

**TOWN OF NISKAYUNA**  
***Planning Board and Zoning Commission***  
**Agenda**  
**January 10, 2022**  
**7:00 PM**

**REGULAR AGENDA MEETING**

- I. CALL TO ORDER**
- II. ROLL CALL**
- III. APPROVAL OF MINUTES**
  - 1. December 13, 2021
- IV. PUBLIC HEARINGS**
- V. PRIVILEGE OF THE FLOOR**
- VI. UNFINISHED BUSINESS**
- VII. NEW BUSINESS**
  - 1. RECOMMENDATION TO ZBA: 1356 Balltown Road - A Recommendation to the ZBA concerning area variances for 9 townhome buildings (18 dwelling units) at 1356 Balltown Rd.
  - 2. RESOLUTION: 2022-1: A Resolution for site plan approval of a 2-year extension to site plan approval of the Capital District Jewish Holocaust Memorial (CDJHM) at 2501 Troy Schenectady Rd.
  - 3. RESOLUTION: 2022-2: A Resolution to call for a public hearing for a day care, Captial Kids Care, to operate within an existing place of worship at 1930 Hillside Ave.
- VIII. DISCUSSION ITEM**
  - 1. 3800 State Street – site plan application for a tenant change to S & G Roofing.
- IX. REPORTS**
  - 1. Planning Department Updates
  - 2. COVID 19 Updates
  - 3. 2022 Board reappointment
- X. COMMISSION BUSINESS**
- XI. ADJOURNMENT**

**NEXT MEETING: January 24, 2022 at 7 PM**  
**To be Held in the Town Board Room & via. Remote Software**

**TOWN OF NISKAYUNA**  
***Planning and Zoning Commission***  
***Hybrid Meeting***  
**Meeting Minutes**  
**December 13, 2021**

**Members Present:**

Kevin Walsh, Chairman  
David D'Arpino  
Leslie Gold  
Michael Skrebutenas  
Genghis Khan  
Chris LaFlamme (virtual)  
Morris Auster (virtual)  
Daci Shenfield (virtual)

**Also Present:**

Laura Robertson, Town Planner  
Paul Briggs, Town Attorney (Virtual)  
Linda Sciocchetti, Clerk

*Editor's Note: The motions and voting for this meeting were hand recorded at the meeting – but the sound recording for the meeting malfunctioned and staff was unable to retrieve detail for any of the discussions.*

**I. CALL TO ORDER**

Chairman Walsh called the hybrid meeting to order at 7:00 P.M.

**II. ROLL CALL**

Mr. McPartlon was absent from the meeting tonight.

**III. MINUTES**

**1. November 8, 2021** – Mr. Khan made a motion to approve and it was seconded Mr. Skrebutenas. Chairman Walsh asked if there was any comments or changes to the minutes. He made a minor correction to the minutes. He asked to change the word from abstain to recuse for his vote on a resolution. The amended minutes were approved unanimously.

Mr. D'Arpino     AYE  
Mr. Skrebutenas     AYE  
Mr. Khan     AYE  
Mr. LaFlamme     AYE  
Mr. Auster     AYE  
Ms. Shenfield     AYE  
Chairman Walsh     AYE

**IV. PUBLIC HEARINGS**

No public hearings tonight

**V. PRIVILEGE OF THE FLOOR**

There were no speakers for privilege of the floor.

**VI. UNFINISHED BUSINESS**

There was no unfinished business

**VII. NEW BUSINESS****1. RESOLUTION: 2021-37: A Resolution for site plan approval to demolish an existing 1-story office building and construct a 3-story mixed use building in its place at 2147 Eastern Parkway.**

Mr. D'Arpino made a motion to approve the resolution and it was seconded by Mr. Skrebutenas. Chairman Walsh discussed extending sidewalk to the back of building. He made a motion to add that to the resolution. Chairman Walsh made a motion for approval of the amended resolution and it was seconded by Mr. D'Arpino. He called for a vote.

Upon voting, the amended resolution was approved unanimously 7-0.

Mr. D'Arpino      Aye

Mr. Skrebutenas      Aye

Mr. Khan      Aye

Mr. LaFlamme      Aye

Mr. Auster      Aye

Ms. Shenfield      Aye

Chairman Walsh      Aye

**2. RESOLUTION: 2021-38: A Resolution for site plan approval of new directional signage at Market 32 located at 442 Balltown Rd.**

Mr. Auster made a motion to approve the resolution and it was seconded by Ms. Shenfield. Upon voting, the resolution was approved unanimously 7-0.

Mr. D'Arpino      Aye

Mr. Skrebutenas      Aye

Mr. Khan      Aye

Mr. LaFlamme      Aye

Mr. Auster      Aye

Ms. Shenfield      Aye

Chairman Walsh Aye

**3. RESOLUTION: 2021-39: A Resolution for site plan approval to allow 3 temporary storage units (PODS) to remain at 2861 Troy Road – Brookdale Senior Living Center an additional 3 months (until 2/23/22) while a permanent storage solution is submitted and approved.**

Mr. Khan made a motion to approve the resolution and it was seconded by Mr. Auster. Upon voting the resolution was approved 7-0.

Mr. D'Arpino Aye

Mr. Skrebutenas Aye

Mr. Khan Aye

Mr. LaFlamme Aye

Mr. Auster Aye

Ms. Shenfield Aye

Chairman Walsh Aye

**4. RESOLUTION: 2021-40: A Resolution for site plan amendment defining signage for The Broken Inn at 2207 / 2209 Nott St.**

Mr. D'Arpino made a motion to approve the resolution and it was seconded by Mr. Khan. Upon voting, the resolution was approved unanimously 7-0.

Mr. D'Arpino Aye

Mr. Skrebutenas Aye

Mr. Khan Aye

Mr. LaFlamme Aye

Mr. Auster Aye

Ms. Shenfield Aye

Chairman Walsh Aye

**5. RECOMMENDATION TO ZBA: 1356 Balltown Road - A Recommendation to the ZBA concerning area variances for 10 townhome buildings (20 dwelling units) at 1356 Balltown Rd**

Ms. Shenfield stated she was recusing herself from voting on this case and Ms. Gold stepped into her place.

The Board discussed the case at great length and came to the decision to table the ZBA visit and rework the plan and represent it to the Planning Board on January 13 with a rescheduled visit to the ZBA on January 15.

**6. 2022 Meeting Calendar**

**VIII. DISCUSSION ITEMS**

**1. 2501 Troy Rd. – Capital District Jewish Holocaust Memorial site plan approval extension request**

The Planning Board requested a resolution for approval at the next meeting.

**2. 1930 Hillside Ave. – site plan application and special use permit for a day care, Capital Kids Care, to operate within an existing place of worship**

The Board will have the applicant present their plan on January 10 and then the Board will call for a Public Hearing and make their recommendation to the Town Board on January 24, 2022.

**IX. REPORTS**

1. Planning Department Updates

2. COVID 19 Updates - Niskayuna will continue offering hybrid meetings.

3. 2021 Training and Board reappointments

**X. COMMISSION OF BUSINESS**

**XI. ADJOURNMENT**

Chairman Walsh asked for a motion to adjourn. Mr. Auster made a motion and it was seconded by Mr. D'Arpino. The meeting was adjourned at 9:15pm.



# TOWN OF NISKAYUNA

## PLANNING BOARD AND ZONING COMMISSION

### AGENDA STATEMENT

AGENDA ITEM NO. VII. 1

MEETING DATE: 1/10/2022

**ITEM TITLE:** RECOMMENDATION: A Recommendation to the ZBA concerning area variances for 9 townhome buildings (18 dwelling units) at 1356 Balltown Rd.

**PROJECT LEAD:** David D'Arpino

**APPLICANT:** Victor A. Caponera, agent for property owner Niskayuna RB Holding Co, LLC

**SUBMITTED BY:** Laura Robertson, Town Planner

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**REVIEWED BY:**

☒ Conservation Advisory Council (CAC) ☐ Zoning Board of Appeals (ZBA) ☐ Town Board  
☐ OTHER:

**ATTACHMENTS:**

☐ Resolution ☒ Site Plan ☐ Map ☐ Report ☐ Other:

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**SUMMARY STATEMENT:**

Victor A. Caponera submitted an Application for Sketch Plan Approval – 5 Lots or More for a major subdivision consisting of 20 single family townhomes (10 buildings with 2 units per building) of the 5.3 acre lot at 1356 Balltown Road, in the R-2 zoning district and Town Center Overlay District. Single family residences are permitted principal uses in the R-2 Medium Density Residential zoning district.

**BACKGROUND INFORMATION**

A site plan drawing entitled “Subdivision Sketch Plan 1356 Balltown Rd Niskayuna, NY 12309” by Ingalls & Associates, LLP engineering, environmental, surveying dated May 7, 2021 with a most recent revision of Rev 1 dated 8/10/21 was provided with the application. Elevation drawings entitled “Proposed Front Elevation Unit Type 1A”, “Proposed Side Elevation Unit Type 1A”, “Proposed Front Elevation Unit Type 2A” and “Proposed Side Elevation Unit Type 2A” were also provided and stamped by the Planning Office with the date of Aug 11 2021.

Town of Niskayuna zoning code Article II Section 220-4 Definitions includes the following definition of a townhouse. “Townhouse – a single-family dwelling which is one of a series of non-communicating dwelling units having a common wall between each adjacent unit, each with private outside entrance, having individual yard areas and having open space or ancillary buildings and parking areas which may be shared in common.”

Yard requirements for single family dwellings in the R-2 zoning district are as follows.

- Minimum lot size: 9,000 sq. ft., 80' wide x 100' deep
- Lot coverage: 30%

- Minimum setbacks: Front = 30', side = 15', rear = 20'

A letter drafted by Mr. Caponera dated 8/10/21 and included with the Application for Sketch Plan Approval includes the following summary of past proposed development projects

- Oct. - Nov. 2017 – A proposal was presented to the Planning Board for 50 apartments and 6,000 sq. ft. of small shop commercial space. The application was withdrawn due to opposition from neighbors. Concerns included the following.
  - Traffic
  - Burden on school system
  - Rental vs. ownership
  - Potential decline in property values
  - The introduction of commercial
- 2018 – 2021 -- The applicant worked with an engineering firm and determined the parcel could be subdivided into 17 single family home lots, which would fully comply with the R-2 zoning.
- Aug. 2021 -- After further study of the real estate needs in the Town of Niskayuna the applicant eliminated rental and commercial use of the property and established this proposal consisting of 10 townhome buildings consisting of 2 units per building. In his letter he lists the following benefits of this use of the land.
  - Single family townhomes address an immediate housing need and diversify housing stock in Niskayuna
  - Single family townhomes allow for a more efficient use of the land thus enabling the dedication of approximately 23 percent of the parcel to forever wild (open space)
  - Single-family townhomes reduce curb cuts on Balltown and Van Antwerp from 8 to 2
  - Single-family townhomes produce less traffic during both the AM and PM peak hours as shown in an attached traffic report
- 8/23/21 Planning Board (PB) meeting – Mr. Caponera described the materials included with his Application for Sketch Plan Approval to the PB. He provided background regarding the original project and described how and why it had evolved to its current state. The PB inquired about potential impact on traffic on Balltown Rd. and a summary of variances that would be needed for the proposed townhome design.

As follow-up to comments made by the PB during the 8/23/21 PB meeting, Mr. Caponera submitted the following documents in an email dated 9/17/21. In the letter he noted that a traffic study will be provided in a subsequent letter.

- A table of variances that would be required for the proposed project
  - A comparison between the open space provided and the lot variances required
  - A 17-lot single family subdivision plan is included
  - A summary of meetings that were held with residents of neighboring properties
  - Elevation renderings of the proposed townhouses
- 9/27/21 Planning Board (PB) meeting – Mr. Caponera updated the PB on revisions that have been made to the project as a result of PB requests voiced at the 8/23/21 meeting. Ms. Robertson noted that a revised traffic analysis had been provided but it was received too late to be included in the meeting packet and will be included in the packet for the

10/18/21 PB meeting. Mr. Caponera and the PB discussed the project and the PB provided the following comments.

- Building #20 is only 5' from the entrance road off of Van Antwerp Rd.
  - Requested more diversity in the design / appearance of the 10 buildings
  - Requested the inclusion of "overflow" parking on site to minimize parking on Van Antwerp Rd. during social functions.
  - Extend sidewalk along Van Antwerp Rd. all the way to the VA Apartment driveway
  - Explore the option of sharing the VA Apartment entrance and driveway
  - Explore how the design could be altered to reduce the number of variances needed
    - Perhaps eliminate 1 of the buildings, this helps with the 5' dimension, above
    - Also helps eliminate requirement of side setback variances between units 14 & 15, 16 & 17 and 18 & 19.
    - Increase side setback distance between buildings 10 & 11
  - Review design with the Police & Fire Departments
- 10/6/21 Conservation Advisory Committee (CAC) – The proposed project was a "Discussion" agenda item at the 10/6/21 CAC meeting. Mr. Caponera repeated the presentation he made at the 9/27/21 PB meeting for the CAC members. LR mentioned a completed EAF form was received and will be circulated for review following the meeting. The CAC provided the following comments and feedback.
    - Requested a tree planting plan
    - Requested the inclusion of solar energy technologies and pesticide-free lawn care
    - Details of a storm water plan were requested
  - 10/18/21 Planning Board (PB) meeting – The PB discussed the following topics during their review of the project.
    - Privilege of The Floor comment -- regarding drainage of the surrounding properties. LR confirmed that a full SWPPP will need to be performed as part of the proposed project.
    - Traffic Report letter dated 7/8/21 -- that was included in the meeting packet. The Board requested that a revised report be generated with total traffic counts as well as peak hour counts.
    - Minimizing variances required – discussed eliminating one of the ten buildings to increase the side setbacks between the buildings along Van Antwerp.
    - Recommendations from the 9/27/21 PB meeting -- they noted that many of the recommendations from the meeting, listed above, have not been addressed yet.

A revised site plan drawing (Rev 3, dated 10/14/21), variance summary stamped "Received Oct 21 2021 Planning Office Niskayuna, NY" and trip generation report (dated 10/6/21) were received by the Planning Office on 10/21/21. The changes from previous versions of these documents are listed below.

- **Site Plan**
  - The building containing units 19 & 20 was relocated to the northeast corner of the property to lengthen the side setback distances between buildings (13/14), (15/16), (17/18) & (19/20) and minimize the variances required.
  - An overflow parking area consisting of 10 contiguous spaces was added along the proposed interior road that runs parallel to Van Antwerp Rd.
  - An overflow parking area consisting of 12 contiguous spaces was added along the proposed interior road that runs parallel to Van Antwerp near its intersection with the interior road that runs parallel to Balltown Rd.



- The sidewalk along Van Antwerp Rd. was extended to the driveway for Van Antwerp apartments.

- **Trip Generation Report**

- Revised to include daily “weekday” traffic counts as shown below

Trip Generation Summary

Time Period	17 single Family Homes	Proposed 20 Townhomes	Difference
AM Peak Hour	17	10	-7
PM Peak Hour	19	14	-5
<i>Weekday</i>	<i>204</i>	<i>110</i>	<i>-94</i>

- **Variances Required**

- The revised site plan design (Rev 3) reduced the total number of area variances needed by 30 (103-73) or 29%, relative to the Rev 2 design.
- Note: a few omissions were noted in the variance table that was provided with the Rev 2 site plan design
  - Lots 2, 3 & 20 require front setback variances
  - Lots 10, 11, 14, 15-19 require side setback variances
- The chart below displays the design parameters, zoning code requirements and number of variances required for the Rev 2 & Rev 3 site plan designs.

	Front Setback	Side Setback Common Lot Line	Side Setback	Rear Setback	Width	Depth (avg.)	Area	Maximum Coverage	Total
<b>Code Requirement</b>	<b>30'</b>	<b>15'</b>	<b>15'</b>	<b>20'</b>	<b>80'</b>	<b>100'</b>	<b>9,000 SF</b>	<b>30%</b>	
Rev 2	19	20	8	0	20	0	20	16	103
Rev 3	4	20	2	0	20	1	18	8	73
Diff R3 to R2	-15	0	-6	0	0	+1	-2	-8	-30

10/29/2021 Complete Streets recommended bending the WRGB access so that WRGB still had a “Driveway” off of the access road but the area wouldn’t get a second curb cut (also would reduce cut-through traffic).

11/3/21 Architectural Review Board (ARB) – The ARB held a preliminary review of the “Rev 3” version of the site plan for the proposed townhome project. Recommendations included: ensuring the 10 buildings include a variety of facades and architectural individuality, exploring the use of the WRGB entrance road off of Balltown Rd. and exploring the elimination of the proposed entrance off of Balltown Road.

11/3/21 Conservation Advisory Council (CAC) – The “Rev 3” version of the site plan was presented and discussed. The Planning Office noted this was a preliminary review by the CAC and advised the group that they would most likely be making a formal comment on the proposed project during their 12/1/21 meeting. The following comments and recommendations were made.

- Follow average density development (ADD) regulations even though the overall size of the property is significantly smaller than what is required for an ADD project and keep number of units to 17 or less.
- Recommend the “shared property line” 0 foot side setback variance but require that all other side setbacks, and as many other setback parameters as possible, be adhered to.
- Quantify and compare the open space included in all site plan revisions
- Consider working with the Niskayuna Racial Equity Task Force regarding the inclusion of affordable housing in the project.
- Require the implementation of green energy concepts, solar power, EV charging stations, etc.

11/16/2021

The Tree Council reviewed the proposal and had the following comments:

1. Check into wetland determination to confirm non-jurisdictional determination
2. Note number of trees removed – have developer do a survey of trees because this proposes to remove last section of forest in Town Center Overlay District
3. Clarify / Understand what forest is being removed/rebuilt as storm water management – do storm water management areas count as open space?
4. Save the existing large trees – especially silver maples along Balltown Road
5. Mark the old, special trees the Town wants saved
6. Come up with thoughts about town center overlay district tree planting plan

12/1/2021

The CAC reviewed the environmental effects of the proposal in the context of the area variances and issued a memo to the Zoning Board on their concern over the open space and number of units. Their memo is attached to this packet.

12/10/2021

An extremely preliminary engineering review identified the edges of the road ROW are the edges of the road pavement. There are several issues staff needs to explore related to this observation, including whether or not the utilities fit underneath the roadway or if easements are necessary on the private parcels to accommodate water, sewer and storm water. Also, Section 189-17 (A) widths of rights of way, requires a minimum ROW of 60 feet and a minimum pavement of 26 feet. The Planning Board has the capability of considering a waiver here for a private road – but should carefully consider alternatives.

12/13/21 Planning Board (PB) meeting – The PB discussed the (Rev 3, dated 10/14/21) site plan drawing that includes 20 townhome units and 10 buildings. After a detailed discussion the applicant decided to resubmit a revised design for review at the 1/10/22 PB meeting.

A revised “Subdivision Sketch Plan” (Rev 4, dated 12/27/21), “Variance Application” including a Table of Variances and “Project Narrative” were received by the Planning Office on 1/3/22. The revised sketch plan reduces the number of townhouse buildings from 10 to 9 and number of units from 20 to 18. The impact on the number of variances requested is summarized below.

- **Variances Required**

- The revised site plan design (Rev 4) reduced the total number of area variances needed by 19 (73-54) or 26%, relative to the Rev 3 design.

- The chart below displays the design parameters, zoning code requirements and number of variances required for the Rev 2, Rev 3 & Rev 4 site plan designs.

	Front Setback	Side Setback Common Lot Line	Side Setback	Rear Setback	Width	Depth (avg.)	Area	Maximum Coverage	Total
<b>Code Requirement</b>	<b>30'</b>	<b>15'</b>	<b>15'</b>	<b>20'</b>	<b>80'</b>	<b>100'</b>	<b>9,000 SF</b>	<b>30%</b>	
Rev 2	19	20	8	0	20	0	20	16	103
Rev 3	4	20	2	0	20	1	18	8	73
Diff R3 to R2	-15	0	-6	0	0	+1	-2	-8	-30
Rev 4	<b>3</b>	<b>18</b>	<b>0</b>	<b>0</b>	<b>14</b>	<b>1</b>	<b>14</b>	<b>4</b>	<b>54</b>
Diff R4 to R3	-1	-2	-2	0	-6	0	-4	-4	-19

1/5/22 Conservation Advisory Committee (CAC) meeting --- The CAC discussed the project at their 1/5/22 meeting and revised their memo to the Zoning Board of Appeals (attached) based upon the updated layout.

This agenda item requires a recommendation from the Planning Board to the Zoning Board regarding the area variances for this project. The Zoning Board of Appeals will review the project at their January 19, 2022 meeting.



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**Town of Niskayuna****M E M O R A N D U M**

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**TO:** File

**FROM:** Laura Robertson, Town Planner

**DATE:** January 10, 2022

**RE:** 1356 Balltown Rd. townhome project

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At a regular Planning Board and Zoning Commission (PB) meeting held on January 10, 2022 the PB reviewed the appeal by Ingalls & Associates, LLP, agent, for a variance from provisions of NISKAYUNA CODE SCHEDULE I-C Part 1 R-2 District Schedule of Supplementary Regulations, Town of Niskayuna as it applies to the property at 1356 Balltown Road, Niskayuna, New York, located in R-2 Medium Density Residential Zoning District, for an application for Sketch Plan Approval - 5 Lots or More for a major subdivision of 18 townhomes at the 5.3 acre property. Variances include the need for front yard setback, side setback, lot width, lot depth, lot area minimum, and lot maximum coverage.

Schedule 1-C, Part 1 lists the front yard setback for lots to be thirty (30) feet. Three of the lots have front yard setbacks that are less. Because the lots will be developed as side-by-side townhomes, twenty (18) lots will need a variance from the side setback on the common lot line - fifteen (15) feet. Fourteen (14) lots do not meet the lot width requirement - eighty (80) feet. One (1) lot does not meet the lot depth required - 100 feet. Fourteen (14) lots do not meet the minimum lot area - 9000 square feet. Four (4) lots exceed the maximum coverage allowed for a lot - thirty (30) percent.

Charts for the specific setbacks (Table 1: Setback and Lot Dimensions) and variances required (Table 2: Area Variances Required) are contained within the Zoning Board of Appeals Notice to the public dated January 7, 2022, attached to this packet of information.

The Planning Board made the following recommendations:

**Effect on the Comprehensive Plan -**

**Suitability of Use -**

**RECOMMENDATION -**

**TOWN OF NISKAYUNA  
ZONING BOARD OF APPEALS  
One Niskayuna Circle  
Niskayuna, New York 12309  
(518) 386-4530**

January 7, 2021

**TO WHOM IT MAY CONCERN:**

A regular meeting of the Zoning Board of Appeals will be held on:

**DATE: January 19, 2022**

**TIME: 7:00 P.M.**

**PLACE: Town Hall, One Niskayuna Circle, Niskayuna, New York**

**AT THIS TIME THE BOARD WILL CONSIDER THE REQUEST OF:**

Appeal by Ingalls & Associates, LLP, agent, for a variance from provisions of NISKAYUNA CODE SCHEDULE I-C Part 1 R-2 District Schedule of Supplementary Regulations, Town of Niskayuna as it applies to the property at 1356 Balltown Road, Niskayuna, New York, located in R-2 Medium Density Residential Zoning District, for an application for Sketch Plan Approval – 5 Lots or More for a major subdivision of 18 townhomes at the 5.3 acre property. Variances include the need for front yard setback, side yard setback, lot width, lot depth, lot area minimum, and lot maximum coverage.

Schedule 1-C, Part 1 lists the front yard setback for lots to be thirty (30) feet. Three (3) of the lots have front yard setbacks that are less. Because the lots will be developed as side-by-side townhomes, eighteen (18) lots will need a variance from the side setback on the common lot line. Fourteen (14) lots do not meet the lot width requirement - eighty (80) feet. One (1) lot does not meet the lot depth required – 100 feet. Fourteen (14) lots do not meet the minimum lot area – 9000 square feet. Four (4) lots exceed the maximum coverage allowed for a lot – thirty (30) percent.

Charts for the specific setbacks (Table 1: Setback and Lot Dimensions) and variances required (Table 2: Area Variances Required) and a sketch plan are included with this letter. Additional details can be reviewed on the Town of Niskayuna website in the agenda packet for the Board meeting. The packet will be posted on Friday, January 14<sup>th</sup> by 5 p.m.

**IF YOU WISH TO EXPRESS AN OPINION REGARDING THE PROPOSED CHANGE, YOU MAY DO SO AT THE ABOVE-MENTIONED TIME AND PLACE. IF YOU CANNOT BE PRESENT, YOU MAY REQUEST A VIRTUAL LOGIN TO THE MEETING BY EMAILING [LRobertson@Niskayuna.org](mailto:LRobertson@Niskayuna.org) OR CALLING 518-386-4530 OR YOU MAY SET FORTH YOUR APPROVAL OR OBJECTION IN A LETTER WHICH WILL BE MADE PART OF THE PERMANENT RECORD.**

**ZONING BOARD OF APPEALS**

Table 1 displays the setback and lot dimensions for the proposed subdivision. Numbers in boldface indicate noncompliance with the zoning code. A total of 54 area variances are required.

Table 1: Setback and Lot Dimensions (Rev Date 1/3/22)

	Front Setback	Side setback common lot line	Side setback	Rear setback	Width	Depth	Area	Maximum Coverage
<b>Required</b>	<b>30 ft</b>	<b>15 ft</b>	<b>15 ft</b>	<b>20 ft</b>	<b>80 ft</b>	<b>100 ft</b>	<b>9,000 sqft</b>	<b>30%</b>
Lot 1	30	0	15		46	147	7,798	27
Lot 2	20.5	0			54	147	7,385	29
Lot 3	20.5	0			53	147	7,323	29
Lot 4	30	0	15		46	147	6,728	31
Lot 5	30	0	15		46	147	6,790	31
Lot 6	30	0	15		46	147	6,790	31
Lot 7	30	0	15		46	147	6,790	31
Lot 8	30	0	15		41	147	7,662	28
Lot 9	30	0	49	20	84	105	9,050	23
Lot 10	30	0		20	87	105	9,095	23
Lot 11	30	0	28		59	147	10,004	21
Lot 12	30	0	17		48	147	7,117	30
Lot 13	30	0	17		48	147	7,103	30
Lot 14	30	0	17		48	147	7,108	30
Lot 15	30	0	17		48	147	7,119	30
Lot 16	22.5	0			61	147	8,298	26
Lot 17	30	0	31	20	80	118	10,586	20
Lot 18	30	0	32	20	80	105	9,798	21
Lot 19	30		15	20	151	176	11,769	0
Lot 20	30		15	20	313	150	44,370	0
Lot 21	30		15	20	83	46	3,391	0
<b>Total</b>	<b>3</b>	<b>18</b>	<b>0</b>	<b>0</b>	<b>14</b>	<b>1</b>	<b>14</b>	<b>4</b>

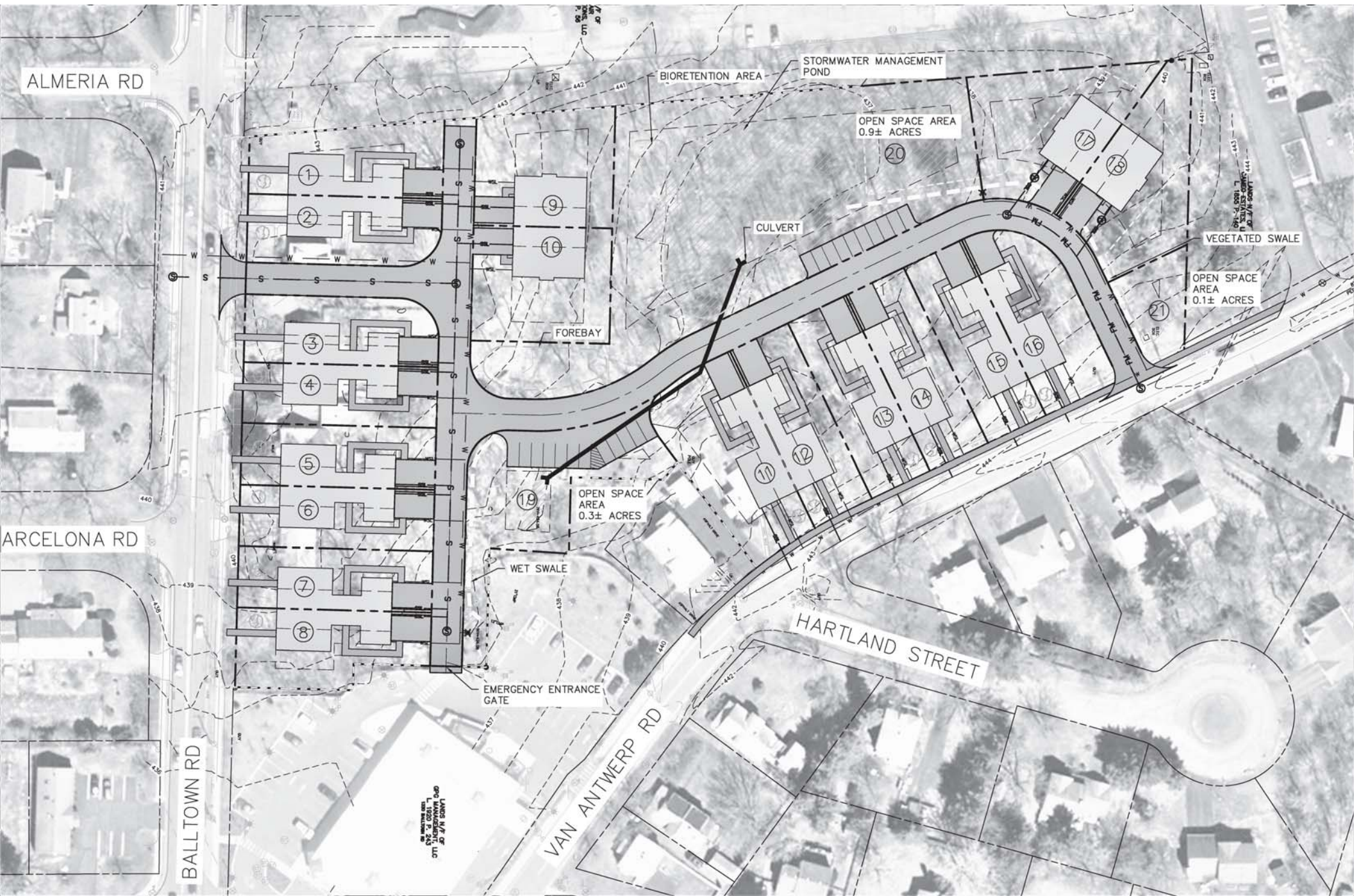
Table 2 displays the numerical value of each area variance required. The values were determined by subtracting the setback or lot dimensions shown in Table 1 from the required values shown in Schedule I-C (also shown in the “Required” row in Table 1, above).

Table 2: Area Variances Required

	Front Setback	Side setback common lot line	Side setback	Rear setback	Lot Width	Lot Depth	Lot Area	Maximum Coverage
<b>Required</b>	<b>30 ft</b>	<b>15 ft</b>	<b>15 ft</b>	<b>20 ft</b>	<b>80 ft</b>	<b>100 ft</b>	<b>9,000 sqft</b>	<b>30%</b>
Lot 1		15			34		1,202	
Lot 2	9.5	15			26		1,615	
Lot 3	9.5	15			27		1,677	
Lot 4		15			34		2,272	1
Lot 5		15			34		2,210	1
Lot 6		15			34		2,210	1
Lot 7		15			34		2,210	1
Lot 8		15			39		1,338	
Lot 9		15						
Lot 10		15						
Lot 11		15			21			
Lot 12		15			32		1,883	
Lot 13		15			32		1,897	
Lot 14		15			32		1,892	
Lot 15		15			32		1,881	
Lot 16	7.5	15			19		702	
Lot 17		15						
Lot 18		15						
Lot 19								
Lot 20								
Lot 21						54	5,609	
<b>Total</b>	<b>3</b>	<b>18</b>	<b>0</b>	<b>0</b>	<b>14</b>	<b>1</b>	<b>14</b>	<b>4</b>

A total of 54 area variances are required.







## **Balltown Road Townhouse Project**

**December 30, 2021**

1356 Balltown Road

Town of Niskayuna

Project Narrative

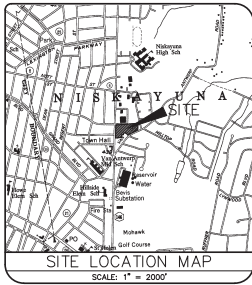
Niskayuna BR Holding Company, LLC is proposing the construction of eighteen (18) single family townhouses on 5.3+/- acres at 1356 Balltown Road and Van Antwerp Road in Niskayuna. These townhouses will address an immediate market need and diversify the existing housing stock in Niskayuna.

Since the last submission, one (1) building was removed from the plan where lot 10 is currently located, which reduced the number of lots from twenty (20) to eighteen (18). The removal of this building allowed for a further reduction in variances from 73 variances from the last submission to 54 in the revised plan and reduced the overall site density.

The project is located within the R-2 Medium-Density Residential zoning district and will require area variances as listed on the table as part of the Variance application. The parcel to be developed currently includes unoccupied residential structures that will be removed prior to construction. The proposed 2-story buildings will include 2 townhouses in each building separated by a common wall. The proposed townhouse subdivision will include private road connections at Balltown Road and Van Antwerp Road. There will be 1.3+/- acres of open space that will provide for stormwater management, vegetated buffer and recreation areas for residents.

The current site consists mainly of deciduous forest and existing residences along Balltown and Van Antwerp Road. There will be additional runoff generated from the proposed buildings, sidewalks, road, and other impervious surfaces compared to the existing conditions. Stormwater management practices will be designed to treat and offset any additional quantity of runoff. A full SWPPP will be prepared for the project demonstrating that the proposed development will not result in a negative impact on the adjacent properties.

The updated Area Variance application to the ZBA contains additional information regarding the requested variances, including response to the variance criteria, variance summary table, traffic assessment as well as Rider detailing the project history, description of the project area for project context, and other reasons supporting the variance request.



#### DEED REFERENCES:

1) CONVEYED BY RICHARD M. TENDOR TO NISKAYUNA BR HOLDING COMPANY, LLC BY DEED DATED MAY 9, 2017 AND RECORDED IN THE SCHENECTADY COUNTY CLERK'S OFFICE ON MAY 22, 2017 IN LIBER 1962 OF DEEDS AT PAGE 974.

#### MAP REFERENCES:

- 1) MAP ENTITLED "MAP OF SURVEY FOR LOT CONSOLIDATION LANDS N/F RICHARD TENDOR, TOWN OF NISKAYUNA, COUNTY OF SCHENECTADY, STATE OF NEW YORK" AS PREPARED BY AEO ENGINEERS, LLP ON JANUARY 27, 2017 AND FILED IN THE SCHENECTADY COUNTY CLERK'S OFFICE ON FEBRUARY 16, 2017 IN PLAT CABINET N AS MAP 287.
- 2) MAP ENTITLED "SECTION TWO, RESERVOIR PARK, NISKAYUNA, SCHENECTADY CO., N.Y., OWNED BY EVERETT C. WELLS, FORMERLY OWNED BY CHAS. H. BEVIS ET AL" AS PREPARED BY ERNEST W. BRANCH, C.E. AND U.S. DATED APRIL 1919 AND FILED IN THE SCHENECTADY COUNTY CLERK'S OFFICE IN PLAT CABINET E AS MAP 161.
- 3) NEW YORK STATE DEPARTMENT OF TRANSPORTATION DESCRIPTION AND MAP FOR THE ACQUISITION OF PROPERTY, MOHAWK GOLF CLUB-AQUEDUCT S.W. NO. 1872 SCHENECTADY COUNTY, MAP NO. 93 PARCEL NO. 111 AND DATED JANUARY 21, 1994.
- 4) MAP ENTITLED "ALTA/ACSM LAND TITLE SURVEY #1320, #1330 & #1347 BALTOWN ROAD, #1345 VAN ANTWERP ROAD AND A PORTION OF GARLAND STREET, TOWN OF NISKAYUNA, COUNTY OF SCHENECTADY, STATE OF NEW YORK" AS PREPARED BY INGALLS & ASSOCIATES, LLP ON MARCH 21, 2014.

#### NOTES:

- 1) SURVEYED PARCEL: TOWN OF NISKAYUNA - TAX MAP 40.19, BLOCK 1, PARCEL 6.1.
- 2) SURVEY PREPARED BY INGALLS & ASSOCIATES, LLP FROM A JULY 2017 FIELD SURVEY.
- 3) NORTH IS REFERENCED TO NAD 83 NEW YORK STATE PLANES, EAST ZONE.
- 4) SUBJECT TO ALL RIGHTS, EASEMENTS, COVENANTS OR RESTRICTIONS, RECORDED OR UNRECORDED.
- 5) SUBJECT TO ANY STATEMENT OF FACT AN UP-TO-DATE ABSTRACT OF TITLE WOULD DISCLOSE.
- 6) SUBJECT TO AN EASEMENT GRANTED TO NEW YORK TELEPHONE COMPANY FOR COMMUNICATION FACILITIES AS RECORDED IN LIBER 1085 AT PAGE 974.
- 7) SUBJECT TO AN EASEMENT GRANTED TO NIAGARA MOHAWK POWER CORPORATION FOR ELECTRIC UTILITY FACILITIES AND RECORDED IN LIBER 801 AT PAGE 391 AND PAGE 393.
- 8) UNDERGROUND UTILITIES: IF SHOWN HEREON ARE BASED ON VISIBLE PHYSICAL EVIDENCE. THEY SHOULD BE CONSIDERED SCHEMATIC ONLY AND ARE SHOWN TO DEPICT GENERAL UTILITY LOCATIONS AND CONNECTIONS RATHER THAN EXACT UNDERGROUND LOCATIONS. INGALLS & ASSOCIATES, LLP MAKES NO CERTIFICATION AS TO THE ACCURACY OF THE UNDERGROUND UTILITY LOCATIONS AND OTHER UTILITIES MAY EXIST THAT ARE NOT SHOWN ON THIS MAP.
- 9) FIELD DELINEATION BY D. INGALLS OF INGALLS & ASSOCIATES ON 4/4/16. JURISDICTIONAL DETERMINATION WAS PROVIDED BY USACE LETTER DATED 1/7/17 DECLARING THE WETLANDS NON-JURISDICTIONAL.
- 10) SURVEY IS PREPARED IN ACCORDANCE WITH THE NEW YORK STATE ASSOCIATION OF PROFESSIONAL LAND SURVEYORS CODE OF PRACTICE FOR LAND SURVEYS AS ADOPTED IN OCTOBER OF 1966 AND LAST REVISED ON JULY 18, 1987.
- 11) WETLANDS AS SHOWN ARE FROM A APRIL 2016 FIELD DELINEATION BY D. INGALLS OF INGALLS & ASSOCIATES, LLP.
- 12) NO WETLAND SURVEY SHALL BE DEEMED FINAL WITHOUT A JURISDICTIONAL DETERMINATION FROM THE UNITED STATES ARMY CORPS OF ENGINEERS (USACE) AND/OR THE NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION (NYSDEC).
- 13) ALL ROADWAY AND STORMWATER MANAGEMENT AREAS WILL BE PRIVATELY OWNED.

#### OWNER:

NISKAYUNA BR HOLDING COMPANY LLC  
5 SOUTHSIDE DR SUITE 200  
CLIFTON PARK, NY 12065

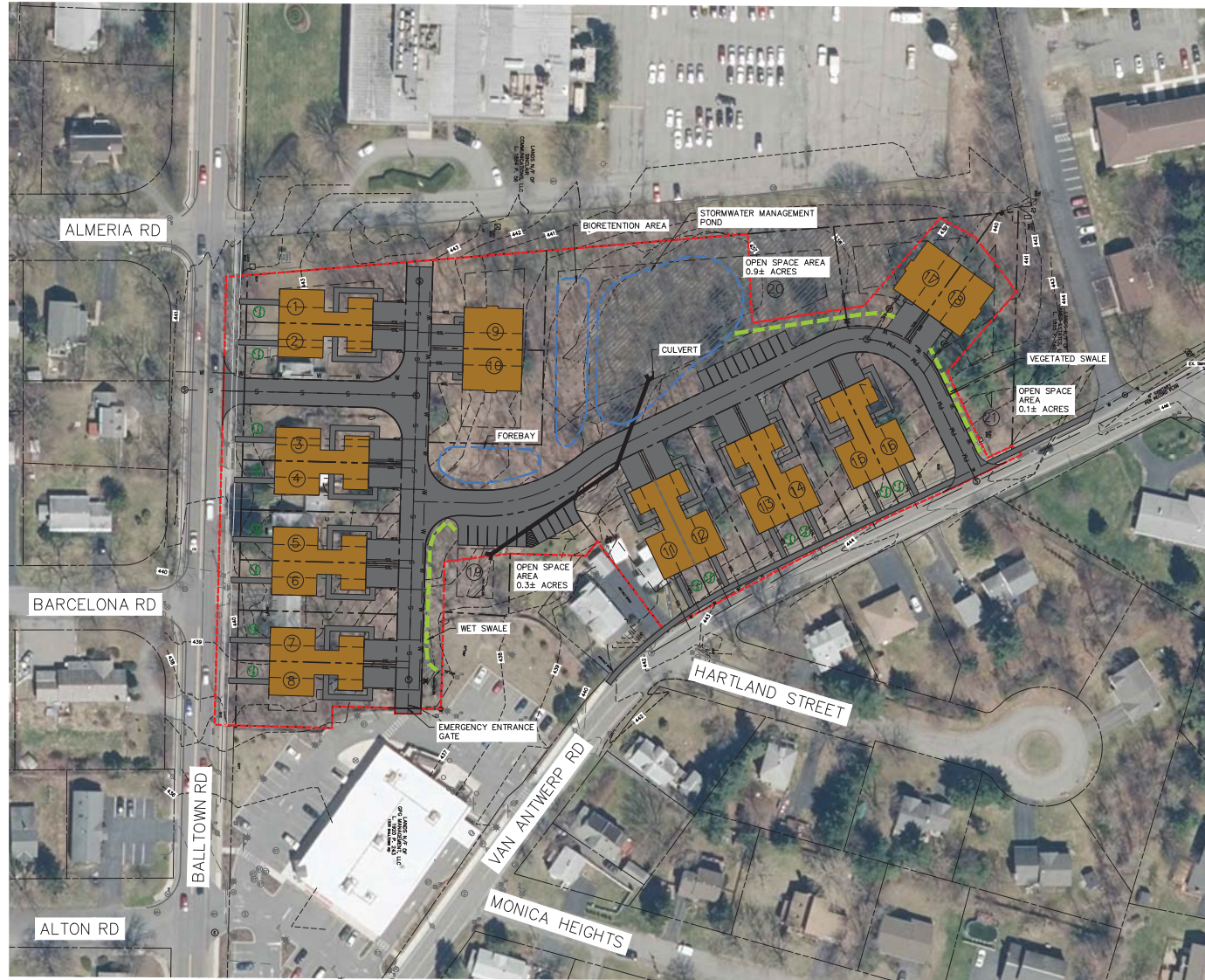
#### APPLICANT:

NISKAYUNA BR HOLDING COMPANY LLC  
5 SOUTHSIDE DR SUITE 200  
CLIFTON PARK, NY 12065

TAX MAP ID:  
40.19-1-6-1

SITE AREA:  
5.3 AC

NOTE: 48 HOURS PRIOR TO ANY CONSTRUCTION ACTIVITIES, THE CONTRACTOR SHALL CONTACT DIG SAFELY NEW YORK TO LOCATE ALL UNDERGROUND UTILITIES. 1-800-962-7962



#### LEGEND

- 2 POST SIGN
- SINGLE POST SIGN
- LIGHT POLE
- SANITARY MANHOLE
- GRINDER PUMP
- CATCH BASIN
- HYDRANT
- WATER VALVE
- WATER SHUT OFF
- TEL PEDESTAL
- POWER POLE
- IRON ROD
- IRON PIPE
- PROPOSED TOWN HOUSE AREA
- PROPOSED HYDRANT
- EXISTING PROPERTY LINE
- PROPOSED PROPERTY LINE
- PROPERTY LINE SETBACK
- NON-JURISDICTIONAL WETLAND AREA
- OPEN SPACE / SWALE AREA
- PROPOSED GRASS SWALE
- PROPOSED SANITARY SEWER
- PROPOSED WATERLINE
- PROPOSED FORCEMAIN
- PROPOSED SANITARY SEWER LATERAL
- PROPOSED WATER LATERAL
- LIMITS OF DISTURBANCE (5.0+ ACRES)

#### SITE STATISTICS:

EXISTING ZONE: R2 - MEDIUM DENSITY RESIDENTIAL  
EXISTING PARCEL AREA: 5.3+ ACRES  
LOT AREA: 9,000 SF  
LOT COVERAGE REQUIRED: 30% MAX. BUILDINGS AND STRUCTURES  
LOT WIDTH REQUIRED: 80 FT  
LOT DEPTH REQUIRED: 100 FT  
SETBACKS:  
FRONT: 30 FT  
SIDE: 15 FT  
REAR: 20 FT  
\*PROPOSED BULK AREA STATISTICS & SETBACKS PER SEPARATE SPREADSHEET

UNAUTHORIZED ALTERATION OR ADDITION TO THIS DRAWING IS A VIOLATION OF SECTION 7209 SUBDIVISION 2, OF THE NEW YORK STATE EDUCATION LAW. ONLY COPIES MADE FROM THE ORIGINAL OF THIS DRAWING BEARING AN ORIGINAL INKED OR EMBOSSED SEAL AND SIGNATURE SHALL BE CONSIDERED TO BE VALID TRUE COPIES.	
4/12/21	REVISED PER PLANNING BOARD COMMENTS
3/12/21	REVISED PER PLANNING BOARD COMMENTS
2/29/21	REVISED PER PLANNING BOARD COMMENTS
1/28/21	REVISED FOR SKETCH PLAN APPLICATION
NO.	DATE
REVISIONS	
BY: JCH	
DATE: 4/12/21	
BY: JCH	
DATE: 4/12/21	

ingalls

ingalls & associates, LLP  
ingalls, environmental services  
1000 BUSHLAND DRIVE  
SCHENECTADY, NY 12306  
PHONE: (518) 393-2729  
FAX: (518) 393-2244

DAVID F. INGALLS JR., P.E.  
N.Y.S. LIC. NO. 064993

SUBDIVISION SKETCH PLAN  
1356 BALTOWN RD  
NISKAYUNA, NY 12309

TOWN OF NISKAYUNA  
COUNTY OF SCHENECTADY  
STATE OF NEW YORK

DATE: DECEMBER 27, 2021  
CHECKED BY: D.F.I.  
JOB NO. 16-027  
DRAWN BY: JCH  
CADD FILE: 16-027 Townhouse Concept.dwg  
SCALE: 1" = 60'  
SHEET 1 OF 1



**ZONING BOARD OF APPEALS**  
**Application and Procedures For A Variance**

Case No.	_____
Date Rece'd BA	_____
Date Hearing	_____
Date Action	_____
Ref.P.B.	_____ Date _____
Ref. County	_____ Date _____

**TO: ZONING BOARD OF APPEALS**

**FROM:** Ingalls & Associates, LLP

**RE: Property at** 1356 Balltown Road, Niskayuna, NY 12309

**Section** 40.19 **Block** 1 **Lot** 6.1

I, David F. Ingalls, PE, the (owner) (agent of the

owner) of the property located at 1356 Balltown Road

in the Town of Niskayuna, New York, hereby petition the Zoning Board of Appeals to review the decision of the Zoning Enforcement Officer on the above-referenced application and to grant a variance from Section(s) of the Zoning Ordinance in order to permit the proposed construction shown on the accompanying drawings.

I, also certify that I have provided the items listed below as required documents in my application for a variance before the Zoning Board of Appeals. I further acknowledge that omission of any of these items may result in delay in the Board's hearing of my application.

**CHECKLIST OF REQUIRED ITEMS**

☒ Fifteen (15) copies of plot plans

☐ Two (2) copies of construction plans, if applicable


☒ Appeal fee (see application procedures for details)

☒ Appeal statement (see application procedures for details)

☒ Short Environmental Assessment Form, Project Information, as applicable for use variance

☒ Additional information as specified by the Zoning Enforcement Officer

Signature of Agent:  Date 12/27/2021

Signature of Owner (if different from Agent)   
Niskayuna BR Holding Co., LLC

Telephone Number: 518-393-7725 ext. 125

**For an area variance:** Before an area variance can be granted, State Law requires that the ZBA take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant.

To grant an area variance, the ZBA must balance the benefits to the applicant and the health, safety, and welfare of the neighborhood and community, taking into consideration the following:

- 1. Whether the benefit sought by the applicant can be achieved by other feasible means. Identify what alternatives to the variance have been explored (alternative designs, attempts to purchase land, etc.) and why they are not feasible.

The applicant is seeking relief from bulk area and setback requirements for the development of eighteen (18) townhouse units at the project site. The underlying zoning district, R-2 Medium Density Residential, includes townhomes as an allowable use but does not factor in area and setback considerations that would allow this use, including property lines along common walls. The majority of the requested variances are for side setbacks along these common wall property lines and for reduced lot area. Without these variances, included on the enclosed table, there is no other feasible way to develop townhomes on the property.

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- 2. Whether the granting the variance will produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Granting the variance will not create a detriment to nearby properties or an undesirable change in the neighborhood character for the following reasons:

The proposed project is located near the intersection of Van Antwerp and Balltown Road. This area is a mix of commercial, multi-family, and single family residential uses. The proposed townhomes, which are facilitated by the requested variances, will provide a transition between the commercial and residential uses.  
Additionally, no setback variances are being requested to any adjoining properties or uses.

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3. Whether the variance is substantial. The requested variance is not substantial for the following reasons:

While the overall number of variances being requested is large, all of these variances are for internal lots and are not for setbacks to any adjoining properties. The proposed variances will support the development townhomes, an allowed use within the R-2 zoning district. The overall density of 18 lots is in keeping with single family concept plan indicating 17 lots.

4. Whether the variance will have adverse physical or environmental effects on the neighborhood or district. The requested variance will not have an adverse physical or environmental effect on the neighborhood or district for the following reasons:

There are no anticipated adverse physical or environmental effects on the neighborhood or district. The proposed residential use is not expected to have any significant environmental impact. Per NYSDEC GP-0-20-001 water quality and quantity controls will be provided from the increased impervious area and change in ground cover through the use of on-site stormwater management areas.

5. Whether the alleged difficulty was self-created (although this does not necessarily preclude the granting of an area variance.) Explain whether the alleged difficulty was or was not self-created:

The alleged difficulty is self-created by the applicant's desire to use the project site to develop townhouse units. However, the number of variances required is not self created and is an extension of the townhouse use, which is allowed per the Town Code but not considered by the bulk area and setback requirements for items such as common wall property lines.

RIDER SHEET TO REQUEST FOR AREA VARIANCES  
FOR PROPERTY AT 1356 BALLTOWN ROAD,  
NISKAYUNA, NEW YORK

This Rider Sheet is a supplement to our client's application for area variances for the above property.

The subject property measures 5.3 +/- acres of land. The existing conditions of the property shows that it has frontage along Balltown Road, as well as Van Antwerp Road. Also, existing on the property are five (5) single dwellings, each having a separate curb cut, four on Balltown and one on Van Antwerp.

Approximately four (4) years ago the owner of the parcel, Niskayuna BR Holdings Co., LLC submitted a proposal to the Niskayuna Planning Board, which included a proposal for 50 apartments and 6,000 +/- square foot commercial space. The proposal was borne out of the property owners' interpretation of the Town of Niskayuna's Comprehensive Development Plan.

After attending two Planning Board meetings, and hearing the concerns of the neighbors (traffic, curb cuts, burden on school, rental vs. ownership, possible decline in property values and commercial use), the applicant withdrew its application on October 10, 2017 by letter to the Chairman of the Planning Board. After withdrawal of the application, the property owner reviewed the transcripts of the two Planning Board meetings to better understand the specific concerns of the neighbors who gave input at the two Planning Board meetings. The property owner found the concerns were distilled into the following categories; traffic, burden on school, rental vs. ownership, potential decline in property values and commercial use.

The subject parcel is the only parcel in the Town Center Overlay District that remains a residential R-2 zone. The parcel is surrounded by C-N zoning to the north (WRGB); C-N to the south (CVS Pharmacy) and R-3 to the east (Van Antwerp Village Apartments). Page 112 of the Town's Master Plan states that the subject property should remain R-2, which is why my clients are not requesting a zone change and are proposing a development that complies with the existing zoning's permitted uses.

As seen in the proposal before this Board, the owner of the property has eliminated their previous concept, and are now proposing a subdivision consisting of 18 single family townhomes on 18 separate lots, with only one curb cut on Balltown Road, and one curb cut on Van Antwerp.

The property can be utilized for 17 single family residential homes; however, we believe single family townhomes are a better option than the 17 single family residential homes for the following reasons:

- 1) Single Family townhomes address an immediate market need and diversifies the available housing stock in Niskayuna;

- 2) Single Family townhomes allow for a more efficient use of the land, with 1.3 +/- acres of open space which will provide for stormwater management and recreation areas for residents.
- 3) Single Family townhomes reduce curb cuts along Balltown Road and Van Antwerp Road from 8 to 2; and
- 4) Single Family townhomes produce less traffic including both a.m. and p.m. peak hours, and reduces overall traffic which has been shown from our traffic engineer, VHB Engineering. A copy of VHB's report of October 6, 2021 which shows that the proposed 18 townhomes will produce less overall traffic than 17 single family homes is attached hereto as Exhibit A.

The grant of area variances is a balancing test, which balances the benefits to the applicant against the health, safety and welfare of the neighborhood and community, and must take into consideration whether the benefit sought by the applicant can be achieved by other feasible means. As stated hereinabove, the applicant has sought alternatives to seeking variances before this Board and believes based upon the numerous modifications to the plan, dating back four (4) years ago, that the proposal for single family townhomes which is an allowable use in an R-2 Zoning district, is the best use for the property, and best addresses the concerns that were raised by surrounding property owners at the numerous meetings the Planning Board has had on this project.

It is to be noted that the Town of Niskayuna Zoning Code does not have a section relating to townhomes. Therefore, the underlying zoning district R-2, medium density residential, does not factor in area and setback considerations that would allow this type of use, including property lines along common walls. The majority of requested variances are for side setbacks along the common wall property lines, and for reduced lot area. Without these variances shown on the Building and Zoning Permit denial, there is no feasible way to develop townhomes on the property.

The applicant also believes that the proposed application will not produce an undesirable change in the character of the neighborhood, or be detrimental to nearby properties. As stated above, the proposed project is located near the intersection of Van Antwerp and Balltown Road, which is a mix of commercial, multi-family and single-family residential uses. We believe that the proposed townhomes will provide a transition between the commercial and residential uses and no setback variances are being requested to any adjoining properties or uses.

In 2010 the Zoning Board of Appeals of the Town of Niskayuna determined that granting a use variance permitting a commercial use in the R-2 zoning for the CVS Pharmacy adjacent to the subject property would not alter the character of the neighborhood. In addition, a 1994 Zoning Board of Appeals Decision by the Town of Niskayuna granted variances including use variances which allowed for the construction of 12 townhomes at 1437 Balltown Road, which is essentially across the street from the subject property in a R-2 zone and surrounded by single family residences. The Zoning Board of Appeals determined that there were no significant

impacts associated with the townhome project at 1437 Balltown Road which was also approved by the Planning Board, and has been constructed.

Applicant submits that the proposal will not produce a significant number of school age children and will not require utility extensions. The elevations for the townhomes are not only aesthetically pleasing, but also are in keeping with the neighborhood design, mass, scale and aesthetics. The Master Plan adopted by the Town of Niskayuna discusses diversity of housing and we do know the housing in Niskayuna is mostly single family. We believe the proposed single family townhome concept would be a great transitional use from the adjacent CVS Pharmacy and Van Antwerp Village Apartments, and addresses the market need and introduces a diversity of housing stock consistent with the vision set forth in the Town Comprehensive Plan.

Prior to this presentation the applicant appeared before the Planning Board seeking their input and direction for its redesigned concept on 8-23-21, 9-27-21, 10-18-21, 11-8-21 and 12-13-21. Also included was an appearance before the Conservation Advisory Committee on 10-06-21. Based on the numerous discussions at these meetings, the applicant made numerous modifications to its 18 town-home concept which we believe answered the concerns and recommendations of the Planning Board.

As seen in the table 2 area variances required in the denial of the zoning permit from the Building Department, most of the variances are side yard setback variances resulting from the fact that 10 buildings share a common boundary line., Due to this common boundary line, these buildings do not meet the required side 15' side yard setback. In addition, in the R-2 zoning district, the minimum lot is 9,000 square feet. As shown on table 2, most of the lots are very close to the minimum 9,000 square foot lot size and only require a minimum square footage variance.

Likewise, with the lot width requirement of a minimum of 80 feet, due to the way the subdivision has been proposed with the goal of disturbing as little of the site as possible, most of the variances requested are internal to the project, and no setback variances are being requested that would affect any adjoining properties or uses.

By virtue of the substantial amount of investigative work that has been done by the property owner, including (i) meeting with surrounding property owners to listen to their concerns and make every effort to address them, (ii) meeting with the Planning Board, listening to their concerns and comments and proposing modifications, (iii) working with its architectural company to design an aesthetically pleasing looking elevation which we believe fits into the character of the neighborhood, (iv) working with its engineer, the proposed residential use is not expected to have any significant environmental impact pursuant to NYS DEC GP0-20-001. Water quality and quantity controls will be provided to handle the increased impervious area and change in ground cover, through the use of on-site stormwater management areas.



As this Board knows, the alleged difficulty is self-created, although it does not preclude the granting of an area variance. The self-created hardship is due to the applicant's desire to use the project site and develop it into townhome use, which we believe best address the concerns of the Planning Board and surrounding property owners, i.e. (i) traffic generated by this proposal would be less than that generated by the 17 residential homes that can be built, (ii) curb cuts would be reduced from the 5 that exist, and 8 constructed as part of the 17 allowable single-family homes, to 2, (iii) there would be less burden on the school district and (iv) the townhomes would all be for sale product and not rented.

Applicant verily believes that the relief requested should be granted, based upon the entire record, including (i) the pre-existing variances, both use and area variances that were granted to surrounding properties, namely the CVS Pharmacy, which is adjacent to the property, and the 12-townhome development which is in close proximity to this property at 1437 Balltown Road and (ii) that fact there exists commercial uses that surround the property ( CVS Pharmacy, WRGB; and Van Antwerp Apartments) and this project provides a transition between these and the residential uses located across the street. As such applicant believes that the proposal would be in harmony with the spirit of the Niskayuna Zoning Code, and its comprehensive plan.

# Niskayuna Balltown Road

Subdivision Sketch Plan Bulk Area & Setback Table 2

12-15-21

	Front Setback	Side Setback Common Lot Line	Side Setback	Rear Setback	Width	Depth**	Area	Maximum Coverage
<b>Required</b>	<b>30'</b>	<b>15'</b>	<b>15'</b>	<b>20'</b>	<b>80'</b>	<b>100'</b>	<b>9,000 SF</b>	<b>30%</b>
Lot 1	30'	0'	15'	-	46'	147'	7,798 SF	27%
Lot 2	20.5'	0'	-	-	54'	147'	7,385 SF	29%
Lot 3	20.5'	0'	-	-	53'	147'	7,325 SF	29%
Lot 4	30'	0'	15'	-	46'	147'	6,728 SF	31%
Lot 5	30'	0'	15'	-	46'	147'	6,790 SF	31%
Lot 6	30'	0'	15'	-	46'	147'	6,790 SF	31%
Lot 7	30'	0'	15'	-	46'	147'	6,790 SF	31%
Lot 8	30'	0'	15'	-	41'	147'	7,662 SF	28%
Lot 9	30'	0'	49'	20'	84'	105'	9,050 SF	23%
Lot 10	30'	0'	-	20'	87'	105'	9,096 SF	23%
Lot 11	30'	0'	28'	-	59'	147'	10,004 SF	21%
Lot 12	30'	0'	17'	-	48'	147'	7,117 SF	30%
Lot 13	30'	0'	17'	-	48'	147'	7,103 SF	30%
Lot 14	30'	0'	17'	-	48'	147'	7,108 SF	30%
Lot 15	30'	0'	17'	-	48'	147'	7,119 SF	30%
Lot 16	22.5'	0'	-	-	61'	147'	8,298 SF	26%
Lot 17	30'	0'	31'	20'	80'	118'	10,586 SF	20%
Lot 18	30'	0'	32'	20'	80'	105'	9,798 SF	21%
Lot 19 °	30'	-	15'	20'	151'	176'	11,769 SF	0%
Lot 20 °	30'	-	15'	20'	313'	150'	44,370 SF	0%
Lot 21 °	30'	-	15'	20'	82'	46'	3,391 SF	0%

\* Red indicates required variance.

\*\* Average

° Open Space Lot

# EXHIBIT A



October 6, 2021

Ref: 26193.00

Mr. Robert C. Miller, Jr.  
BR Holdings Co., LLC  
5 Southside Drive  
Clifton Park, NY 12065

Re: Daily Trip Generation, Balltown Road residential development, Town of Niskayuna, NY

Dear Mr. Miller:

VHB Engineering, Surveying, Landscape Architecture and Geology, PC (VHB) has prepared this letter in response to additional questions raised by the Planning Board at the September 27, 2021 meeting related to daily traffic generation and trip generation based on the new ITE trip generation manual for the subject project. Specifically, Table 1 below, from VHB's July 8, 2021 letter, has been expanded to include daily trip generation for the currently proposed 20 townhomes as compared to the site if developed "as of right" with 17 single family homes. Table 1 data is based on the 10<sup>th</sup> edition of the ITE Trip Generation Manual.

**Table 1 Trip Generation Summary**

Time Period		17 Single Family Homes <sup>a</sup>	Proposed 20 Townhomes <sup>b</sup>	Difference
<b>AM Peak Hour</b>				
	Enter	4	2	-2
	<u>Exit</u>	<u>13</u>	<u>8</u>	<u>-5</u>
	Total	17	10	-7
<b>PM Peak Hour</b>				
	Enter	12	9	-3
	<u>Exit</u>	<u>7</u>	<u>5</u>	<u>-2</u>
	Total	19	14	-5
<b>Weekday</b>				
	Enter	129	55	-74
	<u>Exit</u>	<u>75</u>	<u>55</u>	<u>-20</u>
	Total	204	110	-94

a Trip generation estimate based on ITE LUC 210- 17 units

b Trip generation estimate based on ITE LUC 220- 20 units

Based on the projections outlined in Table 1, the project as proposed with 20 townhomes will generate 110 vehicle trips daily (55 entering and 55 exiting). The daily trip generation is 94 vehicle trips less than the daily trip generation

**Engineers | Scientists | Planners | Designers**

100 Great Oaks Boulevard, Suite 118, Albany, New York 12203

P 518.389.3600 F 518.452.0324 www.vhb.com



at the site if developed with 17 single family homes. The daily trip generation at the site with the previous application for 50 apartments and 6,000 square feet of commercial space had the potential to generate 399 daily trips (Ingalls & Associates, LLP September 11, 2017 Report).

ITE released the 11<sup>th</sup> edition of the Trip Generation Manual in late September 2021. Table 2 outlines the trip generation characteristics for the site using the data presented in the 11<sup>th</sup> edition. It is noted that the data presented in the 11<sup>th</sup> edition of the manual was collected prior to the COVID-19 pandemic.

**Table 2 Trip Generation Summary**

Time Period		17 Single Family Homes <sup>a</sup>	Proposed 20 Townhomes <sup>b</sup>	Difference
<b>AM Peak Hour</b>				
	Enter	4	2	-2
	<u>Exit</u>	<u>11</u>	<u>6</u>	<u>-5</u>
	Total	15	8	-7
<b>PM Peak Hour</b>				
	Enter	12	6	-6
	<u>Exit</u>	<u>7</u>	<u>4</u>	<u>-3</u>
	Total	19	10	-9
<b>Weekday</b>				
	Enter	99	67	-32
	<u>Exit</u>	<u>99</u>	<u>68</u>	<u>-31</u>
	Total	198	135	-63

a Trip generation estimate based on ITE LUC 210- 17 units

b Trip generation estimate based on ITE LUC 220- 20 units

As shown in Table 2, there are minor changes to the peak hour trip generation estimates using the newest edition of the Trip Generation Manual. There is a 25 trip increase in the daily trip generation estimate for the proposed townhomes between the 10<sup>th</sup> and 11<sup>th</sup> editions. The daily trip estimate of 135 trips results in a total of 117 vehicle trips (58 entering and 59 exiting) outside of the AM and PM peak hours (135 trips-8 AM trips-10 PM trips). Assuming that the majority of travel at the site occurs between the hours of 6:00 AM and 10:00 PM this would result in an average hourly trip generation of approximately 8 trips (4 entering and 4 exiting) during the 14 hours outside of the peak hours.

Mr. Robert C. Miller, Jr.  
Ref: 26193.00  
October 6, 2021  
Page 3



Please reach out if you have any questions on the above information.

Sincerely,

VHB Engineering, Surveying, Landscape Architecture and Geology, PC

A handwritten signature in blue ink that reads "Wendy C. Holsberger". The signature is fluid and cursive, with a long horizontal line extending from the end of the name.

Wendy Holsberger, PE, PTOE  
Managing Director- Albany  
[wholsberger@vhb.com](mailto:wholsberger@vhb.com)



# TOWN OF NISKAYUNA

## PLANNING DEPARTMENT

One Niskayuna Circle  
Niskayuna, New York 12309-4381

**Laura Robertson**  
Town Planner

Phone: (518) 386-4530  
Fax: (518) 386-4592  
[lrobertson@niskayuna.org](mailto:lrobertson@niskayuna.org)

### REVISED MEMO

### Environmental Assessment Form Referral 2021-07: 1356 Balltown Road Major Subdivision Review

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December 9, 2021 – Revised January 5, 2022

**TO:** ZONING BOARD OF APPEALS

**FROM:** CONSERVATION ADVISORY COUNCIL

At its regular meeting held on January 5, 2022 the Conservation Advisory Council reviewed and revised their December 9<sup>th</sup> Memo to the ZBA regarding the environmental impacts of the proposal for improvements to 1356 Balltown Road that included 9 Townhome buildings (18 dwelling units) and 54 area variances. The Council carefully reviewed the open space proposed and the number of area variances requested and noted that 1 building had been removed from the original plan and the applicant had attempted to preserve more adequate and high quality open space, reduce the area variances necessary for this proposal, and adhere more closely to the Average Density Development code, which the CAC felt would set good precedence for future townhome developments. They voted unanimously (4-0) on this revised recommendation to the ZBA:

1. The proposal is similar to an Average Density Development (ADD), a planning tool which is only allowed in R-1 and R-R zones. The CAC supports the environmental benefits that come from clustering development closer together and allowing for greater open space / preservation for the general community, the stated intent of an ADD. The CAC recommends that the ADD code be used as a guide and adhered to whenever possible in the case of this R-2 proposal, both for an environmental benefits standpoint and precedence for future townhome development in the Town.
  - a. Section 220-28 (A) of the ADD Code states "The purpose of this section is to permit variation in lot size and housing type in suitable areas in order to encourage flexibility of design, facilitate the adequate and economical provisions of streets and utilities and preserve the natural and scenic qualities of open space." Section 220-8 (B) states that the conditions to allow for lot size reduction are (1) "The overall density does not exceed that which is permitted in the applicable zoning district;" and (2) "The land thus gained is preserved as permanent open space for the use of the residents of the area." On January 5, 2022 the CAC discussed that removing a building brings the property into closer alignment with an ADD and adds additional quality open space to

the project – but the open space should continue to be protected as a benefit of this project, trees should be planted throughout it and along its borders and fencing should be limited to only what is necessary by code.

- b. The CAC noted there is a single family home sketch from the developers that indicated 17 single family home lots can fit on this so the original proposal of 20 units was too many units. On January 5, 2022 they discussed that 18 units was acceptable.
  - c. Section 220-28 (F) (4) (b) [1] states “Land reserved for open space shall, in the judgment of the Planning Board, be in a location(s), of a size and shape and of a type or character suitable for the purposes for which such land shall be primarily reserved. Types may include playgrounds, neighborhood parks or a natural or conservation area such as a natural watercourse.” The CAC identified that the 1-acre open space on this plot plan is largely demarcated as stormwater management – a condition they do not feel meets the intent of the code for open space. They felt the number of variances can be reduced, and the quality of the open space can be increased, by removing 1 or 2 buildings from the proposal. On January 5, 2022 the CAC felt the removal of 1 building did increase the amount and quality of open space.
  - d. The CAC identified lots 19 and 20 as a good candidate to remove the building and preserve as open space – because this area is adjacent to the proposed stormwater and Van Antwerp village forest and can provide a continuous conservation area for this neighborhood. On January 5, 2022, the CAC agreed that the removal of lots 11 and 12 was also acceptable because it allowed the stormwater to shift more to the west and added open space near lots 19 and 20.
2. Because the CAC identified that the Townhome concept could reduce some environmental impacts compared to the single family homes and felt the townhomes could provide walkability and a diversity of housing to the Town Center Overlay District, they felt the 20 area variances for the “shared property line” (0 foot side setback variances) were appropriate. The CAC felt that of the remaining 53 variances, all other side yard setbacks, and as many other area parameters as possible, should be adhered to. On January 5, 2022 the CAC felt the reduction on the variances was good and that the lot size area variances and width variances were also related to the project being townhomes, which they were in support of.
  3. They discussed affordable housing and aging in place within the project and requested the implementation of green energy concepts, solar power, EV charging stations, etc. to reduce greenhouse gas emissions from the development.
  4. The CAC also recommended the planting of trees (to the extent possible, e.g., along the perimeter) for the storm water management area and possibly planting native wildflower species in that area to promote biodiversity and pollinator species revival in this area.

## Niskayuna Balltown Road

### Subdivision Sketch Plan Bulk Area & Setback Table

	Front Setback	Side Setback Common Lot Line	Side Setback	Rear Setback	Width	Depth**	Area	Maximum Coverage
<b>Required</b>	<b>30'</b>	<b>15'</b>	<b>15'</b>	<b>20'</b>	<b>80'</b>	<b>100'</b>	<b>9,000 SF</b>	<b>30%</b>
Lot 1	30'	0'	15'	-	46'	147'	7,798 SF	27%
Lot 2	20.5'	0'	-	-	54'	147'	7,385 SF	29%
Lot 3	20.5'	0'	-	-	53'	147'	7,323 SF	29%
Lot 4	30'	0'	15'	-	46'	147'	6,728 SF	31%
Lot 5	30'	0'	15'	-	46'	147'	6,790 SF	31%
Lot 6	30'	0'	15'	-	46'	147'	6,790 SF	31%
Lot 7	30'	0'	15'	-	46'	147'	6,790 SF	31%
Lot 8	30'	0'	15'	-	41'	147'	7,662 SF	28%
Lot 9	30'	0'	49'	20'	84'	105'	9,050 SF	23%
Lot 10	30'	0'	-	20'	87'	105'	9,096 SF	23%
Lot 11	30'	0'	28'	-	59'	147'	10,004 SF	21%
Lot 12	30'	0'	17'	-	48'	147'	7,117 SF	30%
Lot 13	30'	0'	17'	-	48'	147'	7,103 SF	30%
Lot 14	30'	0'	17'	-	48'	147'	7,108 SF	30%
Lot 15	30'	0'	17'	-	48'	147'	7,119 SF	30%
Lot 16	22.5'	0'	-	-	61'	147'	8,298 SF	26%
Lot 17	30'	0'	31'	20	80'	118'	10,586 SF	20%
Lot 18	30'	0'	32'	20	80'	105'	9,798 SF	21%
Lot 19	30'	-	15'	20'	151'	176'	11,769 SF	0%
Lot 20	30'	-	15'	20'	313'	150'	44,370 SF	0%
Lot 21	30'	-	15'	20'	82'	46'	3,391 SF	0%

\* Red indicates required variance.

\*\* Average

Rev Date 1/3/22



FOR MUNICIPAL APPROVAL ONLY  
NOT FOR CONSTRUCTION



# TOWN OF NISKAYUNA

## PLANNING BOARD & ZONING COMMISSION

### AGENDA STATEMENT

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AGENDA ITEM NO. VII. 2

MEETING DATE: 1/10/2022

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**ITEM TITLE:** RESOLUTION: 2022-1: A Resolution for an extension to the site plan approval for the Capital District Jewish Holocaust Memorial at 2501 Troy Schenectady Rd.

**PROJECT LEAD:** Chris LaFlamme & Genghis Khan

**APPLICANT:** Restoration of Eastern European Jewish Cemeteries Project, Inc., represented by Dr. Michael Lozman

**SUBMITTED BY:** Laura Robertson, Town Planner

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**REVIEWED BY:**

☒ Conservation Advisory Council (CAC) ☐ Zoning Board of Appeals (ZBA) ☒ Town Board  
☒ OTHER: Economic Development, Historic Preservation & Environmental Conservation Committee, Tree Council

**ATTACHMENTS:**

☒ Resolution ☒ Site Plan ☒ Map ☐ Report ☒ Other: Engineering Response Letter

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**SUMMARY STATEMENT:**

Dr. Michael Lozman, Director of Restoration of Eastern European Jewish Cemeteries Project, Inc, the applicant for the Capital District Jewish Holocaust Memorial at 2501 Troy Schenectady Road, has requested an extension to the site plan approval for the Memorial that was issued on February 10, 2020.

**BACKGROUND INFORMATION**

The Planning Board approved the Capital District Jewish Holocaust on February 10, 2020 with conditions for Site Plan and the conditions that were attached to the Special Use permit (see attached Resolution 2020-07. The minor subdivision associated with the project (Resolution 2020-06) was approved and recorded in Schenectady County and is complete.

12/13/21 Planning Board (PB) meeting -- The applicant explained to the Planning Department that they worked diligently to meet the timelines approved by the Board, but the COVID-19 pandemic affected the fundraising and final implementation dates for the project. They requested the site plan, which is the controlling timeline for all associated special use permits or variances, be re-authorized by the Planning Board for an additional two years. The Planning Department stated that they reviewed the former resolution and did not identify any conditions or issues with the plan that require modification. The PB called for a resolution at the 1/10/22 meeting.

A resolution extending the site plan approval for an additional two years is included.

RESOLUTION NO. 2022 - 01

AT A REGULAR MEETING OF THE PLANNING BOARD AND ZONING COMMISSION OF THE TOWN OF NISKAYUNA DULY CALLED AND HELD ON THE 10TH DAY OF JANUARY 2022 AT THE NISKAYUNA TOWN OFFICE BUILDING, ONE NISKAYUNA CIRCLE, IN SAID TOWN AT 7:00 P.M., THE FOLLOWING MEMBERS WERE PRESENT VIRTUALLY OR IN PERSON:

HONORABLE: KEVIN A. WALSH, CHAIRMAN  
GENGHIS KHAN  
MICHAEL A. SKREBUTENAS  
CHRIS LAFLAMME  
PATRICK MCPARTLON  
DAVID D'ARPINO  
DACI SHENFIELD  
LESLIE GOLD

One of the purposes of the meeting was to take action on a time extension to a final site plan review and approval.

The meeting was duly called to order by the Chairman.

The following resolution was offered by \_\_\_\_\_.  
whom moved its adoption, and seconded by \_\_\_\_\_.

WHEREAS, Dr. Michael Lozman, Director of Restoration of Eastern European Jewish Cemeteries Project, Inc., has made an application to the Planning Board for a time extension to the previously approved site plan for a 2.08-acre religious education facility at 2501 Troy Schenectady Road, as shown in a 10 page site plan set entitled "Existing Conditions Plan for Holocaust Memorial, 2501 Troy Schenectady Road, Town of Niskayuna, County of Schenectady, State of New York," by Hershberg & Hershberg, consulting engineers and land surveyors, and dated 5/1/2017, and

WHEREAS, the zoning classification of the property is R-1: Low Density Residential zoning district, and

WHEREAS, A religious education facility in an R-1 Zone requires a special use permit, and

WHEREAS the Planning Board conducted a public hearing on February 12, 2018 to consider the application for a special use permit and preliminary site plan review, and

WHEREAS this application was referred to the Schenectady County Planning Department and on November 20, 2017 the County responded that it conditionally approved of the project, pending NYSDOT approval of highway access, and

WHEREAS, the application was referred to the Niskayuna Conservation Advisory Council, and on January 3, 2018, the Council recommended a negative declaration, and

WHEREAS, the Town Board, acting in accordance with the State Environmental Quality Review regulations and local law, assumed the position of lead agency for this project, determined the project will not have a significant effect on the environment and directed the Town Planner to file a negative declaration, and

WHEREAS, the Town Board granted a special use permit on June 20, 2019 to allow a religious education facility at 2501 Troy Schenectady Road, by its Resolution No. 2018-182, and

WHEREAS, the Planning Board referred this application to the Town's Engineering Department and the department does not object to the proposed plans, and

WHEREAS this Board has carefully reviewed the proposal and by this resolution does set forth its decision hereon,

NOW, THEREFORE, be it hereby

RESOLVED, that this Planning Board and Zoning Commission does hereby grant final site plan approval for a special use permit to allow the Capital District Jewish Holocaust Memorial at 2501 Troy Schenectady Road, subject to the following conditions:

1. Wetlands may not be disturbed, drained or physically altered in any way without first contacting the Army Corps of Engineers. Additionally, the Town of Niskayuna requires that no land can be disturbed within a twenty five (25) foot buffer from the boundary of the wetland.
2. In accordance with Chapter 180 of the Soil Erosion and Sediment Control Ordinance of the Town of Niskayuna, the applicant shall put in place soil erosion and sediment control measures sufficient to stabilize disturbed areas. These measures shall be satisfactory to the Superintendent of Water, Sewer, and Engineering and shall remain in place until such time as natural vegetation has been successfully established.
3. Prior to issuance of a final CO, the applicant shall sign a Storm water Control Facility Maintenance and Access Agreement, in order to ensure the proposed storm water facilities are installed and maintained per plans.

4. Prior to site disturbance, the applicant shall participate in a preconstruction meeting with the Town of Niskayuna and shall address any concerns raised by the Town or the Town Designated Engineer (TDE).
5. Prior to site disturbance, the site plan maps shall be modified to reflect agreed upon decisions of the preconstruction meeting, if any, and distributed as required to the Town and to all involved contractors. Final site plans shall be submitted to the Town labeled "For Construction."
6. Prior to site disturbance, confirmation shall be made by the applicant to the Department of Public Works that material specifications and site details, including road and utility plan/profiles, meet Town standards.
7. Prior to the preconstruction meeting, any engineering and drainage concerns will be addressed to the satisfaction of the Town Superintendent of Water, Sewer and Engineering, including item #7 in the TDE comment letter dated 2/3/2020.
8. Prior to the preconstruction meeting, any questions or concerns raised by the Town Designated Engineer will be addressed by the applicant in a formal letter to the Town.
9. Prior to the preconstruction meeting, the applicant shall provide written approval from the NYSDOT for the curb cut on Route 7.
10. As a condition of the special use permit, hours of operation for the property shall be dawn to dusk.
11. As a condition of the special use permit, a thick vegetative buffer shall be established along the Route 7 corridor to protect the residential nature of the corridor and limit impact to adjacent properties.
12. As a condition of the special use permit, temporary onsite restroom facilities shall be required at any time the memorial is open, with an area reserved on the site plan that will adequately serve for the construction of permanent bathrooms in the event that they are deemed necessary by the Town and overseeing Foundation.
13. All large events that require traffic control / Niskayuna police presence shall be coordinated with the Town of Niskayuna Police Department in well in advance of each event.
14. Per Niskayuna Town Code Section 220-48 E: Final site plan approval shall expire two years after the date of this written final approval of the Planning Board unless

construction in accordance with the approved plan has begun or an additional extension of time has been granted by the Planning Board.

Upon roll call the foregoing resolution was adopted by the following vote:

KEVIN A. WALSH, CHAIRMAN  
GENGHIS KHAN  
MICHAEL A. SKREBUTENAS  
CHRIS LAFLAMME  
PATRICK MCPARTLON  
DAVID D' ARPINO  
DACI SHENFIELD  
LESLIE GOLD

The Chairman declared the same \_\_\_\_\_.

December 7, 2021

**VIA EMAIL**

Chairman Kevin A. Walsh  
Members of the Planning Board  
One Niskayuna Circle  
Niskayuna, NY 12309  
United States

**RE: Holocaust Memorial – 2501 Troy Schenectady Road, Niskayuna NY**

Dear Chairman Walsh and Members of the Planning Board:

We represent our client, Dr. Michael Lozman, Director of Restoration of Eastern European Jewish Cemeteries Project, Inc. (the “Applicant”) in relation to its approved Holocaust Memorial at 2501 Troy Schenectady Road (the “Project”). The Town of Niskayuna Planning Board (“Planning Board”) issued a site plan approval for the Project on February 10<sup>th</sup>, 2020, which is set to expire on February 10, 2022. A copy of the approval is enclosed for your reference. We hereby respectfully request a 2-year extension of the site plan approval from the current expiration date of February 10, 2022 pursuant to Zoning Code § 220-48(E).

The Town should also be aware that a special permit was issued for the Project on June 20, 2019. Pursuant to Zoning Code § 220-65(B)(2), a special permit shall expire if “[c]onstruction has not begun in accordance with the approved plan within two years *after the date of final site plan approval by the Planning Board.*” (Emphasis added). It is our understanding that if the Planning Board extends the site plan (see above), the special use permit shall remain valid.

We respectfully request that the Planning Board grant a 2-year extension of the Project’s site plan approval at its December 13<sup>th</sup>, 2021 meeting while the Applicant continues to raise funds for the Project. Thank you for your assistance in this matter. Please do not hesitate to contact me if you have any questions.

Sincerely,

/s/ *Charles J. Gottlieb*

Charles J. Gottlieb



RESOLUTION NO. 2020 - 07

AT A REGULAR MEETING OF THE PLANNING BOARD AND ZONING COMMISSION OF THE TOWN OF NISKAYUNA DULY CALLED AND HELD ON THE 10TH DAY OF FEBRUARY 2020 AT THE NISKAYUNA TOWN OFFICE BUILDING, ONE NISKAYUNA CIRCLE, IN SAID TOWN AT 7:00 P.M., THE FOLLOWING MEMBERS WERE PRESENT:

HONORABLE: KEVIN A. WALSH, CHAIRMAN  
MORRIS AUSTER  
GENGHIS KHAN  
MICHAEL A. SKREBUTENAS  
CHRIS LAFLAMME  
PATRICK MCPARTLON  
DAVID D'ARPINO  
DACI SHENFIELD  
LESLIE GOLD

**FILED  
TOWN OF NISKAYUNA**

FEB 11 2020

**MICHELE M MARTINELLI  
TOWN CLERK**

One of the purposes of the meeting was to take action on an application for a site plan review.

The meeting was duly called to order by the Chairman.

The following resolution was offered by Mr. Khan.  
whom moved its adoption, and seconded by Mr. Laflamme.

WHEREAS, Dr. Michael Lozman, Director of Restoration of Eastern European Jewish Cemeteries Project, Inc., has made an application to the Planning Board for a 2.08-acre religious education facility at 2501 Troy Schenectady Road, as shown in a 10 page site plan set entitled "Existing Conditions Plan for Holocaust Memorial, 2501 Troy Schenectady Road, Town of Niskayuna, County of Schenectady, State of New York," by Hershberg & Hershberg, consulting engineers and land surveyors, and dated 5/1/2017, and

WHEREAS, the zoning classification of the property is R-1: Low Density Residential zoning district, and

WHEREAS, A religious education facility in an R-1 Zone requires a special use permit, and

WHEREAS the Planning Board conducted a public hearing on February 12, 2018 to consider the application for a special use permit and preliminary site plan review, and



WHEREAS this application was referred to the Schenectady County Planning Department and on November 20, 2017 the County responded that it conditionally approved of the project, pending NYSDOT approval of highway access, and

WHEREAS, the application was referred to the Niskayuna Conservation Advisory Council, and on January 3, 2018, the Council recommended a negative declaration, and

WHEREAS, the Town Board, acting in accordance with the State Environmental Quality Review regulations and local law, assumed the position of lead agency for this project, determined the project will not have a significant effect on the environment and directed the Town Planner to file a negative declaration, and

WHEREAS, the Town Board granted a special use permit on June 20, 2019 to allow a religious education facility at 2501 Troy Schenectady Road, by its Resolution No. 2018-182, and

WHEREAS, the Planning Board referred this application to the Town's Engineering Department and the department does not object to the proposed plans, and

WHEREAS this Board has carefully reviewed the proposal and by this resolution does set forth its decision hereon,

NOW, THEREFORE, be it hereby

RESOLVED, that this Planning Board and Zoning Commission does hereby grant final site plan approval for a special use permit to allow the Capital District Jewish Holocaust Memorial at 2501 Troy Schenectady Road, subject to the following conditions:

1. Wetlands may not be disturbed, drained or physically altered in any way without first contacting the Army Corps of Engineers. Additionally, the Town of Niskayuna requires that no land can be disturbed within a twenty five (25) foot buffer from the boundary of the wetland.
2. In accordance with Chapter 180 of the Soil Erosion and Sediment Control Ordinance of the Town of Niskayuna, the applicant shall put in place soil erosion and sediment control measures sufficient to stabilize disturbed areas. These measures shall be satisfactory to the Superintendent of Water, Sewer, and Engineering and shall remain in place until such time as natural vegetation has been successfully established.
3. Prior to issuance of a final CO, the applicant shall sign a Storm water Control Facility Maintenance and Access Agreement, in order to ensure the proposed storm water facilities are installed and maintained per plans.

4. Prior to site disturbance, the applicant shall participate in a preconstruction meeting with the Town of Niskayuna and shall address any concerns raised by the Town or the Town Designated Engineer (TDE).
5. Prior to site disturbance, the site plan maps shall be modified to reflect agreed upon decisions of the preconstruction meeting, if any, and distributed as required to the Town and to all involved contractors. Final site plans shall be submitted to the Town labeled "For Construction."
6. Prior to site disturbance, confirmation shall be made by the applicant to the Department of Public Works that material specifications and site details, including road and utility plan/profiles, meet Town standards.
7. Prior to the preconstruction meeting, any engineering and drainage concerns will be addressed to the satisfaction of the Town Superintendent of Water, Sewer and Engineering, including item #7 in the TDE comment letter dated 2/3/2020.
8. Prior to the preconstruction meeting, any questions or concerns raised by the Town Designated Engineer will be addressed by the applicant in a formal letter to the Town.
9. Prior to the preconstruction meeting, the applicant shall provide written approval from the NYSDOT for the curb cut on Route 7.
10. As a condition of the special use permit, hours of operation for the property shall be dawn to dusk.
11. As a condition of the special use permit, a thick vegetative buffer shall be established along the Route 7 corridor to protect the residential nature of the corridor and limit impact to adjacent properties.
12. As a condition of the special use permit, temporary onsite restroom facilities shall be required at any time the memorial is open, with an area reserved on the site plan that will adequately serve for the construction of permanent bathrooms in the event that they are deemed necessary by the Town and overseeing Foundation.
13. All large events that require traffic control / Niskayuna police presence shall be coordinated with the Town of Niskayuna Police Department in well in advance of each event.

Upon roll call the foregoing resolution was adopted by the following vote:

KEVIN A. WALSH, CHAIRMAN -- Aye  
MORRIS AUSTER -- Aye  
GENGHIS KHAN -- Aye  
MICHAEL A. SKREBUTENAS -- Aye  
CHRIS LAFLAMME -- Aye  
PATRICK MCPARTLON -- Aye  
DAVID D'ARPINO -- Aye  
~~DACI SHENFIELD~~  
~~LESLIE GOLD~~

The Chairman declared the same duly adopted.





# TOWN OF NISKAYUNA

## PLANNING BOARD AND ZONING COMMISSION

### AGENDA STATEMENT

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AGENDA ITEM NO. VII. 3

MEETING DATE: 1/10/2022

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**ITEM TITLE:** RESOLUTION: 2022-02: A Resolution to call for a public hearing and make a recommendation to the Town Board for site plan application and special use permit approval for a day care, Capital Kids Care, to operate within an existing place of worship at 1930 Hillside Ave.

**PROJECT LEAD:** TBD

**APPLICANT:** Katlyn Brownell

**SUBMITTED BY:** Laura Robertson, Town Planner

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**REVIEWED BY:**

☐ Conservation Advisory Council (CAC) ☐ Zoning Board of Appeals (ZBA) ☐ Town Board  
☐ OTHER:

**ATTACHMENTS:**

☒ Resolution ☒ Site Plan ☐ Map ☐ Report ☐ Other:

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**SUMMARY STATEMENT:**

Katlyn Brownell, applicant for the owner, has submitted a site plan application and special use permit application to operate an after school and summer camp in the basement level of the Indian Orthodox Church located at 1930 Hillside Ave. 1930 Hillside Ave, lies within the R-2 Medium Density Residential zoning district. Article IV Use Regulations Section 220-10 District Regulations lists child-care centers operated within a school or place of worship as a special principal use.

**BACKGROUND INFORMATION**

Ms. Brownell included a dimensioned interior floor plan drawing of the space and a letter of approval authored by Father Alex Joy, Vicar / President, of the Indian Orthodox Church with her applications.

The site plan application lists the proposed hours of operation for the child-care center as follows.

Monday – Friday 1:30 PM – 6:00 PM until June  
Monday – Friday 7:30 AM – 5:30 PM July – Labor Day

The applicant did not provide any of the following regarding the proposal.

1. Proposed number of students (and faculty)
2. Proposed traffic routing for drop off and pick times
3. Survey drawing of the property

4. Anticipated use of any of the grounds outside of the building for the child-care use

12/13/21 Planning Board (PB) meeting --- The applicant presented the site plan proposal to the PB and addressed their questions. The following additional operational information was provided during the PB meeting.

After school care in basement space: 2 pm – 5:30 pm

--- During school breaks and summer: 7:30 am – 5:30 pm

The Board requested additional information regarding the number of students and faculty, proposed traffic routing for student drop off and pick up, survey drawing of the property and plans, if any, regarding use of the grounds outside of the building.

The applicant addressed these questions in an email to the Planning Office dated 12/19/21.

1. Proposed number of students and faculty

--- Expect 3 to 10 staff members (depending on the number of students and time of year)

--- The license capacity will be determined by OCFS during the licensing process

--- The program will not include more than 50 children during the school year or summer periods

--- The school will maintain a 1:10 adult to child ratio plus additional staffing

--- The program will employ additional staff during summer camp because of the extended hours

2. Proposed traffic routing for drop off and pick up

--- A drawing displaying the traffic routing was provided

--- Entrance & Exit will be via Hillside Ave

--- Parents and busses will enter through the “South Entrance” and exit through the “North Exit”

--- Parents will park in the portion of the lot closest to Hillside Ave.

--- Busses will stop on the driveway near the sidewalk leading to the basement entrance

--- Cap Kids staff will escort kids from the bus doors to the entrance of the building

--- Children and parents will enter the building through the basement doors

3. Survey drawing of the property was provided

4. Anticipated use of any grounds outside of the building

--- The backyard space will be used as a gross motor/play space

--- Parking lot sections will be coned off, per OCFS regulations, and used for play including chalk, basketball, hopscotch, etc.

A resolution calling for a public hearing is included. Staff also recommends calling for a tentative recommendation to the Town Board for this project.

RESOLUTION NO. 2022 – 02

AT A REGULAR MEETING OF THE PLANNING BOARD AND ZONING COMMISSION OF THE TOWN OF NISKAYUNA DULY CALLED AND HELD ON THE 10TH DAY OF JANUARY 2022 AT THE NISKAYUNA TOWN OFFICE BUILDING, ONE NISKAYUNA CIRCLE, IN SAID TOWN AT 7:00 P.M., THE FOLLOWING MEMBERS WERE PRESENT VIRTUALLY OR IN PERSON:

HONORABLE: KEVIN A. WALSH, CHAIRMAN  
MORRIS AUSTER  
GENGHIS KHAN  
MICHAEL A. SKREBUTENAS  
CHRIS LAFLAMME  
PATRICK MCPARTLON  
DAVID D'ARPINO  
DACI SHENFIELD  
LESLIE GOLD

One of the purposes of the meeting was to call for a public hearing for a site plan application and special use permit to operate an after school and summer camp at 1930 Hillside Ave.

The meeting was duly called to order by the Chairman.

The following resolution was offered by \_\_\_\_\_.  
whom moved its adoption, and seconded by \_\_\_\_\_.

WHEREAS, Katlyn Brownell, has made an application to the Planning Board for site plan review and special use permit for a tenant change to operate an after school and summer camp at 1930 Hillside Ave., Niskayuna, and

WHEREAS, the site plan is shown on an untitled drawing showing the 1930 Hillside Ave property stamped "RECEIVED Dec 06 20221, Planning Office Niskayuna, NY", and

WHEREAS, the zoning classification of the property is R-2 Medium Density Residential zoning district, and

NOW, THEREFORE, be it hereby

RESOLVED, that the Planning Board and Zoning Commission hereby determined that this project will not have a significant effect on the environment and hereby directs the

,and be it hereby

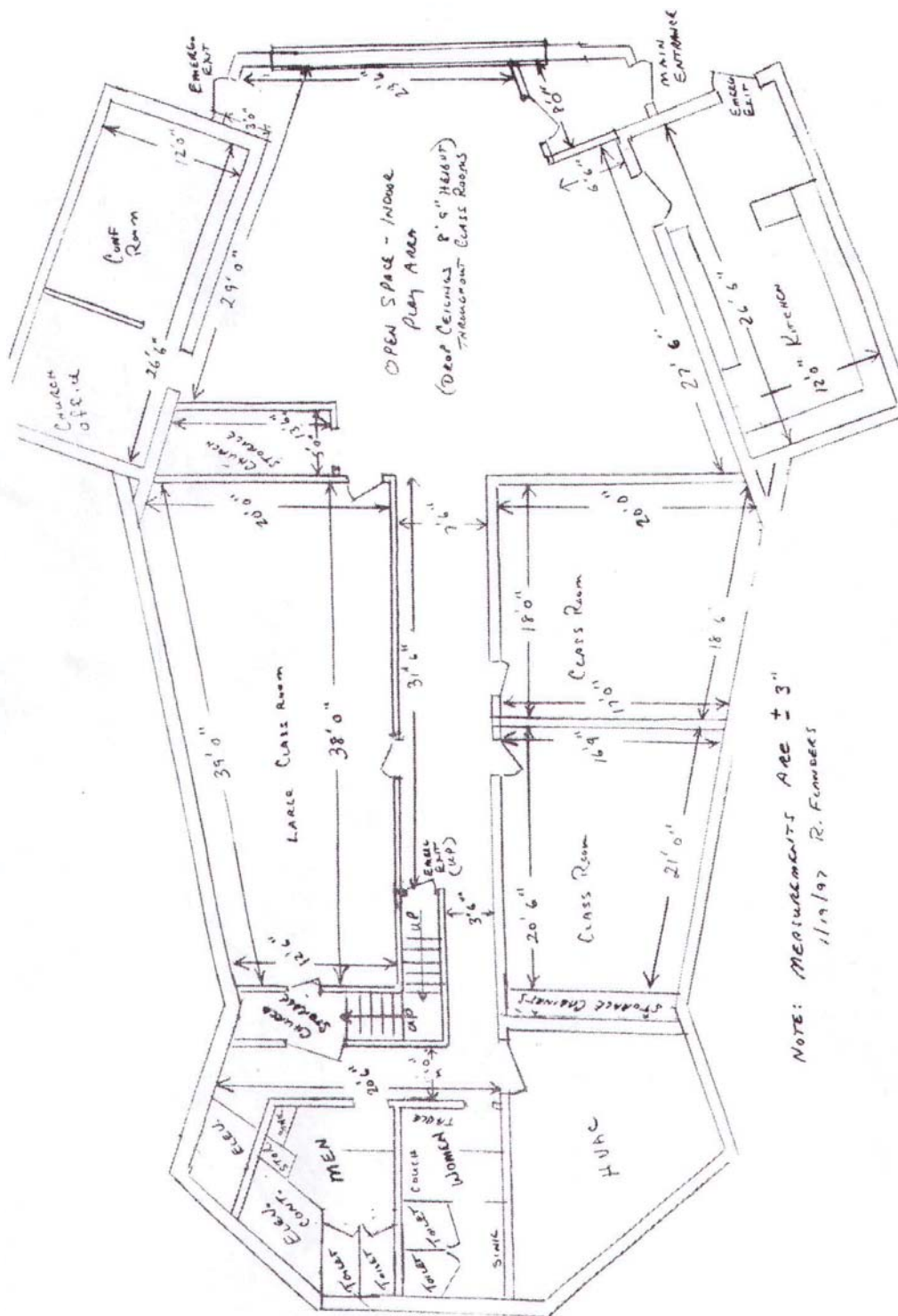
FURTHER RESOLVED that this Planning Board does hereby call for a public hearing to be held on **Monday, January 24, 2022 at 7:00 pm** at the Niskayuna Town Hall office building, One Niskayuna Circle and by videoconference, to consider the application of Katlyn Brownell, for site plan review and special use permit for a tenant change to operate an after school and summer camp at 1930 Hillside Ave., Niskayuna.

Upon roll call the foregoing resolution was adopted by the following vote:

KEVIN A. WALSH, CHAIRMAN  
MORRIS AUSTER  
GENGHIS KHAN  
MICHAEL A. SKREBUTENAS  
CHRIS LAFLAMME  
PATRICK MCPARTLON  
DAVID D'ARPINO  
DACI SHENFIELD  
LESLIE GOLD

The Chairman declared the same \_\_\_\_\_.





1930 Hillside Ave.  
Capital Kids Care Site Plan

November, 22<sup>nd</sup> 2021

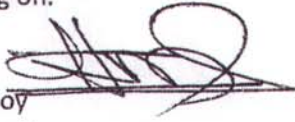
To whom it may concern,

Subject to the final lease agreement, Capital Kids Care has preapproval from myself, Father Alex Joy, as well as the Indian Orthodox Church Board, to run their afterschool and summer camp program in our basement space located at 1930 Hillside Avenue, Niskayuna, New York 12309.

Their daily operation times for afterschool are Monday through Friday 1:30pm-6pm from the first week of September through the last week of June. Then their operations change for summer camp to Monday through Friday 7:30am-5:30pm from the first week of July through the last week of August.

We are granting them access to three classroom spaces, main gathering space downstairs as well as all bathrooms in basement. The backyard and side yard green space will also be available for Capital Kids Care to use. The full parking lot is available for all employees, busses dropping off, and parents picking up and dropping off.

From,  
Father Alex Joy  
Vicar/President

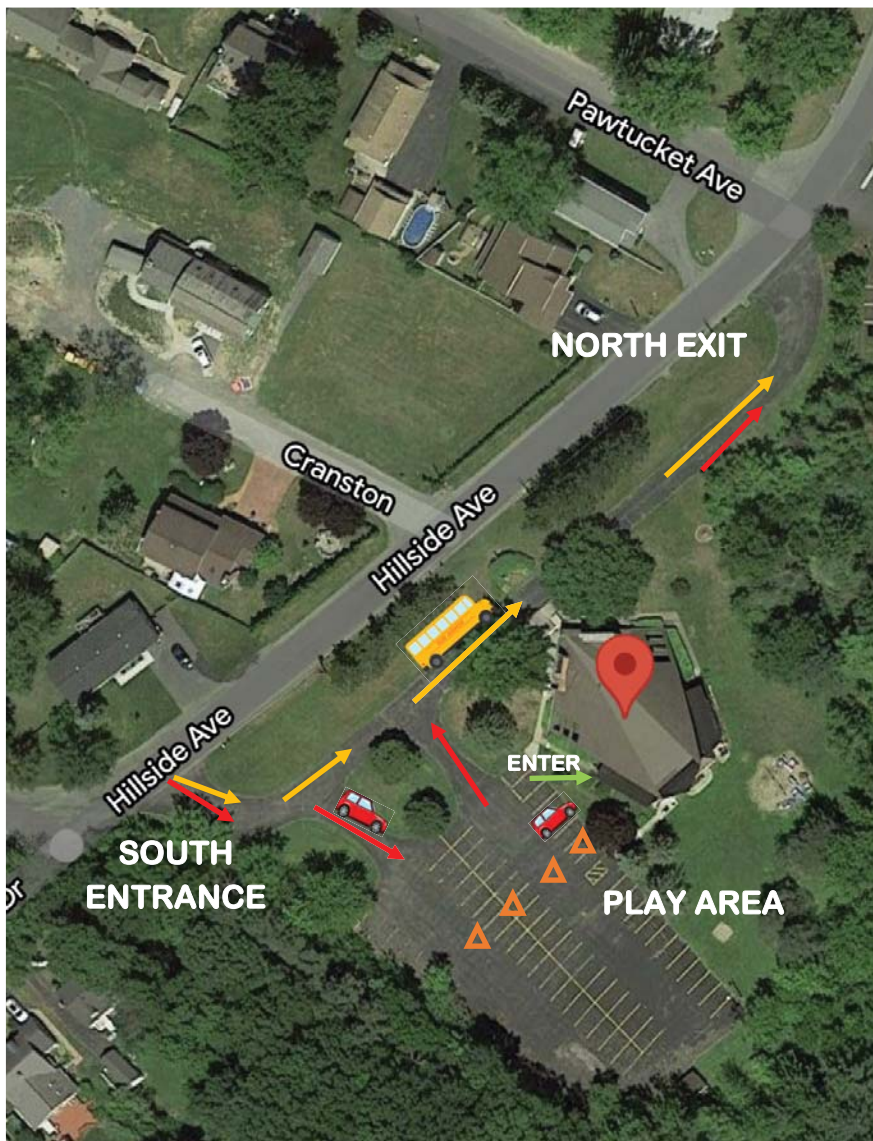






**St. Paul's Indian Orthodox Church**  
**1930 Hillside Ave.**  
**Niskayuna, NY 12309**



Proposed traffic routing for drop off and pick up:

Capital Kids Care 1930 Hillside Ave



Key	
	Bus Route
	Parent Route
	Parent/Child Entry
	Cone Line



# TOWN OF NISKAYUNA

## PLANNING BOARD AND ZONING COMMISSION

### AGENDA STATEMENT

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AGENDA ITEM NO. VIII. 1

MEETING DATE: 1/10/2022

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**ITEM TITLE:** DISCUSSION: 2021-34: Application for Site Plan Review of a tenant change to S & G Roofing at 3800 State Street.

**PROJECT LEAD:** TBD

**APPLICANT:** Sukhdev Singh, applicant for the owner

**SUBMITTED BY:** Laura Robertson, Town Planner

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**REVIEWED BY:**

☐ Conservation Advisory Council (CAC) ☐ Zoning Board of Appeals (ZBA) ☐ Town Board  
☐ OTHER:

**ATTACHMENTS:**

☐ Resolution ☒ Site Plan ☐ Map ☐ Report ☐ Other:

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**SUMMARY STATEMENT:**

Sukhdev Singh, owner of S&G Roofing and applicant for the owner, submitted an Application for Site Plan Review for a tenant change at 3800 State Street. The lot falls within the C-H Highway Commercial zoning district. General business offices and wholesale distribution facilities are permitted principal uses in the district.

**BACKGROUND INFORMATION**

Mr. Singh proposes to locate his business, S & G Roofing, from 4013 State Street in Niskayuna to 3800 State Street. The building at 3800 State St. is twice as large as the building at 4013 State St. and the parking at the new location is four times as large.

Mr. Singh is before the Board this evening to present his proposal and discuss any questions.





# TOWN OF NISKAYUNA

One Niskayuna Circle  
Niskayuna, New York 12309-4381



Phone: (518) 386-4530

## Application for Site Plan Review

### Applicant (Owner or Agent):

Name SUKHDEV SINGH

Address 191 FILLMORE AVE  
NISKAYUNA NY 12304

Email SGContracting94@yahoo-com

Telephone 518-229-4458 Fax \_\_\_\_\_

### Location:

Number & Street 3800 STATE ST.

Section-Block-Lot 60.19 - 1 - 12 <sup>(3800 STATE ST)</sup>  
60.19 - 1 - 22 <sup>(16 HURCHOFF)</sup>

Zoning District \_\_\_\_\_

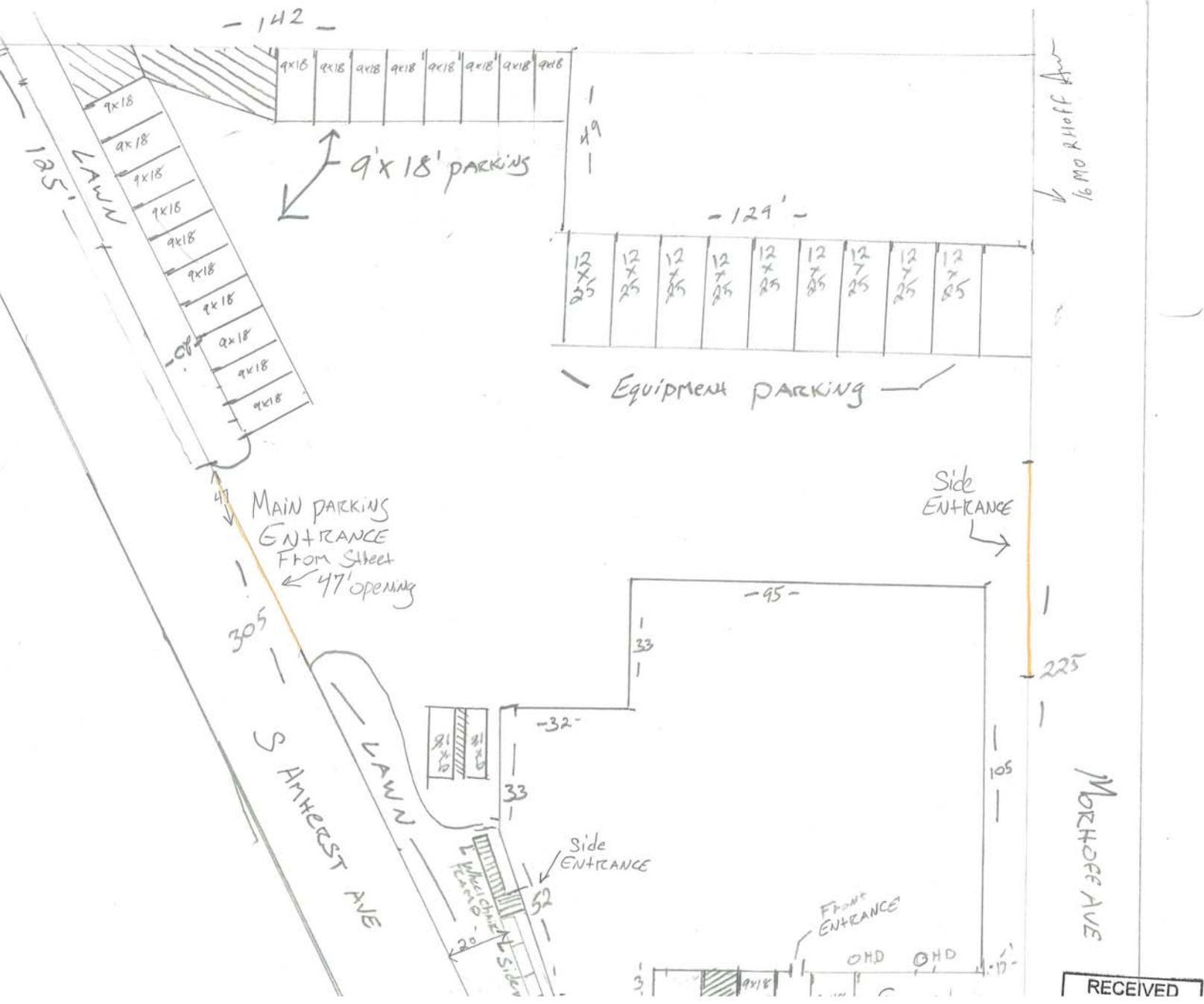
### Proposal Description:

moving my. S & G Roofing inc buisness from  
4013- State St NISKAYUNA NY to 3800 State St  
because Two times Biger Building and 4 Times  
Biger Parking Area

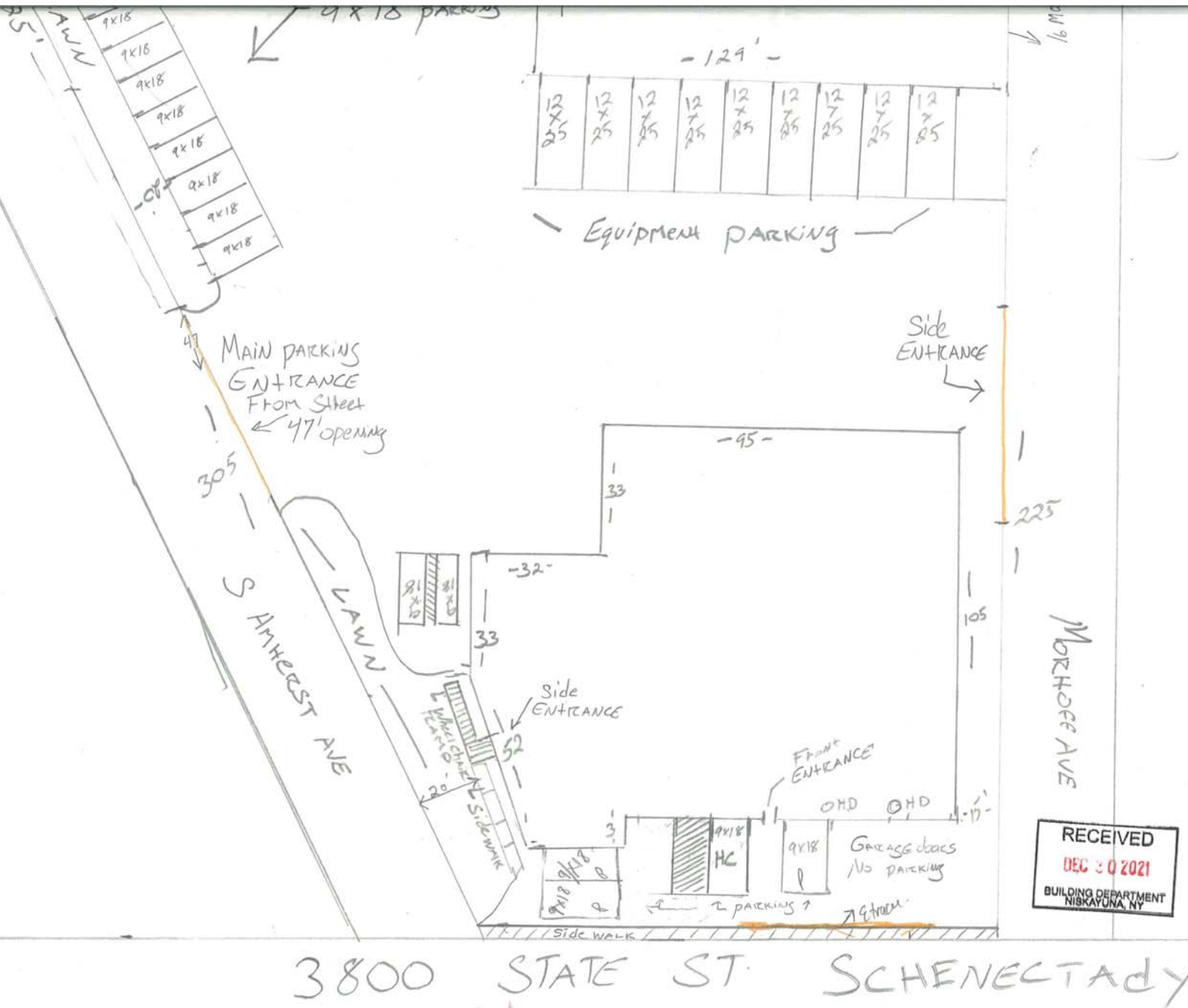
Signature of applicant: [Signature] Date: 12/29/21

Signature of owner (if different from applicant): [Signature]

Date: 12/7/21



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BUILDING DEPARTMENT  
NISKAYUNA, NY



## PHASE I ENVIRONMENTAL SITE ASSESSMENT QUESTIONNAIRE

The following questionnaire is required by the ASTM Standard E 1527-13, which adheres to the All Appropriate Inquiries (AAI) Rule (United States Environmental Protection Agency) (40 CFR 312).

As defined by ASTM, the User of the report is the "party seeking to use Practice E 1527 to complete an environmental site assessment of the property. A user may include, without limitation, a potential purchaser of property, a potential tenant of property, an owner of property, a lender, or a property manager. The user has specific obligations for completing a successful application of this practice."

PROPERTY ADDRESS:	3800 State Street
PROPERTY CITY, STATE ZIP:	Schenectady, New York 12304

### 1. Environmental liens that are filed or recorded against the property (40 CFR 312.25)

Did a search of recorded land title records (or judicial records) identify any environmental liens filed or recorded against the property under federal, tribal, state or local law?

☐ YES ☒ NO

### 2. Activity and use limitations (AULs) that are in place on the property or that have been filed or records against the property (40 CFR 312.26(a)(1)(v) and (vi))

Did a search of recorded land title records (or judicial records) identify any AULs, such as engineering controls, land use restrictions or institutional controls that are in place at the property and/or have been filed or recorded against the property under federal, tribal, state or local law?

☐ YES ☒ NO

### 3. Specialized knowledge or experience of the person seeking to qualify for the LLP (40 CFR 312.28)

Do you have any specialized knowledge or experience related to the property or nearby properties? For example, are you involved in the same line of business as the current or former occupants of the property or an adjoining property so that you would have specialized knowledge of the chemicals and processes used by this type of business?

☐ YES ☒ NO

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NISKAYUNA, NY

4. Relationship of the purchase price to the fair market value of the property if it were not contaminated (40 CFR 312.29)

Does the purchase price being paid for this property reasonably reflect the fair market value of the property? If you conclude that there is a difference, have you considered whether the lower purchase price is because contamination is known or believed to be present at the property?

☒ YES ☐ NO

5. Commonly known or reasonably ascertainable information about the Property (40 CFR 312.30)

Are you aware of commonly known or reasonably ascertainable information about the property that would help the environmental professional to identify conditions indicative of releases or threatened releases?

☐ YES ☒ NO

a. Do you know the past uses of the property?

☒ YES ☐ NO

TRUCK CENTER

b. Do you know of specific chemicals that are present or once were present at the property?

☒ YES ☐ NO

ONYX SPAY ON BEDLINER

c. Do you know of spills or other chemical releases that have taken place at the property?

☐ YES ☒ NO

d. Do you know of any environmental cleanups that have taken place at the property?

☐ YES ☒ NO

e. Do you have any prior knowledge that the property was developed as a gas station, dry cleaner, manufacturing/industrial facility in the past?

☐ YES ☒ NO

f. Are you aware of historical use of hazardous materials or petroleum products used or present on the property?

☐ YES ☒ NO

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NISKAYUNA, NY

g. Do you know if the property is currently or was formerly equipped with underground storage tanks (USTs) or septic tanks?

☐ YES ☒ NO

h. Do you know of any past, threatened or pending lawsuits or administrative proceedings concerning a release or threatened release of any hazardous substance or petroleum products involving the property by any owner or occupant of the property?

☐ YES ☒ NO

6. The degree of obviousness of the presence or likely presence of contamination at the property, and the ability to detect the contamination by appropriate investigation (40 CFR 312.31)

Based on your knowledge and experience related to the property are there any obvious indicators that point to the presence or likely presence of releases at the property?

☐ YES ☒ NO

Signature of User/Person Interviewed: [Signature]

Name of User/Person Interviewed: FRANK D TRALONGO

Title/Relationship to Property: OWNER

Phone Number/Email: FDT@TRALONGO BUILDERS.COM

Date: 12/7/21

Contact for additional information:

Name: Mr. Richard Amirault (Hanson Van Vleet, PLLC)

Relationship to Property: Environmental Consultant

Phone Number/Email: 518-598-9272 / ramirault@hansonvanvleet.com

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