted Comprehensive Plan. The layout of the Proposed Project focuses the density closer to Sheridan while progressively scaling down the land use intensity further away from the primary right-of-way. The Proposed Project shows a mixture of high-quality materials for the proposed buildings.

**Conclusion:** A complete and thorough review of the proposed action was completed by the Planning Board, the Town’s Department of Planning & Zoning, the Town’s Engineering Department as well as involved agencies.

The Planning Board formally issues a Negative Declaration on the proposed action as of January 29, 2025.

All documentation is on file at the Town of Clarence Planning and Zoning Department, One Town Place, Clarence, New York 14031. These records may be examined by the public between the hours of 8:00 a.m. and 4:30 p.m. Monday through Friday. Written comments may be submitted to the Director of Community Development.

  
Jonathan Bleuer, Director of Community  
Development, Department of Planning and Zoning

For further information contact:

Jonathan Bleuer, Director of Community Development  
Office of Planning and Zoning  
One Town Place  
Clarence, NY 14031  
Tel: 716.741.8933  
E-mail: jbleuer@clarence.ny.us

# **Exhibit M**

*Section 229-83 through Section 229-90.2 of the Zoning Code; Use  
and Design Criteria for C Commercial Zoning District*

**§ 229-83. Intent.**

Developments in the commercial districts are intended to achieve the high-quality site layout and use flexibility inherent in campus design. This is accomplished through attention to architectural compatibility with other buildings and the relationship of building facades to public roadways. These regulations are intended to encourage commercial facilities on Main Street between the hamlets of Harris Hill and Clarence Hollow, Wehrle Drive near Transit Road, certain parts of Sheridan Drive, and any other area designated as a commercial zone in the future to be designed so as to minimize traffic congestion, reduce conflict points, and maintain a pleasing community character. The Commercial Zone shall encourage a mix of uses, improved walkability, connectivity with adjoining uses and an overall enhancement of neighborhood appeal.

**§ 229-84. Permitted uses.**

A. The following list of uses are allowed as vested rights in facilities measuring up to 30,000 square feet in area: **[Amended 3-11-2020 by L.L. No. 1-2020]**

- (1) Professional offices.
- (2) Funeral homes.
- (3) Convention facilities.
- (4) Retail sales activities.
- (5) Personal service shops, craft shops, antique shops, retail nursery or greenhouse.
- (6) Trade or industrial school.
- (7) Small animal hospital/veterinary clinic.
- (8) Dry cleaners/commercial laundry.
- (9) Printing shops.
- (10) Community facilities.
- (11) Permitted in-fill uses in existing structures.
- (12) Medical offices.
- (13) Nursing homes, dependent-living facilities.
- (14) Motels, hotels.
- (15) Grocery store/convenience store.
- (16) Retail nursery or greenhouse.
- (17) Restaurants.
- (18) Banks/financial institutions.
- (19) Plumbing, heating, electrical shops.

(20) Day-care centers/nursery schools.

(21) Public utility facilities.

- B. Exclusions: uses listed above which involve on-site manufacturing, outdoor storage of merchandise, hazardous materials, warehousing and/or storage necessitating truck travel, and mining.

**§ 229-85. Uses permitted with special exception use permits. [Amended 10-11-2017 by L.L. No. 7-2017]**

Any permitted use that involves a facility in excess of 30,000 square feet or any of the following list of uses:

- A. Automotive sales, automotive equipment and implement sales, trailer sales.
- (1) Main Street: such uses limited to the Commercial Zone between Transit Road and Westwood Road.
  - (2) Sheridan Drive: Such uses shall not be permitted.
- B. Shopping plaza.
- C. Drive-in/drive-through facilities.
- D. Gasoline service station.
- (1) Main Street: such uses limited to the Commercial Zone between Transit Road and Westwood Road.
  - (2) Sheridan Drive: Such uses shall not be permitted.
- E. Multiple-family dwelling units.
- F. Lumber/building supply companies.
- G. Business/commercial parks.
- H. Car wash.
- (1) Main Street: such uses limited to the Commercial Zone between Transit Road and Westwood Road.
  - (2) Sheridan Drive: Such uses shall not be permitted.
- I. Automotive service station, commercial garage.
- (1) Main Street: such uses limited to the Commercial Zone between Transit Road and Westwood Road.
  - (2) Sheridan Drive: Such uses shall not be permitted.
- Light manufacturing operations.

- . Manufactured housing park.
- L. Telecommunications towers (Chapter 173).
- M. Parking facilities.
  - (1) Main Street: such uses limited to the Commercial Zone between Transit Road and Westwood Road.
  - (2) Sheridan Drive: Such uses shall not be permitted.
- N. Theaters, assembly halls, bowling alleys, and all similar public recreation uses.
- O. Indoor storage of hazardous materials.

**§ 229-86. Accessory structures.**

- A. Permitted accessory structures:
- B. Private garages.
- C. Sheds and similar structures.
- D. Enclosures for dumpsters, outdoor storage, etc.
- E. Barns.
- F. Fences/walls.
- G. Private recreational facilities
- H. No accessory buildings designed, intended or used for business purposes shall extend closer than 45 feet to any side or rear lot line bordering on any residential lot used wholly for residential purposes, nor closer than 45 feet to any residential district boundary, nor closer than 10 feet to any side or rear lot line wholly within a commercial zoning classification. Accessory buildings lying wholly to the rear of the principal buildings shall not extend closer than 10 feet to the side or rear lot line, provided that these lines do not designate a residential district boundary or are in common with a lot used wholly for residential purposes. Please note, the accessory structure may not be placed within the forty-five-foot greenbelt that is required for commercial properties abutting a residential use.

**§ 229-87. Development and design provisions.**

- A. No lot shall have less than 100 feet of public road frontage nor be less than 120 feet in depth. Corner lots shall be not less than 300 feet of public road frontage on each street. If the property has public sewer access, then no lot shall contain less than 20,000 square feet nor less than 5,000 square feet of area per family unit if used for multiple dwellings. If the property has no public sewer access, then no lot shall contain less than one acre (43,560 square feet) of land area and be subject to review and approval of the Erie County Health Department or the New York State Department of Environmental Conservation for private wastewater treatment permits.

- B. Lot of record. No lot shall have less than 70 feet of public road frontage and be at least 120 feet in depth. No lot shall contain less than 15,000 square feet in area if used for a dwelling or dwellings.
- C. Minimum development setbacks.
- (1) Front yard: minimum of 10 feet to a maximum of 80 feet. Front yard development setback shall be determined based on the following considerations: **[Amended 8-22-2018 by L.L. No. 8-2018]**
    - (a) Compliance with the Comprehensive Plan, and all associated Master Planning documents.
    - (b) Subject to the recommendation of the Office of Planning and Zoning and approval by the board with approval authority.
    - (c) Integration with the existing community character of the surrounding area, except when existing conditions do not match the intended future community character, as outlined in the Comprehensive Plan and all associated Master Planning documents.
    - (d) Hierarchy of site uses to the right-of-way, where the principle use or structure features an architectural significance and prominence towards the public view, over secondary uses such as parking fields and accessory structures.
  - (2) Side yard: 25 feet.
  - (3) Rear yard: 25 feet.
  - (4) Any commercial uses shall not be located adjacent to residential uses unless separated by a minimum forty-five-foot greenbelt.
  - (5) Arcades, awnings, and open porches shall be permitted to encroach a maximum of 12 feet into front setbacks and side setbacks.
- D. Interior road lot setbacks.
- (1) Buildings located along main interior roads shall have unified front setbacks of at least 10 feet.
  - (2) Building side and rear setbacks shall be determined by the following:
    - (a) Parking, loading and storage needs for the use.
    - (b) Adequate internal circulation of all traffic, and all fire and safety concerns.
- E. Size of buildings.
- (1) No principal building shall contain less than 800 square feet of usable floor space. Buildings used in whole or in part for residential purposes, exclusive of accessory buildings and exclusive of porches, entries, garages and terraces, shall contain no less than 900 square feet of usable living space if a one-story building used as a one-family

dwelling, nor less than 600 square feet of usable first-floor living space if more than one story, provided that no such building shall contain a total of less than 1,000 square feet of usable living space if used as a one-family dwelling, and provided further that no such building shall contain a total of less than 600 square feet of usable living space for each one-bedroom family unit or apartment, 720 square feet of usable living space for each two-bedroom family unit or apartment and 1,000 square feet of usable living space for each three-bedroom family unit or apartment.

- (2) Structures shall incorporate design features, including facade treatments and rooftop treatments, to break up all lengthy facades into smaller elements. Architectural details such as cornices, awnings, and window casings shall be utilized to achieve a smaller neighborhood scale to larger buildings and plazas.

F. Height.

- (1) Maximum height: 45 feet.
- (2) Exceptions: roof equipment not intended for human occupancy and which is necessary to the structure upon which it is placed. However, all rooftop equipment shall be screened from view.

G. Sidewalks. All facilities shall provide sidewalks to access existing sidewalks along the street corridor. If sidewalks do not exist along the front property line, then new sidewalks shall be constructed along each property line abutting public or private roads as a condition of approval.

- (1) Sidewalk design shall be incorporated into a pedestrian access plan for the facility or development to encourage walkability in the overall design.
- (2) New sidewalks shall be constructed in accordance with standard details approved by the Town Engineer.

**§ 229-88. Parking and shared access.**

- A. All parking required by the uses in this district shall be provided on site and in sufficient number so as not to require on-street parking on adjacent streets or encroachment on adjacent property.
- B. Parking areas shall be screened from view of the street to the greatest degree possible. Screening should be continuous and should conceal the parking area(s) from the street. Methods of screening may include stacked stone walls, picket fences, evergreen or deciduous hedges, other suitable landscape materials or a combination of materials. All screening should be located inside the applicant's property boundary and should not encroach onto the public sidewalk. Screening must not limit a driver's visibility of the sidewalk or street when exiting any off-street parking lot.
- C. Where buildings or parking lots adjoin existing residential use, a greenbelt of at least 45 feet shall be provided with sufficient landscaping to eliminate the view of parking areas from residences and either fully or substantially block the view of buildings from the residences.



- D. Islands shall be provided to separate parking stalls into banks of approximately 20 cars or less between islands. Islands shall be eight feet to 10 feet in width, shall be landscaped as stipulated herein, and must be curbed.
- E. Shared access and interconnected parking lots between separate properties are encouraged. Facilities demonstrating an effective arrangement to share parking and access may reduce the total number of parking spaces required for each facility at the discretion of the body with final approval authority, either the Town Board or Planning Board. In addition, separate parking areas on one parcel shall be interconnected. **[Amended 12-1-2010 by L.L. No. 5-2010]**
- F. Drive-through businesses such as banks or restaurants shall have car stacking areas limited to the rear and sides of the building and are to avoid layouts that cause conflicts with the crossing of traffic patterns between car stacking, parking areas, and driveway entrances.
- G. Trash containers, storage areas, loading and mechanical equipment shall be screened from public view. Dumpsters shall be properly secured and all outdoor storage areas are to be limited to the rear yards, screened from adjoining properties, and, in general, not visible from public right-of-way.

#### **§ 229-89. Architectural standards.**

- A. Due to the visibility of the district, architectural compatibility is necessary in order to maintain community character and visually connect development. Designs shall be oriented toward matching the character of the community, visually connect development, and allow for proximity of varied uses.
- B. Materials. Walls shall be clad in a mix of the following: stone, brick, marble, metal paneling, cast concrete, vinyl siding, drivit, and hardiboard or other cement paneling. All walls visible from a public right-of-way shall be clad with the same material required for the front of the building.
- C. Roof and top treatments. The use of sloped roofs, including gabled and hip roofs, is strongly encouraged in an effort to maintain a village-scale building style.
  - (1) The appearance of rooflines shall not be flat. A sloped roof must achieve a minimum four-foot rise for 12 inches run for structures up to 10,000 square feet in size.
  - (2) Larger structures shall employ design standards to ensure that roof configuration matches the architectural appearance of the district. Buildings of this nature shall utilize a combination of roof elements and top treatments.
  - (3) Rooftop mechanical units, dishes, and other miscellaneous equipment should be screened or be properly integrated as part of the building design. Screen material should be of the same or compatible material, texture, and color to the building architecture.
  - (4) Roofing systems shall be comprised of materials appropriate to the architectural style and color palette of the building.
  - (5) Exposed flat roofing systems are to be concealed from view.

- (6) Buildings greater than 10,000 gross square feet with a flat roof should have a recognizable "top" consisting of the following:
  - (a) Stepped parapets concealing flat roofs and rooftop equipment such as HVAC units from public view.
  - (b) Overhanging eaves on portions of the building.
- D. Exterior wall design.
  - (1) Window and door treatments shall be compatible in style and design and should fit the overall appearance of the building.
  - (2) The use of reflective glazing, with over sixty-percent reflectivity, is prohibited.
- E. Convenience stores and gas stations.
  - (1) Canopies on such sites should not exceed the total height of, nor visually dominate, the principal building structure and should be architecturally integrated with the convenience store buildings and all other accessory structures on the site.
  - (2) The gross floor area of convenience stores and gas stations should include all of the area under the canopy and accessory structures.
- F. Supplementary standards. Standard franchise design is not encouraged. Designs should be oriented toward matching the character of the community.

### **§ 229-90. Lot Coverage.**

All principal buildings, accessory structures, and impervious surfaces located on a commercial district property may not exceed 70% of the gross area of the lot. Where a property owner has shared access and shared parking arrangements with adjoining property owners in perpetuity (for example, via a permanent easement recorded in the deed), the lot coverage requirements may be increased to 80% of the lot.

### **§ 229-90.1. Site lighting.**

It is the intent of these standards and provisions to prevent, reduce or eliminate the problems created by improperly designed and installed outdoor lighting. Specifically, glare, light trespass, excessive energy usage and financial burden are all negative effects of poor site lighting design standards. The purpose of careful site lighting approaches is to ensure that outdoor lighting does not interfere with the reasonable use and enjoyment of property. These regulations are also designed to increase safety for both pedestrian and vehicular traffic.

- A. Lighting design shall not create a nuisance to adjacent residences.
  - (1) All external lighting sources shall be designed and shielded to avoid hazardous interference and direct glare onto adjacent streets and properties.
  - (2) The lenses in pole and wall-mounted lighting shall be recessed to control the adverse impacts of light spillout and glare.

- (3) Parking area lighting fixtures shall not be illuminated after 11:00 p.m.
  - (4) Security lighting and other building lighting will be allowed to operate as long as it does not create a nuisance to adjacent residences.
- B. Outdoor site lighting shall accent existing community character and styling.
- (1) Pole-mounted lighting shall not exceed a total height of 15 feet from finished grade to the top of the fixture.
  - (2) A mixture of lamp types on the same site shall be avoided.
  - (3) To provide optimum color rendition, lamps are preferred in the following order: high-pressure sodium, metal halide, low-pressure sodium.
- C. Convenience stores and gas stations. Lighting fixtures or sources of light that are a part of the underside of the canopy should be recessed into the underside of the canopy so as not to protrude below the canopy ceiling surface. Lighting fixtures which feature a central light spill, limiting unwanted lighting outside of the commercial property, shall be used. The materials and color used on the underside of the canopy should not be highly reflective, with the intent of minimizing the amount and intensity of light that reaches beyond the site boundaries.
- D. Lighting plans shall be submitted and must include illumination footprints. The appearance and placement of lighting will be recommended on by the Planning Board as part of the site plan approval process.

#### § 229-90.2. Access management.

Access management standards are put in place in an effort to reduce logistical traffic conflicts, particularly along roads with heavy traffic volume. Logical design standards assist with the strategic placement of access points along traffic avenues and thus reduce the number of conflict points. Achieving proper access management standards will allow for transportation components to be properly integrated into various land use arrangements. Projects which consider access management help to improve both safety and efficiency within the community.

- A. The site layout, location and design of driveways and parking areas should be based on full buildout of the parcel. Future subdivision of the parcel or any future action that is contrary to an already approved plan cannot occur without prior Planning Board approval. Furthermore, site plans are a crucial component for understanding a site and project; they must illustrate the building location, elevation of all buildings and structures, building materials to be utilized on all facades, and the location of site lighting, signage, and traffic control features.
- B. Properties with frontage on two or more roads do not have the right to provide driveway access to all such roads. Access in such cases shall be determined by the body with final approval authority, either the Town Board or Planning Board. **[Amended 12-1-2010 by L.L. No. 5-2010]**
- C. Curb cuts and driveway spacing for new development or redevelopment will be evaluated on a case-by-case basis to reduce conflicts and ensure traffic safety and efficiency.

- (1) Driveways should be located so as to provide shared access and/or cross access with an abutting parcel or properties, wherever practical.
- (2) Shared driveways and/or cross-access driveways shall be of sufficient width (minimum 20 feet) to accommodate two-way travel for automobiles and for service and loading vehicles.
- (3) Driveways should be located outside of the functional area of the intersection, or if this is not possible, driveways should be placed as far as possible from the intersection.

D. Driveway location.

- (1) Driveway location will be based on a site plan that has been agreed upon by the Planning Board in consultation with the Town Engineer and, where appropriate, the Town Highway Superintendent.
- (2) The Planning Board may allow the location of driveways outside of conventional standards if:
  - (a) A dual-driveway system, cross-access driveway system or shared driveway is proposed and this improves the safe and efficient movement of traffic between the parcel and the road;
  - (b) A driveway or driveways could be located so as to meet conventional standards, but the characteristics of the parcel or the physical or operational characteristics of the road are such that a change of location will improve the safe and efficient movement of traffic between the parcel and the road; or
  - (c) Conformance with conventional standards imposes undue and exceptional hardship on the property owner.

# **Exhibit N**

*Section 229-126 of the Zoning Code; Use and Design Criteria for  
Multiple-family Dwellings within the C Commercial Zoning District*

**§ 229-126. Multiple-family developments. [Amended 6-27-2007 by L.L. No. 3-2007; 6-26-2013 by L.L. No. 2-2013; 7-8-2015 by L.L. No. 2-2015; 7-26-2017 by L.L. No. 5-2017]**

Multiple-family developments will only be allowed in the Commercial, Restricted Business and Traditional Neighborhood Districts as described herein.

- A. The purpose of a multiple-family development special exception use permit is to guide the future establishment of multiple-family developments within the Town of Clarence. Multiple-family developments shall not be considered an "as of right" use within any zoning classification.
- B. The Town Board shall determine the Town-wide placement of such a multiple-family development based upon its design features, and its impacts upon the community character, infrastructure and fiscal sustainability of the Town.
- C. The intent of this section is to provide design standards to ensure that multiple-family developments are properly integrated into the character of the Town of Clarence by providing for:
  - (1) Preservation of valuable commercial property within the Town for development of commercial uses.
  - (2) Preservation of open space.
  - (3) Harmony with the rural and suburban character and scenic qualities of the Town.
  - (4) Facilitation of interconnectivity within the multiple-family development between commercial and residential components.
  - (5) Facilitation of cross access between the development and surrounding properties.
  - (6) Facilitation of the adequate extensions of roads, walkways and utilities.
- D. Multiple-family developments in Commercial and Restricted Business Zones.
  - (1) In order to preserve the long-term viability of the Commercial and Restricted Business zoning classifications for commercial uses, provide a balance to residential growth in the community, and avoid the concentration of multiple-family developments in a particular area of the Town, the maximum number of multiple-family developments that can be approved on any shall be restricted as follows:
    - (a) Multiple-family developments will only be allowed on properties with sewer access as approved by the Town Board. The maximum density for multiple-family developments with sanitary sewer access shall be eight units per acre.
    - (b) Where feasible and appropriate, multiple-family developments may be considered on properties without sanitary sewer access. The maximum on-site waste treatment allowance determination shall be consistent with the approvals of regulatory agencies and the Town Engineer, including residential and projected commercial waste. The maximum number of residential units that can be developed on properties without sewer access in a multiple-family development shall be four

units per acre with a maximum total number of 16 units.

- (c) A minimum of 50% of the property shall be committed to commercial uses. On-site integration between residential and commercial components is required. The required commercial component shall be located in such a way as to front the public right-of-way.
  - (d) The density calculation and total number of residential units is only to be determined by the residential component of that portion of project site being utilized for the multiple-family development.
  - (e) Within the residential component, there shall be a maximum of four residential units per building. Upon recommendation of the Planning Board, the Town Board may consider exceptions to maximum residential units per building, as documented by the applicant for purposes relating to the physical or developmental health needs or government-recognized financial needs of the intended occupants.
  - (f) Buildings within a multiple-family development shall be limited to a maximum of two stories.
  - (g) Exclusively residential buildings within a multiple-family development shall have a sufficient setback from the fronting road to preserve the open character of the Town. The required front yard setback area shall be enhanced with landscaping to ensure a visual buffer. Where appropriate, exclusively residential buildings shall be located to the rear of the required commercial component or integrated through a mixed-use format.
  - (h) Scale and design must be compatible with community features and all other standards, as identified for Commercial or Restricted Business Districts in §§ 229-83 through 229-90.2 and §§ 229-75 through 229-82.2 of this chapter.
  - (i) All multiple-family developments shall have pedestrian connectivity integrating the site with its surrounding environment. Where appropriate, sidewalks or recreational trails shall be created, extended and connected to existing or planned off-site sidewalks or trails.
- (2) Multiple-family developments will require 30% of the overall development to be preserved as permanent open space.
  - (3) Part or all of the required commercial component can be preserved as open space for later commercial development. This open space reserved for commercial use is in addition to the 30% required for the overall development.
  - (4) Upon recommendation of the Planning Board, the Town Board will designate the area of the development that is to be reserved for commercial use as open space at the time of the approval of the special exception use permit.
  - (5) Mixed use design incentive.
    - (a) Within the minimum 50% of the development committed to commercial uses, mixed use designs may be allowed through an incentive density of up to four

residential units per acre.

- (b) Mixed use designs within the commercial component shall require a minimum of 75% of the first floor square footage to be dedicated to permitted commercial uses.
  - (c) For mixed use designs, there shall be no limit to the number of residential units per building in the commercial component.
- (6) Transfer incentive.
- (a) A transfer incentive of two additional residential units may be placed within the commercial component in a mixed use design for every one unit removed from the residential component.
- (7) General design standards.
- (a) All on-site roads and driveways shall be constructed to standards as approved by the Town Board. Curb cuts for proposed entrance and exit access roads and driveways shall not be closer than 100 feet to any existing road intersection.
  - (b) Each design or construction phase of any multiple-family development must meet the density requirements as herein established.
  - (c) Multiple-family developments that adjoin a road shall have significant screening running the length of the right-of-way, parallel to the road frontage.
  - (d) All multiple-family developments shall have an area, or areas, devoted to recreational use by the residents. Such recreational space shall have a total area equal to a minimum of 15% of the overall development. Part or all of such space shall be in the form of developed recreation areas to be usable for recreational purposes. The 15% recreational areas may be counted as a part of the 30% total open space requirement for such projects. The recreational area shall be maintained by the owner of the property.
  - (e) Buildings used in whole or part for single-family residential purposes, exclusive of accessory buildings, porches, entries, garages and terraces, shall contain no less than 900 square feet of usable living space if a one-story detached building, nor less than 600 square feet of usable first floor living space if more than one story. No such building shall contain less than 600 square feet of usable living space for each one-bedroom family unit or apartment; 720 square feet of usable living space for each two-bedroom family unit or apartment; and 1,000 square feet of usable living space for each three-bedroom family unit or apartment.
  - (f) Any multiple-family development that includes five or more residential units which is situated, in whole or in part, within the Adequate Educational Facilities Overlay District, shall comply with the terms of Article XIVA of the Town Zoning Law.<sup>1</sup>
- (8) Small-scale retail uses in the Restricted Business Zone exception.

---

1. Editor's Note: See §§ 229-114.1 through 229-114.8.



- (a) Under special circumstances, the Town Board, upon recommendation of the Planning Board, may allow small-scale retail uses within the Restricted Business Zone in conjunction with multiple-family developments in a mixed use design. These special circumstances would include:
    - [1] Each business should complement and service the residents of the development, and contribute to the character of the Restricted Business Zone.
    - [2] For mixed use design proposals that do not have predetermined small-scale retail tenants or defined uses at the time of submission, the overall area designated for small-scale retail will be considered for approval subject to future use permits as approved on a case-by-case basis by the Planning Board at the time when a tenant or defined use has been proposed.
  - (b) Furthermore, in an effort to maintain small-scale retail units that uphold the intent of the Restricted Business Zone (see § 229-75), additional retail restrictions would include but not be limited to:
    - [1] Limited vehicular traffic generation consistent with Restricted Business Zone.
    - [2] Architectural and design standards consistent with Restricted Business Zone.
    - [3] No automotive uses, including but not limited to sales, part sales, service, rental, collision, body repair, detailing and fueling.
    - [4] No drive-through facilities.
    - [5] No outside display.
  - (c) An applicant shall have the right to petition the Zoning Board of Appeals of the Town of Clarence in the event of a denial of the small-scale retail use permit by the Planning Board. The Zoning Board of Appeals of the Town of Clarence, after public notice and a hearing, may approve, deny, or vary/modify the application of this section in harmony with its general purpose and intent.
- E. Multiple-family developments in Traditional Neighborhood District (TND).
- (1) The maximum residential density of the multiple-family development shall be limited to eight units per acre.
  - (2) A minimum of 25% of the total floor space shall be committed to commercial uses.
  - (3) On-site integration and connectivity of uses is required.
  - (4) The required commercial component shall be located in such a way as to front the public right-of-way.
  - (5) Scale and design standards shall be compatible with community features and all other standards, as identified within the TND Zoning District (§§ 229-57 through 229-68 of this chapter).
  - (6) General design standards.

- (a) All on-site roads and driveways shall be constructed to standards as approved by the Town Board. Curb cuts for proposed entrance and exit access roads and driveways shall not be closer than 70 feet to any existing road intersection.
- (b) Each design and construction phase of any multiple-family development must meet the density requirements as herein established.
- (c) Multiple-family developments that adjoin a road shall have significant screening running the length of the right-of-way, parallel to the road frontage.
- (d) All multiple-family developments shall have an area or areas devoted to recreational use by the residents.

Recreational uses shall be defined as pedestrian accommodations and improvements intended to beautify the property fronting the public right-of-way. Such features include, but are not limited to, benches, planters and bike racks.

- (e) All multiple-family developments shall have pedestrian connectivity integrating the site with its surrounding environment. Where appropriate, sidewalk or recreational trail connections shall be created, extended and connected to existing or planned off-site sidewalks or trails.
- (f) Buildings used in whole or part for single-family residential purposes, exclusive of accessory buildings, porches, entries, garages and terraces, shall contain no less than 900 square feet of usable living space if a one-story detached building, nor less than 600 square feet of usable first floor living space if more than one story. No such building shall contain less than 600 square feet of usable living space for each one-bedroom family unit or apartment; 720 square feet of usable living space for each two-bedroom family unit or apartment; and 1,000 square feet of usable living space for each three-bedroom family unit or apartment.
- (g) Any multiple-family development that includes five or more residential units and which is situated, in whole or in part, within the Adequate Educational Facilities Overlay District, shall comply with the terms of Article XIVA of the Town Zoning Law.<sup>2</sup>

---

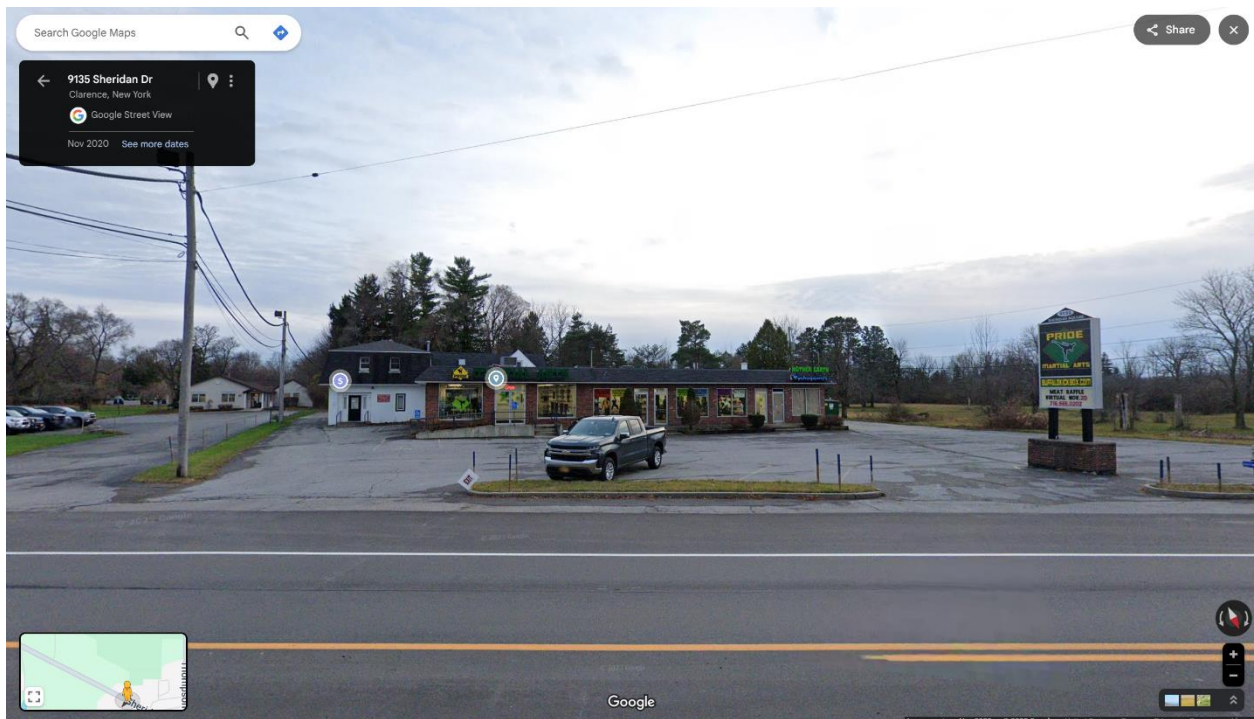
2. Editor's Note: See §§ 229-114.1 through 229-114.8.

# **Exhibit O**

*View of the properties surrounding the Project Site*



*View of 9070 Sheridan Drive – NYSDOT Property*



*View of 9135 Sheridan Drive – Property abutting the Project Site to the east*

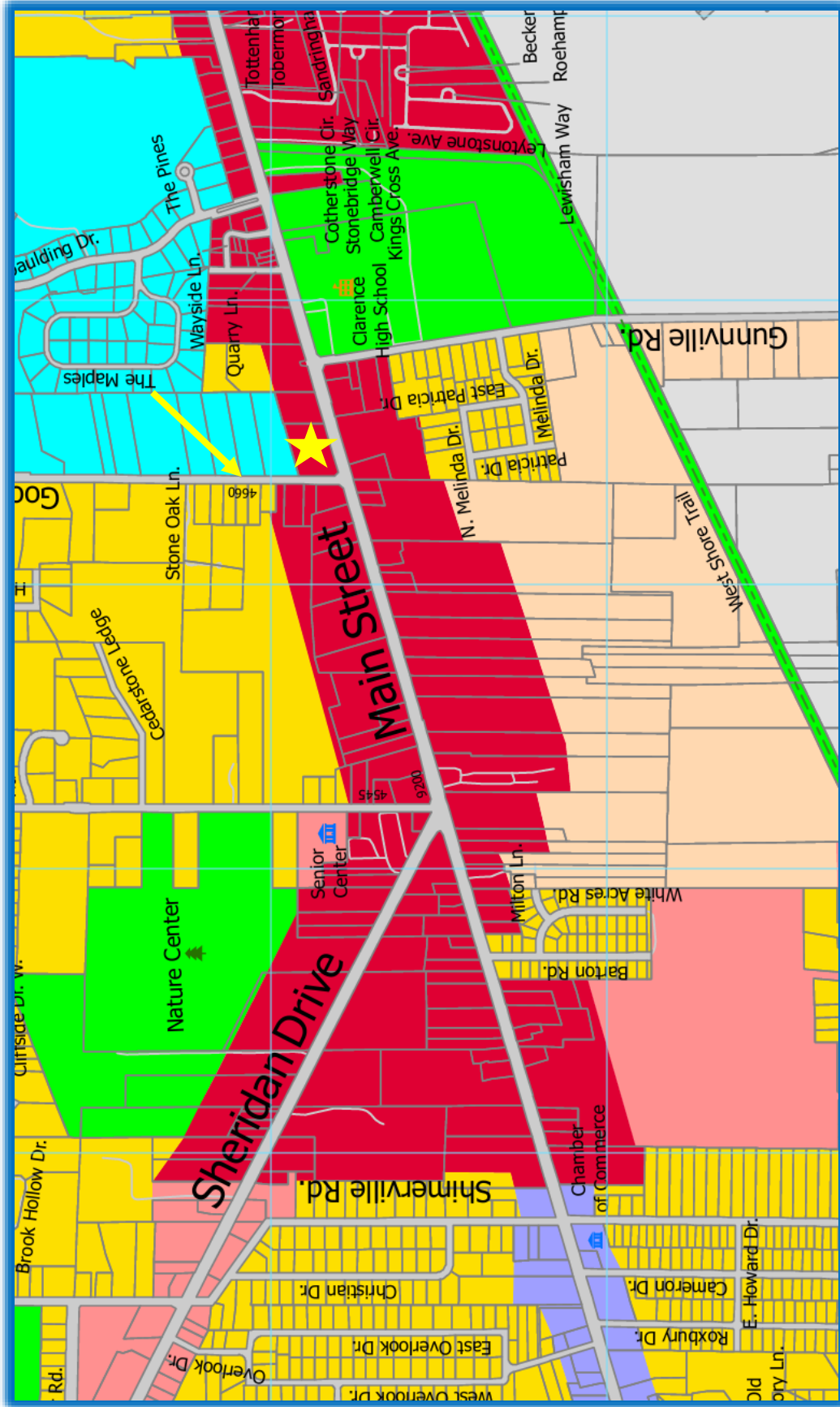


*View of two (2) residential properties within the C Commercial Zoning District – Located northeast of the Project Site, across Sheridan Drive, a 3-lane New York State Highway*

# **Exhibit P**

*Excerpt from the Town of Clarence Zoning Map*





# **Exhibit Q**

*Willow Square of Clarence - Approved Site Plan, dated November 4,  
2011*



# Rock Garden Mixed-Use Development Apartment / Retail / Office

9470 Main Street  
Clarence, NY 14031

**K2 Architecture**  
10223 Main Street  
Clarence, NY 14031  
Fax: 759-0593  
(716) 759-0595

DRAWN BY: K2		CHECKED BY: K2
NO.	DATE	
REVISIONS		
NO.	DATE	DESCRIPTION

**Proposed Site Plan**  
**Sp-1**  
JOB NO. 10032

## Site Plan

**Retail/Office:**  
A (1) Retail/Office Space (2,050 s.f. = 2,050s.f.)  
A' (2) Retail/Office Space (2,450 s.f. = 4,900s.f.)  
B (6) Retail/Office Space (1,050 s.f. = 2,100s.f.)  
C (3) Retail/Office Space (1,000 s.f. = 3,000s.f.)  
Total = 12,050 s.f.

**Apartments:**  
(9) 2-Bedroom Apartments (1,100 s.f. each)  
(16) 2-Bedroom Townhouses (900 s.f. each)

**Parking:**  
• Code Restriction 8 units per acre  
(25) Units for 3.17 acres of Total Site Area

**Pervious/Non-pervious Area:**  
Proposed Pervious..... 46.7%  
Proposed Non-pervious..... 53.3%  
• Required 70% (max.) non-pervious per Code

**Spetic Calculation:**  
Retail/Office 12,050 s.f. = 1,205 gal/day  
Apartments 25 unit = 7,500 gal/day  
• Maximum Flow is less than 10,000 gal/day

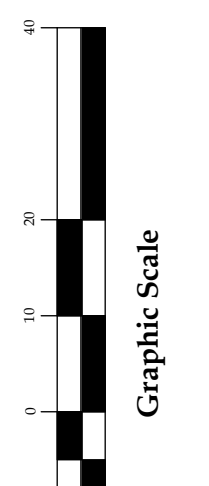
**LANDSCAPING LEGEND**  
2 1/2" Caliper - Deciduous trees  
6' High - Evergreen trees  
18" - 24" High - Large Flowering plants with Spreading evergreen plantings  
Existing trees to remain

Designated Open Recreation Areas  
43,660 s.f. (20.5% of total site)  
Required 15% per Code



## Site Plan

Scale: 1" = 20 ft



STREET

MAIN

GOODRICH ROAD

ROAD

4630

4624

9450

OF LOT 11, SEC.6, TWP.12, RGE.6 CENTERLINE  
LOT 2, SEC.9, TWP.12, RGE.6

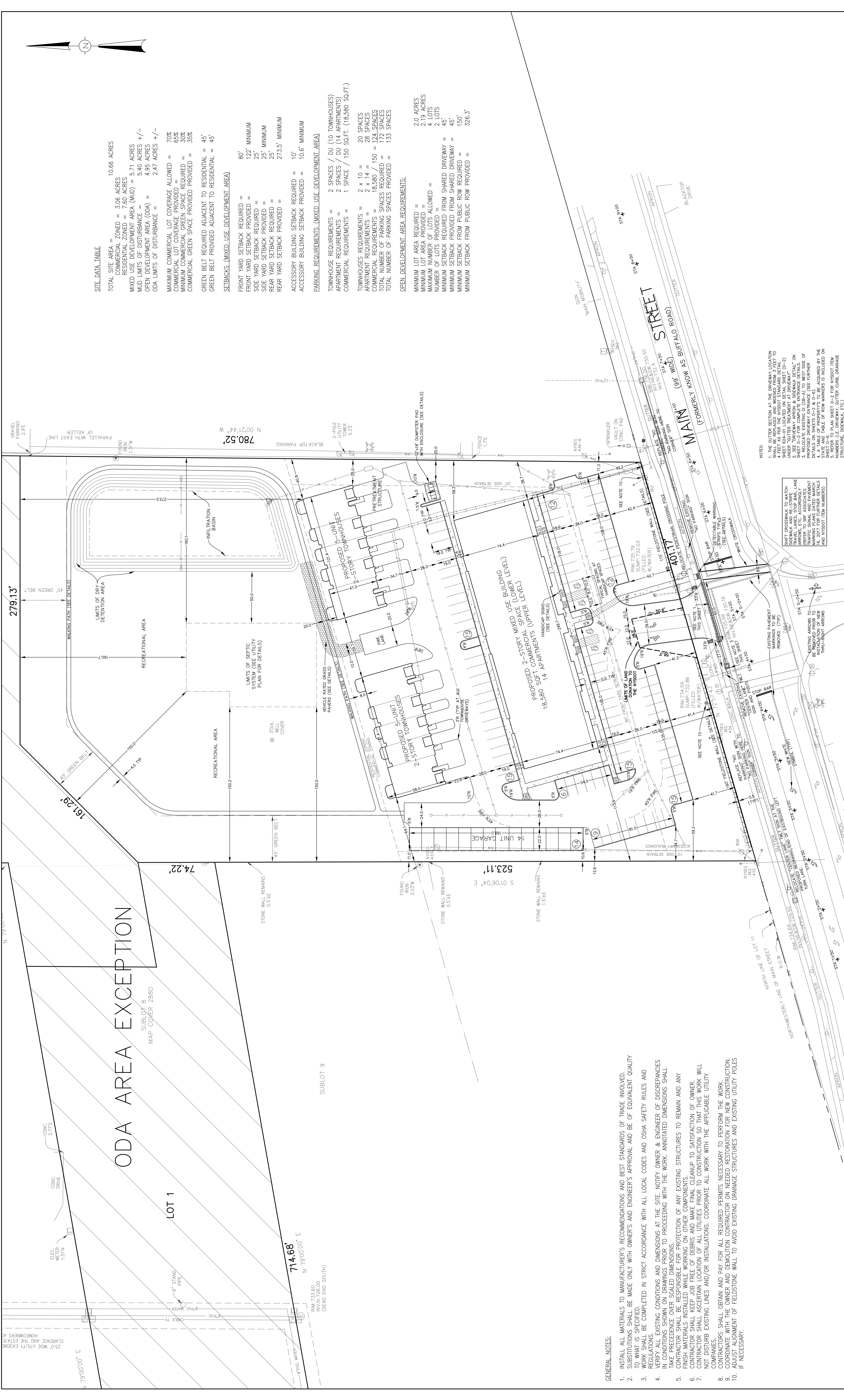
24" HDPE SW  
5/4" HDPE NE



# **Exhibit R**

*Main Center of Clarence - Approved Site Plan, dated March 23, 2017*





**SITE DATA TABLE**

TOTAL SITE AREA =	10.66 ACRES
COMMERCIAL ZONED =	3.06 ACRES
RESIDENTIAL ZONED =	7.60 ACRES
MIXED USE DEVELOPMENT AREA (MUD) =	5.71 ACRES
OPEN DEVELOPMENT AREA (ODA) =	4.95 ACRES +/-
ODA LIMITS OF DISTURBANCE =	2.47 ACRES +/-
MAXIMUM COMMERCIAL LOT COVERAGE ALLOWED =	70%
COMMERCIAL LOT COVERAGE PROVIDED =	65%
MINIMUM COMMERCIAL GREEN SPACE REQUIRED =	30%
COMMERCIAL GREEN SPACE PROVIDED =	35%
GREEN BELT PROVIDED ADJACENT TO RESIDENTIAL =	45'
GREEN BELT PROVIDED ADJACENT TO RESIDENTIAL =	45'

**SETBACKS (MIXED USE DEVELOPMENT AREA)**

FRONT YARD SETBACK REQUIRED =	80'
FRONT YARD SETBACK PROVIDED =	122' MINIMUM
SIDE YARD SETBACK REQUIRED =	25'
SIDE YARD SETBACK PROVIDED =	25' MINIMUM
REAR YARD SETBACK REQUIRED =	25'
REAR YARD SETBACK PROVIDED =	273.5' MINIMUM

**PARKING REQUIREMENTS (MIXED USE DEVELOPMENT AREA)**

TOWNHOUSE REQUIREMENTS =	2 SPACES / DU (10 TOWNHOUSES)
APARTMENT REQUIREMENTS =	2 SPACES / DU (14 APARTMENTS)
COMMERCIAL REQUIREMENTS =	1 SPACE / 150 SQ.FT. (18,580 SQ.FT.)

**TOWNHOUSES REQUIREMENTS**

2 x 10 =	20 SPACES
2 x 14 =	28 SPACES
18,580 / 150 =	124 SPACES
124 SPACES / 12 =	10.33 SPACES
TOTAL NUMBER OF PARKING SPACES PROVIDED =	133 SPACES

**OPEN DEVELOPMENT AREA REQUIREMENTS:**

MINIMUM LOT AREA REQUIRED =	2.0 ACRES
MINIMUM LOT AREA PROVIDED =	2.19 ACRES
MAXIMUM NUMBER OF LOTS ALLOWED =	4 LOTS
MINIMUM SETBACK PROVIDED FROM SHARED DRIVEWAY =	45'
MINIMUM SETBACK PROVIDED FROM PUBLIC ROW REQUIRED =	150'
MINIMUM SETBACK FROM PUBLIC ROW PROVIDED =	326.3'

**GENERAL NOTES:**

1. INSTALL ALL MATERIALS TO MANUFACTURER'S RECOMMENDATIONS AND BEST STANDARDS OF TRADE INVOLVED.
2. SUBSTITUTIONS SHALL BE MADE ONLY WITH OWNER'S AND ENGINEER'S APPROVAL AND BE OF EQUIVALENT QUALITY TO WHAT IS SPECIFIED.
3. WORK SHALL BE COMPLETED IN STRICT ACCORDANCE WITH ALL LOCAL CODES AND OSHA SAFETY RULES AND REGULATIONS.
4. VERIFY ALL EXISTING CONDITIONS AND DIMENSIONS AT THE SITE. NOTIFY OWNER & ENGINEER OF DISCREPANCIES IN CONDITIONS SHOWN ON DRAWINGS PRIOR TO PROCEEDING WITH THE WORK. ANNOTATED DIMENSIONS SHALL TAKE PRECEDENCE OVER SCALED DIMENSIONS.
5. CONTRACTOR SHALL BE RESPONSIBLE FOR PROTECTION OF ANY EXISTING STRUCTURES TO REMAIN AND ANY FINISH MATERIALS INSTALLED WHILE WORKING ON OTHER COMPONENTS.
6. CONTRACTOR SHALL OBTAIN ALL NECESSARY PERMITS PRIOR TO CONSTRUCTION SO THAT THIS WORK WILL NOT DISTURB EXISTING LINES AND/OR INSTALLATIONS. COORDINATE ALL WORK WITH THE APPLICABLE UTILITY COMPANIES.
7. CONTRACTORS SHALL OBTAIN AND PAY FOR ALL REQUIRED PERMITS NECESSARY TO PERFORM THE WORK.
8. COORDINATE WITH THE OWNER AND DEMOLITION CONTRACTOR ON NEEDED RESTORATION FOR NEW CONSTRUCTION.
9. ADJUST ALIGNMENT OF FIELDSTONE WALL TO AVOID EXISTING DRAINAGE STRUCTURES AND EXISTING UTILITY POLES IF NECESSARY.

**NOTES**

1. THE GUTTER SYSTEM AT THE DRIVEWAY LOCATION SHALL BE REPLACED AND WIDENED FROM 3 FEET TO 4 FEET AS PER THE NEW YORK STATE STANDARD D-2 UNDER "OUTLET TREATMENT AT DRIVEWAY".
2. RELOCATE EXISTING UTILITY FROM MAIN STREET TO MAIN STREET UNDER "OUTLET TREATMENT AT DRIVEWAY".
3. RELOCATE EXISTING UTILITY FROM MAIN STREET TO MAIN STREET UNDER "OUTLET TREATMENT AT DRIVEWAY".
4. A TABLE OF PROPERTIES TO BE ACQUIRED BY THE OWNER IS SHOWN ON SHEET D-6. REFER TO SHEET D-6 FOR NEAREST FEET NUMBERS (I.E. DRIVEWAY, GUTTER CURB, DRAINAGE STRUCTURE, SIDEWALK, ETC).

**LEGEND**

GRAVING, WATER & DUMPSTER	06.05.18	JCM/ARH
REVISED BUILDING FOOTPRINT	04.25.18	JCM/ARH
TOWN COMMENTS	09.19.17	JCM/ARH
TOWN & EDPW COMMENTS	08.31.17	JCM/ARH
VARIOUS AGENCY COMMENTS	08.12.17	JCM/ARH

**NOTES**

1. BOUNDARY AND TOPOGRAPHIC INFORMATION FROM METZGER CIVIL ENGINEERING, P.L.L.C. FROM SURVEY DATED NOVEMBER 21, 2016.
2. THIS IS NOT A PROPERTY SURVEY.

**DESIGNED BY:** JCM  
**DRAWN BY:** JCM  
**CHECKED BY:** ARH  
**DATE:** M 13.21

**METZGER CIVIL ENGINEERING, PLLC**  
 8245 SHERIDAN DRIVE  
 WILLIAMSVILLE, NY 14221  
 PH: 716-633-2601  
 FAX: 716-633-2704

**FOUNTAIN COURT**  
**9560 MAIN STREET**  
 ERIE COUNTY, NEW YORK

**SITE PLAN - MIXED USE DEVELOPMENT**

SCALE: 1" = 40'  
 DATE: MARCH 23, 2017  
 JOB NO: M-1321  
 SHEET NO: SP-1  
 SHEET 5

© 2017 Metzger Civil Engineering



# **Exhibit S**

*9150 Sheridan Drive - Approved Site Plan, dated June 8, 2021*

REPORTED OWNER  
 TOWN OF CLARENCE  
 L-11130, P-6293

REPORTED OWNER  
 TOWN OF CLARENCE  
 L-5527, P-437

**ZONED RB**

REPORTED OWNER  
 ALICE I. SATOLA  
 REVOCABLE TRUST  
 L-11334, P-9675

**ZONED C**

**ZONED R**

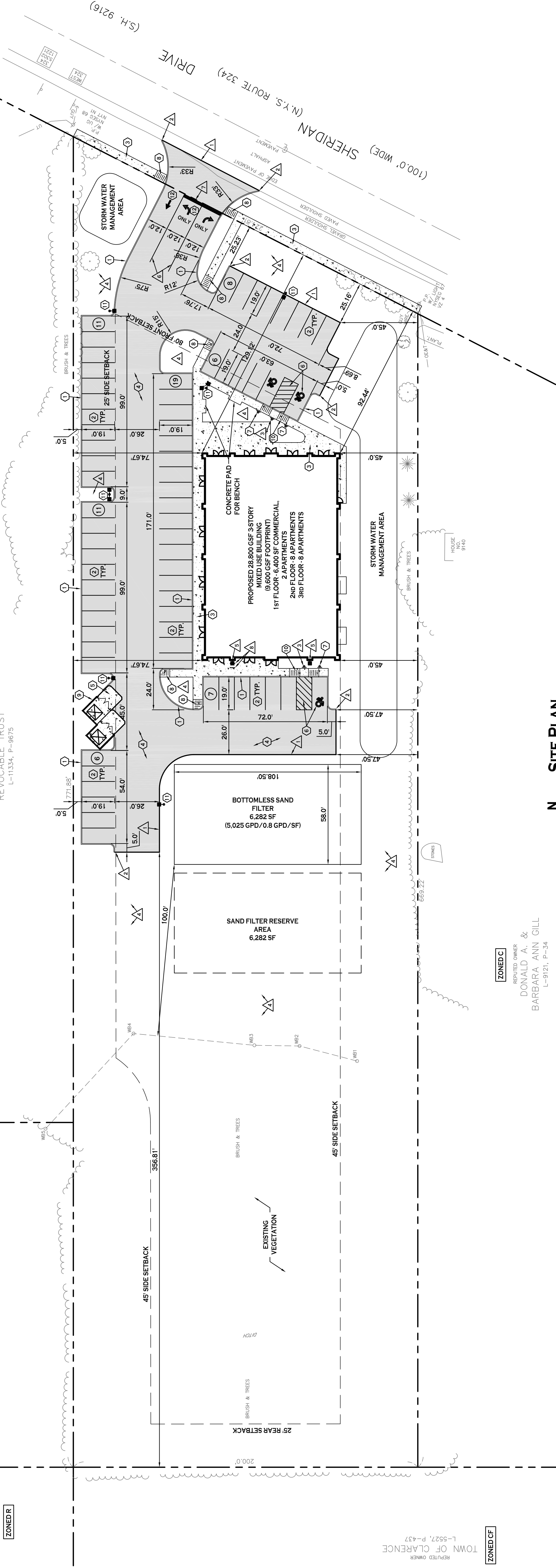
**ZONED C**

REPORTED OWNER  
 DONALD A. &  
 BARBARA ANN GILL  
 L-9121, P-34

REPORTED OWNER  
 DONALD A. &  
 BARBARA ANN GILL  
 L-9121, P-34

**ZONED C**

**SITE PLAN**  
 SCALE: 1"=30'



REQUIRED	PROVIDED
FRONT SETBACK	80 FT*
SIDE (ABUTTING COM. / RES.)	25 FT / 45 FT
REAR (ABUTTING COM. / RES.)	25 FT / 45 FT
SETBACKS: BUILDING FRONT	N/A
SIDE	N/A
REAR	N/A
PARKING STALLS	9'x19'
REQUIRED SPACES	68
GREENSPACE	25% (0.83 AC) 71% (2.35 AC)
INTERIOR GREENSPACE	8% (0.05 AC) 8% (0.05 AC)
MAX. BUILDING HEIGHT	45 FT
MAX. BUILDING COVERAGE	70% MAX. (100,623 SF) 67%

\* WHERE THERE IS AN ESTABLISHED FRONT SETBACK LINE BETWEEN ADJOINING PROPERTIES, THAT SETBACK LINE WOULD APPLY TO THE PROPERTY TO A MINIMUM OF 45 FEET.

REQUIRED	PROVIDED
"PROFESSIONAL OFFICE" 1 SPACE PER 200 GSF	3,000 GSF / 200' = 15 SPACES
"RESTAURANT" (ASSUME 2,000 SF) 1 PER 3 SEATS	20 SEATS / 3 = 7 SPACES
"RETAIL" 1 SPACE PER 150 GSF	1,400 SF / 150 = 9 SPACES

ALLOWED	PROPOSED
PER SECTION 229-126(D)(1): 50% OF THE C PROPERTY SHALL BE COMMITTED TO A COMMERCIAL USE	50% OF THE C PROPERTY SHALL BE COMMITTED TO A COMMERCIAL USE
RECD COMMERCIAL USE AREA = 3.3 AC X 0.5 = 1.65 AC	RECD COMMERCIAL USE AREA = 3.3 AC X 0.5 = 1.65 AC
WITHIN THE COMMERCIAL COMPONENT PER SECTION 229-126(D)(1): WITHIN THE MIN. 50% OF THE DEVELOPMENT COMMITTED TO COMMERCIAL USES, MIXED USE DESIGNS MAY BE ALLOWED WITH A DENSITY OF 4 UNITS/AC	ALLOWED UNITS = 1.65 AC X 4 UNITS/AC = 6 UNITS
WITHIN THE RESIDENTIAL COMPONENT PER SECTION 229-126(D)(1): MAXIMUM DENSITY FOR MULTIFAMILY DEVELOPMENTS W/O SANITARY SEWER SHALL BE 4 UNITS/AC	ALLOWED UNITS = 1.65 AC X 4 UNITS/AC = 6 UNITS
PROPOSED UNITS WITHIN THE RESIDENTIAL COMPONENT = 0 UNITS (USE TRANSFER CREDIT)	PROPOSED UNITS WITHIN THE RESIDENTIAL COMPONENT = 0 UNITS (USE TRANSFER CREDIT)
PER SECTION 229-126(D)(6) A TRANSFER INCENTIVE OF TWO ADDITIONAL RESIDENTIAL UNITS MAY BE PLACED WITHIN THE COMMERCIAL COMPONENT (MIXED USE BUILDING) FOR EVERY ONE UNIT REMOVED FROM THE RESIDENTIAL COMPONENT	PER SECTION 229-126(D)(6) A TRANSFER INCENTIVE OF TWO ADDITIONAL RESIDENTIAL UNITS MAY BE PLACED WITHIN THE COMMERCIAL COMPONENT (MIXED USE BUILDING) FOR EVERY ONE UNIT REMOVED FROM THE RESIDENTIAL COMPONENT
TAKE (6) UNITS NOT USED IN THE RESIDENTIAL COMPONENT AND TRANSFER TO MIXED USE BUILDINGS; 12 ADDITIONAL UNITS ALLOWED	TAKE (6) UNITS NOT USED IN THE RESIDENTIAL COMPONENT AND TRANSFER TO MIXED USE BUILDINGS; 12 ADDITIONAL UNITS ALLOWED
MIXED USE BUILDING: THERE ARE 6 UNITS ALLOWED IN THE COMMERCIAL COMPONENT PER SECTION 229-126(D)(5A). APPLYING THE TRANSFER INCENTIVE PER SECTION 229-126(D)(6) TO ALLOW 12 ADDITIONAL UNITS, A TOTAL OF 18 UNITS ARE ALLOWED IN THE MIXED USE BUILDINGS. 18 UNITS ARE PROPOSED.	MIXED USE BUILDING: THERE ARE 6 UNITS ALLOWED IN THE COMMERCIAL COMPONENT PER SECTION 229-126(D)(5A). APPLYING THE TRANSFER INCENTIVE PER SECTION 229-126(D)(6) TO ALLOW 12 ADDITIONAL UNITS, A TOTAL OF 18 UNITS ARE ALLOWED IN THE MIXED USE BUILDINGS. 18 UNITS ARE PROPOSED.

- SITE NOTES:**
- ALL RADI SHALL BE 3'-0" UNLESS OTHERWISE NOTED.
  - ALL DISTURBED AREAS SHALL HAVE 4" MIN. OF TOPSOIL AND SEED. FOR DISTURBED AREAS WITHIN NYS DOT R.O.W. DISTURBED AREAS SHALL BE RESTORED USING ITEM 6 (0.1402 - TOPSOIL ROADSIDE AND ITEM 610.1602 - TURF ESTABLISHMENT).
  - ALL DIMENSIONS FROM PROPERTY LINES SHALL BE MEASURED PERPENDICULAR TO THE PROPERTY LINE.
  - CENTER ENTRANCE SIDEWALKS ON DOOR OPENINGS.
  - BUILDING DIMENSIONS ARE APPROXIMATE. REFER TO ARCHITECTURAL DRAWINGS FOR LAYOUT DIMENSIONS.
  - ALL HANDICAP RAMPS AND/OR SIDEWALKS FLUSH TO PAVEMENT SHALL HAVE ADA COMPLIANT TACTILE WARNING STRIPS WHERE ENTERING PARKING AREAS/DRIVEWAYS.
  - KNOX KEY BOX TO BE INSTALLED TO ALLOW FIRE DEPARTMENT ACCESS TO BUILDING KEYS. LOCATION TO BE COORDINATED WITH OWNER AND TOWN.
  - ALL EDGES OF PAVEMENT SHALL BE CURVED.
  - ALL SIDEWALKS ARE 5' WIDE UNLESS OTHERWISE NOTED.

- GENERAL NOTES:**
- INSTALL ALL MATERIALS TO MANUFACTURER'S RECOMMENDATIONS AND BEST STANDARDS OF TRADE INVOLVED.
  - SUBSTITUTIONS SHALL BE MADE ONLY WITH OWNER'S APPROVAL AND BE OF EQUIVALENT QUALITY TO WHAT IS SPECIFIED.
  - WORK SHALL BE COMPLETED IN STRICT ACCORDANCE WITH ALL LOCAL CODES AND OSHA SAFETY RULES AND REGULATIONS.
  - VERIFY ALL EXISTING CONDITIONS AND DIMENSIONS AT THE SITE. NOTIFY OWNER'S ENGINEER OF DISCREPANCIES IN CONDITIONS SHOWN ON DRAWINGS PRIOR TO PROCEEDING WITH THE WORK.
  - CONTRACTOR SHALL BE RESPONSIBLE FOR PROTECTION OF ANY EXISTING STRUCTURES TO REMAIN AND ANY FINISH MATERIAL INSTALLED WHILE WORKING ON OTHER COMPONENTS.
  - CONTRACTOR SHALL KEEP JOB FREE OF DEBRIS AND MAKE FINAL CLEANUP TO SATISFACTION OF OWNER.
  - CONTRACTOR SHALL ASCERTAIN THE LOCATION OF ALL UTILITIES PRIOR TO CONSTRUCTION SO THAT THIS WORK WILL NOT DISTURB EXISTING LINES AND/OR INSTALLATIONS. COORDINATE ALL WORK WITH THE APPLICABLE UTILITY COMPANIES.
  - ALL OTHER PERMITS REQUIRED BY STATE OF NEW YORK, COUNTY OF ERIE, AND TOWN OF CLARENCE ARE THE RESPONSIBILITY OF THE CONTRACTOR/DEVELOPER/OWNER.
  - REFER TO NYS DOT STANDARD SHEET 608603 FOR DRIVEWAY ENTRANCE AND LAYOUT INFORMATION ALONG SHERIDAN DRIVE.

- DETAIL LEGEND (SEE SEPARATE SHEET)**
- TYPE "A" CONCRETE CURB
  - PARKING STALL
  - CONCRETE SIDEWALK
  - STANDARD DUTY ASPHALT
  - EXTERIOR CONCRETE SUBON GRADE
  - HANDICAPPED PAVEMENT MARKINGS
  - HANDICAPPED PARKING SIGN
  - SIDEWALK CURB RAMP
  - DIMENSION ENCLOSURE
  - HANDICAPPED PAVEMENT RAMP
  - LIGHT POLE FOUNDATION
  - PAINTED TRAFFIC ARROWS

- NOTE LEGEND**
- EDGE OF PAVEMENT
  - ROUND CURB IN Z OR MATCH EXISTING CURB
  - INSTALL "NO PARKING" SIGN, MUT.C.B. SIGN NO. 87.1C TO BE WALL MOUNTED
  - LANDSCAPED AREA - SEE LANDSCAPE PLAN IF NO PLANTINGS. INSTALL TOPSOIL & SEED
  - WALL PACK LIGHTING SEE LIGHTING PLAN
  - 4" WIDE YELLOW PAVEMENT STRIPE, 44 FT. LONG
  - 18" STOP BAR WHITE PAVEMENT STRIPE
  - BIKE RACK, BELSON OUTDOORS ROUND TUBE CIRCULAR OR APPROVED EQUAL

- SITE LEGEND**
- PROPOSED CURB
  - PROPOSED SIDEWALK / CONCRETE PAD
  - NUMBER OF PARKING SPACES
  - PROPOSED SIGN
  - PROPOSED LIGHT POLE AND FIXTURE (15' MAX.)
  - PROPOSED BLOC, MOUNTED LIGHT
  - PROPOSED ASPHALT PAVEMENT

NOTE: BOUNDARY AND TOPOGRAPHIC INFORMATION PROVIDED BY OTHERS. CARMINA WOOD MORRIS, D.P.C. ASSUMES NO RESPONSIBILITY FOR ITS ACCURACY.

Project no.: 19\_161

**C-100**  
 Drawing No.

PROJECT NAME: New Construction  
 9150 Sheridan Drive  
 Clarence, New York

Date: 6/8/21  
 Drawn by: P. Seberry  
 Scale: AS NOTED

DRAWING NAME: Site Plan

REVISIONS:  
 No. Description  
 Date

# **Exhibit T**

*Grading Plan & Stormwater Drainage Plan [Drawing C-200 through C-300, dated 01/24/2025], prepared by Anthony Pandolfe, P.E. of Carmina Wood Design*

REVISIONS:	No.	Description	Date

**PRELIMINARY**  
NOT FOR CONSTRUCTION

DRAWING NAME:  
**Grading Plan**

Date: 1/24/25  
Drawn By: A. Pardihi  
Scale: As Noted  
DRAWING NO. **C-200**

Project No: 24-4106

**PROPOSED GRADING LEGEND**

- PROPOSED CONTOUR
- PROPOSED SPOT ELEVATION
- PROPOSED TOP BOTTOM OF CURB ELEV.
- PROPOSED CATCH BASIN
- PAVEMENT/GROUND SLOPE
- PROPOSED YARD DRAIN
- PROPOSED MANHOLE

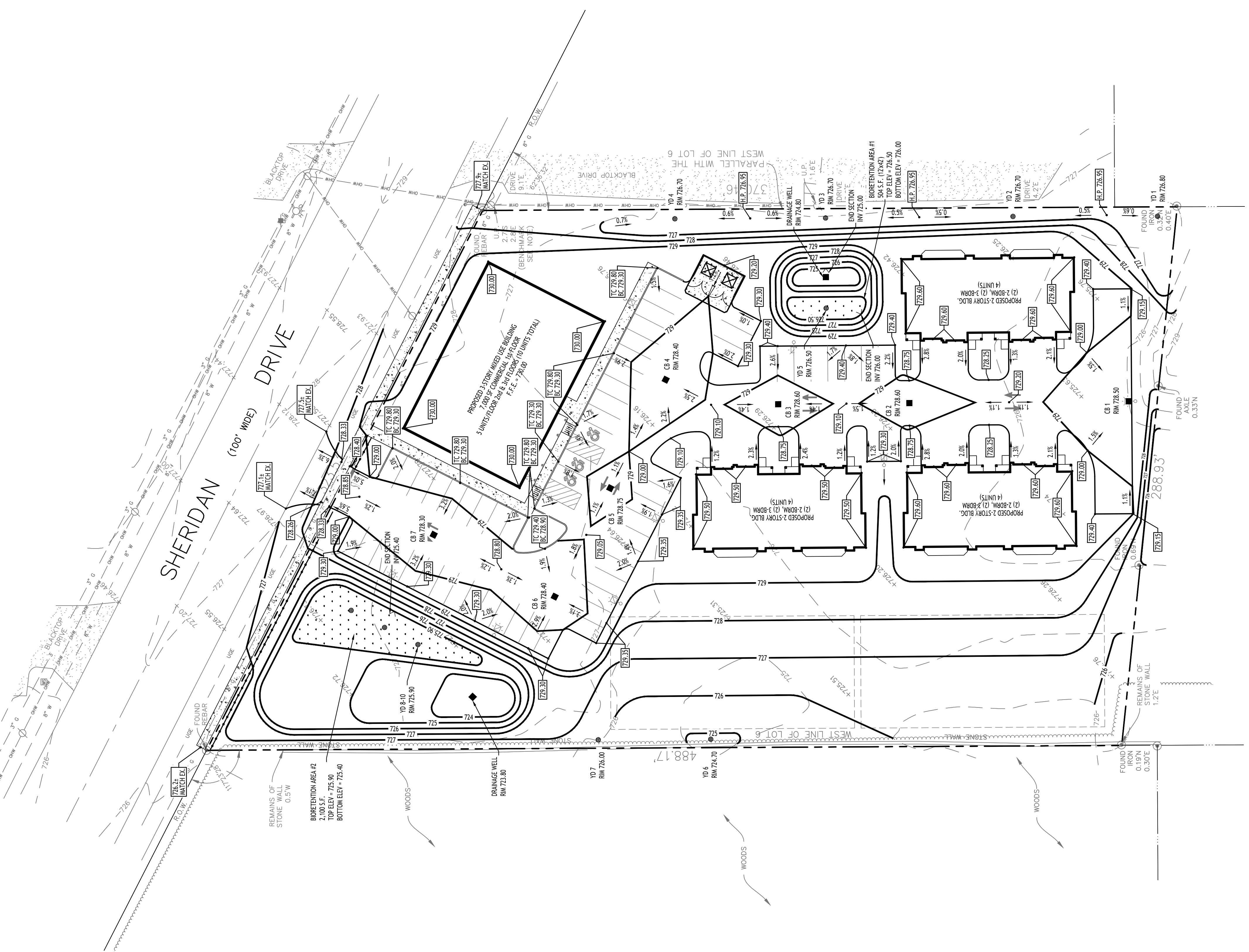
100.00 TC 100.50  
BC 100.00

CB  
 YD  
 MH

10'

30'  
 0  
 30  
 60'

NOTE: BOUNDARY AND TOPOGRAPHIC INFORMATION PROVIDED BY OTHERS. CARMINA WOOD DESIGN ASSUMES NO RESPONSIBILITY FOR ITS ACCURACY.



**Grading Plan**  
SCALE: 1"=30'

All rights reserved. Reuse of these documents without the expressed written permission of CARMINA WOOD DESIGN is prohibited. WARNING: It is a violation of article 155 to alter this drawing. If altered such R.A., P.E. or L.S. shall affix his or her seal, signature, the date the notation altered by, and a specific description of the alteration.

No.	Description	Date

**PRELIMINARY**  
NOT FOR CONSTRUCTION

DRAWING NAME:  
**Drainage Plan**

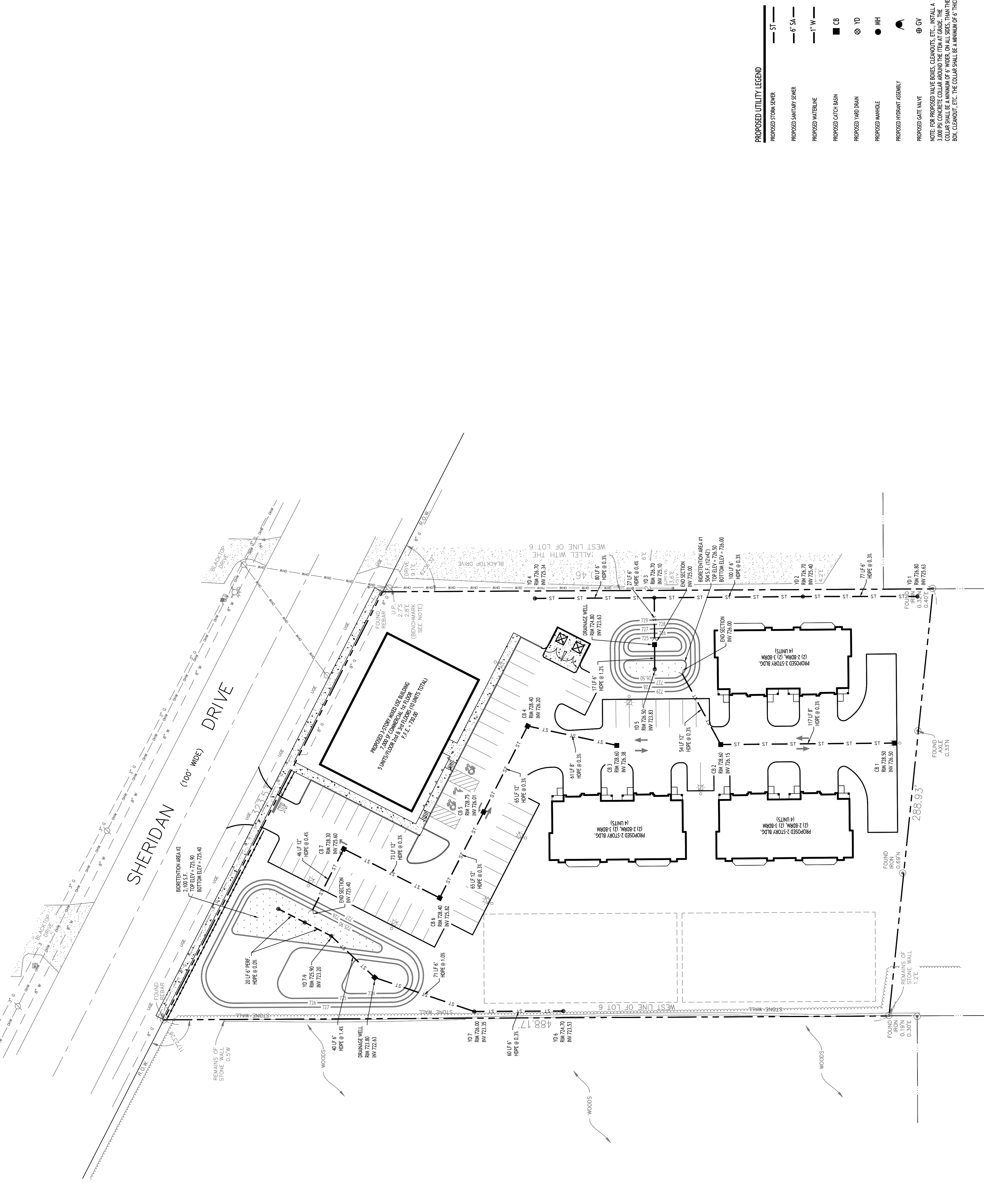
Date: 1/24/25  
Drawn By: A. Pandolfi  
Scale: As Noted  
DRAWING NO. **C-300**

Project No: 24-4106

- PROPOSED UTILITY LEGEND**
- ST — PROPOSED STORM SEWER
  - 6" SA — PROPOSED SANITARY SEWER
  - 1" W — PROPOSED WATERLINE
  - CB PROPOSED CATCH BASIN
  - ⊗ YO PROPOSED YARD DRAIN
  - MH PROPOSED MANHOLE
  - ⊕ PROPOSED HYDRANT ASSEMBLY
  - ⊕ GV PROPOSED GATE VALVE
- NOTE: FOR PROPOSED VALVE BOXES, CLEANOUTS, ETC., INSTALL A 3,000 PSI CONCRETE COLLAR AROUND THE ITEM AT GRADE. THE COLLAR SHALL BE A MINIMUM OF 6" WIDER, ON ALL SIDES, THAN THE BOX, CLEANOUT, ETC. THE COLLAR SHALL BE A MINIMUM OF 6" THICK.



NOTE: BOUNDARY AND TOPOGRAPHIC INFORMATION PROVIDED BY OTHERS. CARMINA WOOD DESIGN ASSUMES NO RESPONSIBILITY FOR ITS ACCURACY.



**Drainage Plan**  
SCALE: 1"=30'

All rights reserved. Reuse of these documents without the expressed written permission of CARMINA WOOD DESIGN is prohibited. WARNING: It is a violation of article 145 to alter this drawing. If altered such R.A., P.E. or L.S. shall affix his or her seal, signature, the date the notation altered by, and a specific description of the alteration.



# **Exhibit U**

*Projected Budget, Rent Roll, & Operating Budget for the Project as  
prepared by the Applicant*

## Financial Analysis of the Project

*As Proposed with Area Variances Requested*

<b>Project Budget</b>		
<b>Land &amp; Hard Costs</b>	<b>Costs</b>	<b>% of Total</b>
Land & Hard Costs	\$6,213,099	103.2%
<b>Total Land &amp; Hard Costs</b>	<b>\$6,213,099</b>	<b>103.2%</b>
<b>Soft Costs</b>	<b>Costs</b>	<b>% of Total</b>
Soft Costs	\$892,865	14.8%
<b>Total Hard Costs</b>	<b>\$892,865</b>	<b>14.8%</b>
<b>Total Project Costs</b>	<b>\$7,105,964</b>	<b>118.0%</b>

<b>Projected Rent Roll</b>		
<b>Residential Units</b>	<b>Monthly Rent</b>	<b>Units</b>
2BR Townhouse	\$2,595	6
3BR Townhouse	\$2,895	6
1BR Apartment	\$1,895	4
2BR Apartment	\$2,195	6
<b>Total</b>		<b>22</b>
<b>Commercial Units</b>	<b>Monthly Rent</b>	<b>Units</b>
Retail Space 1	\$3,495	1
Retail Space 2	\$3,495	1
Retail Space 3	\$4,995	1
<b>Total</b>		<b>3</b>

<b>Projected Operating Budget</b>	
<b>Income</b>	
Residential Income	\$644,280
Commercial Income	\$143,820
Residential Vacancy	(\$32,759)
Commercial Vacancy	(\$35,955)
<b>Effective Gross Income</b>	<b>\$719,386</b>
Expenses	(\$228,114)
Debt Service	(\$466,609)
<b>Net Cash Flow</b>	<b>\$24,663</b>

## Financial Analysis of the Project

16-Units utilizing the Transfer Incentive in accordance with Section 229-126 D. (6.) (a.)

<b>Project Budget</b>		
<b>Land &amp; Hard Costs</b>	<b>Costs</b>	<b>% of Total</b>
Land & Hard Costs	\$5,279,142	87.7%
<b>Total Land &amp; Hard Costs</b>	<b>\$5,279,142</b>	<b>87.7%</b>
<b>Soft Costs</b>	<b>Costs</b>	<b>% of Total</b>
Soft Costs	\$742,433	12.3%
<b>Total Hard Costs</b>	<b>\$742,433</b>	<b>12.3%</b>
<b>Total Project Costs</b>	<b>\$6,021,575</b>	<b>100.0%</b>

<b>Projected Rent Roll</b>		
<b>Residential Units</b>	<b>Monthly Rent</b>	<b>Units</b>
1BR Apartment	\$1,895	8
2BR Apartment	\$2,195	8
<b>Total</b>		<b>16</b>
<b>Commercial Units</b>	<b>Monthly Rent</b>	<b>Units</b>
Retail Space 1	\$3,495	1
Retail Space 2	\$3,495	1
Retail Space 3	\$4,995	1
<b>Total</b>		<b>3</b>

<b>Projected Operating Budget</b>	
<b>Income</b>	
Residential Income	\$392,640
Commercial Income	\$143,820
Residential Vacancy	(\$20,132)
Commercial Vacancy	(\$35,955)
<b>Effective Gross Income</b>	<b>\$480,373</b>
Expenses	(\$178,219)
Debt Service	(\$368,375)
<b>Net Cash Flow</b>	<b>(\$66,221)</b>