

**TOWN OF NISKAYUNA
Conservation Advisory Council**

A G E N D A

December 7, 2022

7:00 P.M.

VIA HYBRID FORMAT

IN PERSON (TOWN HALL) AND VIRTUAL (GOOGLE MEETS)

I. CALL TO ORDER

II. ROLL CALL

III. APPROVAL OF MINUTES

1. November 15, 2022

IV. PRIVILEGE OF THE FLOOR

V. ENVIRONMENTAL ASSESSMENT FORM REFERRALS

1. EAF 2022-07: 2721 Balltown Road – Multi-Family Dwelling Use Variance Application
2. EAF 2022-08: 1851 Union St – Mohawk Golf Club Townhomes

VI. DISCUSSION ITEMS

1. 2023 Calendar

VII. REPORTS

1. Bethlehem Conservation Easement Program
2. Natural Resource Inventory
3. Pesticide Outreach Update
4. Low Mow / Biodiversity Initiatives Update
5. Climate Smart Communities Program Update

VIII. ADJOURNMENT

**Next Meeting: January 4, 2022
Hybrid Format**



TOWN OF NISKAYUNA

CONSERVATION ADVISORY COUNCIL

AGENDA STATEMENT

AGENDA ITEM NO. V. 1

MEETING DATE: 12/7/2022

ITEM TITLE: 2721 Balltown Road – site plan application for two 6-unit apartment buildings

PROJECT LEAD: TBD

APPLICANT: Alex Ritmo, owner

SUBMITTED BY: Laura Robertson, Town Planner

REVIEWED BY:

☒ Planning Board (PB) ☐ Zoning Board of Appeals (ZBA) ☐ Town Board
☐ OTHER:

ATTACHMENTS:

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

SUMMARY STATEMENT:

Alex Ritmo submitted an Application for Site Plan Approval for the construction of two new 6-unit apartment buildings including one accessory garage and associated parking at 2721 Balltown Road. Mr. Ritmo received a use variance for the property on 10/21/20 to convert the existing main animal hospital building into a 6-unit multiple-family dwelling unit.

BACKGROUND INFORMATION

2721 Balltown Road is located within the R-P Residential and Professional Zoning District. However, as noted the Zoning Board of Appeals (ZBA) granted a use variance to allow the preexisting building (3 residential apartment units on the second floor and an animal hospital on the first floor) to be converted into a 6 unit apartment building – which also received Planning Board site plan approval. Central to several of the Board's recommendations during this process was that the existing buildings contained two non-conforming uses (multi-family apartments and an animal hospital) and the use variance actually made the building more conforming by consolidating it down to one use within the building (multi-family).

A letter dated 10/12/22 authored by Mr. Robert A. Stout of Whiteman, Osterman & Hanna LLP was provided with the Application for Site Plan Review stating that Mr. Ritmo is now requesting an amended Site Plan Approval for the construction of two new 6-unit apartment buildings and an accessory garage.

A 1-page site plan drawing labeled Proposed Layout Plan 2721 Balltown Rd. Dwg. No. C-110 by Insite Northeast Engineering and Land Surveying, P.C. dated 9/21/22 with no subsequent revisions was also provided with the application.

The Town of Niskayuna reviewed the application and determined that the Zoning Board of Appeals granted a use variance for the site plan application as written and the approval specific

to the existing building does not extend to any future buildings on the property. Therefore the Planning Department denied the site plan application and the applicant will need to return to the Zoning Board of Appeals for a second use variance request.

10/24/22 Planning Board (PB) meeting – The PB provided a number of comments on the proposed plan, including the following.

- New Multi-family apartment buildings are currently only allowed as a right in the R-3 zoning district
- The Multiple-Family Dwellings Code (section 220-26) requires 40' side yard setbacks for new apartment buildings. Conformance with Section 220-26 should be considered in review and recommendation of a potential use variance
- The applicant shall work to minimize the amount of pavement on the site
- The applicant shall consider a parking area under the building rather than constructing a parking garage to minimize impervious surfaces.
- The applicant shall locate the dumpsters such that noise is limited
- The PB requested renderings of how the site would appear post-construction

The Planning Office issued a denial letter for the proposed project based on its noncompliance with the current use variance and the fact that the current zoning code does not allow multi-family dwellings in the R-P zoning district. They noted the next step for Mr. Ritmo and Mr. Stout would be to appeal to the Zoning Board of Appeals. The denial letter was issued on 10/31/22.

The Planning Office received updated site plan drawing dated 11/7/22.

- The proposed side setbacks are unchanged (remain 25')
- The amount of pavement on the site has been increased very slightly
- A separate 12-space parking garage structure is proposed
- The 2 garbage dumpsters have been relocated
- Wetlands are indicated – but they appear to be added from a GIS source (approximate). The Planning Department recommends a full wetland delineation prior to submittal to the ZBA – as the wetland boundaries and buffers may limit where the pavement or buildings can be placed and change the amount of units that could be constructed on the property.
- the property.

The applicant filed an appeal to the ZBA for a use variance with their case potentially scheduled for December 21, 2022.

11/14/22 Planning Board (PB) meeting – Mr. Robert Stout and Mr. Ritmo presented the updated version of the site plan drawing. Mr. Stout provided a broad overview of the case they will be presenting to the ZBA. The PB noted the rather narrow width of the lot and questioned if it was suitable for the additional proposed buildings. They suggested that the developer evaluate alternate layouts such as mirroring / flipping the parking garage and one of the apartment buildings. This would minimize the impact on the single-family detached homes to the south by placing the shorter parking garage nearest to the existing homes. Ms. Robertson noted that she believes there is some wetland area on the property that is not shown on the site plan drawing

and the exact location of the wetland will have a significant impact on the project. The PB summarized the meeting by noting the following action items.

1. Consider and create alternate site plan designs
 - a. Flip the garage and the southernmost building
 - b. Explore the concept of one > 6 unit building vs. two 6 units buildings
2. Add accurate wetland delineation to the current and all future site plan drawings
3. Refine & define the site plan to the point that the PB can make a recommendation to the ZBA at their 12/12/22 meeting regarding all requested variances.
4. Provide rendered images to better visually communicate site plan proposals

11/15/22 Conservation Advisory Council – Mr. Stout presented the project to the CAC. He noted that the wetland area should be delineated in approximately 2 weeks. Overall the CAC was concerned about the density and impacts to the surrounding community to this project, as well as the necessary variances. During the discussion the CAC requested the following in order to evaluate the environmental impacts.

1. The CAC asked if the applicant would consider a forever wild designation for the back area of the property.
2. Requested that solar panels be utilized on the roof of the garage.
3. Requested pesticide free lawn maintenance
4. CAC suggested that a historical survey will probably be required
5. Requested a walking path connection to the town owned land behind the property
6. Perform a preliminary check regarding water & sewer and traffic report
7. Explore traffic generation and issues to Balltown Rd.

Due to the timelines for this project – the CAC should be prepared to make a recommendation to the ZBA regarding the requested use variance at this meeting.

Short Environmental Assessment Form

Part 1 - Project Information

Instructions for Completing

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

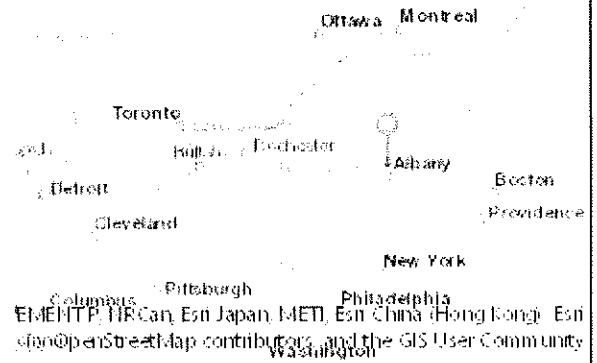
Complete all items in Part 1. You may also provide any additional information which you believe will be needed by or useful to the lead agency; attach additional pages as necessary to supplement any item.

Part 1 – Project and Sponsor Information			
Alex Ritmo/2721 Balltown, LLC			
Name of Action or Project: Site Plan Application			
Project Location (describe, and attach a location map): 2721 Balltown Road, Niskayuna, NY			
Brief Description of Proposed Action: The Applicant is proposing an expansion of the existing multi-family use on the Property. The Applicant received a use variance from the Zoning Board of Appeals in October 2020 to redevelop a mixed-use veterinary clinic/three-unit apartment building into a six-unit apartment building. The Applicant is now requesting to construct two (2) additional six-unit apartment buildings on the Property.			
Name of Applicant or Sponsor: Alex Ritmo		Telephone: 518-538-0250	
		E-Mail:	
Address: 2721 Balltown Road			
City/PO: Niskayuna		State: NY	Zip Code: 12309
1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation? If Yes, attach a narrative description of the intent of the proposed action and the environmental resources that may be affected in the municipality and proceed to Part 2. If no, continue to question 2.		NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/>
2. Does the proposed action require a permit, approval or funding from any other government Agency? If Yes, list agency(s) name and permit or approval:		NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/>
3. a. Total acreage of the site of the proposed action?		3.4 acres	
b. Total acreage to be physically disturbed?		.704 acres .93 if prior disturbance is included	
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor?		3.4 acres	
4. Check all land uses that occur on, are adjoining or near the proposed action:			
5. <input type="checkbox"/> Urban <input type="checkbox"/> Rural (non-agriculture) <input type="checkbox"/> Industrial <input type="checkbox"/> Commercial <input checked="" type="checkbox"/> Residential (suburban)			
<input type="checkbox"/> Forest <input type="checkbox"/> Agriculture <input type="checkbox"/> Aquatic <input type="checkbox"/> Other(Specify):			
<input type="checkbox"/> Parkland			

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

14. Identify the typical habitat types that occur on, or are likely to be found on the project site. Check all that apply: <input type="checkbox"/> Shoreline <input type="checkbox"/> Forest <input type="checkbox"/> Agricultural/grasslands <input type="checkbox"/> Early mid-successional <input type="checkbox"/> Wetland <input type="checkbox"/> Urban <input checked="" type="checkbox"/> Suburban		
15. Does the site of the proposed action contain any species of animal, or associated habitats, listed by the State or Federal government as threatened or endangered?	NO	YES
	<input checked="" type="checkbox"/>	<input type="checkbox"/>
16. Is the project site located in the 100-year flood plan?	NO	YES
	<input checked="" type="checkbox"/>	<input type="checkbox"/>
17. Will the proposed action create storm water discharge, either from point or non-point sources? If Yes, <div style="margin-left: 40px;"> a. Will storm water discharges flow to adjacent properties? b. Will storm water discharges be directed to established conveyance systems (runoff and storm drains)? </div> If Yes, briefly describe:	NO	YES
	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input checked="" type="checkbox"/>
All storm water generated at the site will be directed to established conveyance systems. The entire site disturbance, including existing and proposed structures, will be less than one acre.		
18. Does the proposed action include construction or other activities that would result in the impoundment of water or other liquids (e.g., retention pond, waste lagoon, dam)? If Yes, explain the purpose and size of the impoundment:	NO	YES
	<input checked="" type="checkbox"/>	<input type="checkbox"/>
19. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility? If Yes, describe:	NO	YES
	<input checked="" type="checkbox"/>	<input type="checkbox"/>
20. Has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) for hazardous waste? If Yes, describe:	NO	YES
	<input checked="" type="checkbox"/>	<input type="checkbox"/>
I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE Applicant/sponsor name: <u>2721 Balltown, LLC</u> Date: <u>10/17/22</u> Signature: <u>[Signature]</u> Title: <u>Project Attorney</u>		

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

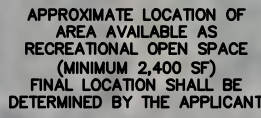


Source: USGS, Intermap, IHCREMENTP, HRCan, Esri Japan, METI, Esri China (Hong Kong), Esri Korea, Esri (Thailand), NGCC, (c) OpenStreetMap contributors, and the GIS User Community

Part 1 / Question 7 [Critical Environmental Area]	No
Part 1 / Question 12a [National or State Register of Historic Places or State Eligible Sites]	No
Part 1 / Question 12b [Archeological Sites]	Yes
Part 1 / Question 13a [Wetlands or Other Regulated Waterbodies]	Yes - Digital mapping information on local and federal wetlands and waterbodies is known to be incomplete. Refer to EAF Workbook.
Part 1 / Question 15 [Threatened or Endangered Animal]	No
Part 1 / Question 16 [100 Year Flood Plain]	No
Part 1 / Question 20 [Remediation Site]	No

ACOE WETLAND CLASSIFICATION:
SYSTEM (P): PALUSTRINE
CLASS (UB): UNCONSOLIDATED BOTTOM
WATER REGIME (H): PERMINATLY FLOODED
SPECIAL MODIFIER (h): DIKED/IMPOUNDED

REGULATIONS FOR R-P ZONE



ACOE WETLAND
AREA CLASSIFIED
AS PUBHh

PROPOSED 6-UNIT
78' X 48'
BUILDING

**PROPOSED
DUMPSTER**

12 SPACE
PROPOSED

EXISTING 6-U
BUILDING
FFE=362.3

AC GEN.

A horizontal graphic scale bar with tick marks at 20', 10', 0, and 20'.

DRAFT COPY
NOT FOR
CONSTRUCTION

MICHAEL I. GROFF, P.L.S.
NYS LICENSE NO. 49454

DRAFT COPY
NOT FOR
CONSTRUCTION

MARK C. JACOBSON, P.E.
NYS LICENSE NO. 081500

Insite Northeast
Engineering & Land Surveying, P.C.
2301 Western Avenue • Guilderland, NY 12084
518-867-3323 • www.InsiteNortheast.com

LAYOUT PLAN
2721 BALLTOWN ROAD

BALLTOWN ROAD
SRI 31 1 61

NEW YORK STATE

DATE:	11/07/22
JOB #:	20031
SCALE:	AS SHOWN
SURVEYED BY:	XXXX
DRAWN BY:	MJC
CHECKED BY:	MCJ

DWG. NO.

PLOT

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: Alexander Ritmo

RE: Property at 2721 Balltown Road

I, Alexander Ritmo, the (owner) (agent of the owner) of the property located at 2721 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

☒ One (1) copy of plot plans

☐ One (1) copy 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 _____

Signature of Owner (if different from Agent) AR AR

Telephone Number: 518-538-0250

Email Address: ritmoconstruction@gmail.com

TOWN OF NISKAYUNA ZONING BOARD OF APPEALS

Application Procedures

The following procedures are hereby adopted as the policy of the Building Department and the Zoning Board of Appeals of the Town of Niskayuna relative to the processing of appeals under the provisions of Article XI, Section 220-69 of the Zoning Ordinance of the Town of Niskayuna.

1. The Zoning Enforcement Officer or the Deputy Zoning Enforcement Officer will review all applications for development within the Town of Niskayuna for conformance with the Zoning Ordinance and will furnish the applicant with a report of such review. In the event that the proposed activity does not conform with the requirements of the Zoning Ordinance, the Zoning Enforcement Officer or the Deputy Zoning Enforcement Officer will issue a denial of application. This denial will include notice of the applicant's right to appeal the decision of the Zoning Enforcement Officer to the Zoning Board of Appeals (ZBA).

In addition, any aggrieved person, that is, a person not an applicant for development, may appeal a determination of the Zoning Enforcement Officer or Deputy Zoning Enforcement Officer concerning conformance with the zoning ordinance, (for example, issuance of a building permit without a need for a variance). Such appeal to the ZBA must be commenced within sixty (60) days of the determination of the Zoning Enforcement Officer or Deputy Zoning Enforcement Officer.

2. Application for appeal must be made on standard forms, available from the Town Building Department. This application must be filed with the Zoning Enforcement Officer and must be accompanied by the following information when applicable:

- (a) **Cover Sheet Checklist.**
- (b) **One (1) copy of the plot plans. Additional copies may be required if the plans can not be easily reproduced.**
- (c) **One (1) copy of construction plans, if applicable.**
- (d) **The appeal fee of one hundred dollars (\$100.00) for area variances for single-family residential premises or a fee of two hundred (\$200.00) for use variances or variances involving other than**

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.

See attached Cover Letter.

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:

See attached Cover Letter.

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

See attached Cover Letter.

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:

See attached Cover Letter.

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:

See attached Cover Letter.

USE VARIANCE - Before the ZBA can grant a use variance, State Law requires that, the applicant must demonstrate “unnecessary hardship”. Mere inconvenience and the fact that the land in question could be put to a more profitable use are insufficient reasons for granting a use variance. To prove unnecessary hardship, the applicant shall demonstrate to the ZBA that for each and every permitted use under the zoning regulations for the particular district where the property is located:

- (a) The applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence.

See attached Cover Letter.

- (b) The alleged hardship relating to the property in question is unique and does not apply to a substantial portion of the district or neighborhood.

See attached Cover Letter.

- (c) The requested use variance, if granted, will not alter the essential character of the neighborhood.

See attached Cover Letter.

- (d) The alleged hardship has not been self-created.

See attached Cover Letter.

WHITEMAN
OSTERMAN
& HANNA LLP

Attorneys at Law
www.woh.com

Robert A. Stout Jr.
Partner
518.487.7730 phone
RStout@woh.com

One Commerce Plaza
Albany, New York 12260
518.487.7600 phone
518.487.7777 fax

November 15, 2022

VIA EMAIL and HAND DELIVERY

Chairperson Frary
And Members of the Town of Niskayuna Zoning Board of Appeals
One Niskayuna Circle
Niskayuna, NY 12309

***Re: Partial Appeal of Building and Zoning Permit Denial dated October 31, 2022
Request for Modified Use Variance
Request for Area Variance***

2721 Balltown Road (the "Property")

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

We represent Alex Ritmo and 2721 Balltown, LLC, owner of the above referenced Property. The Property is located at 2721 Balltown Road (SBL: 31-1-61) in the Residential and Professional zoning district ("R-P District") under the Town of Niskayuna (the "Town") Zoning Ordinance (the "Zoning Ordinance"). You may recall that Mr. Ritmo (collectively with 2721 Balltown, LLC, referred to as the "Applicant") previously was granted a use variance to redevelop a mixed-use veterinary clinic/three-unit apartment building into a six-unit apartment building by the Zoning Board of Appeals (the "ZBA") in 2020. Please see enclosed, **Attachment A**, October 2020 ZBA Decision. Subsequently, Mr. Ritmo applied for and was granted site plan approval from the Planning Board, and the project was constructed pursuant to the approved plans.

Current Project

Mr. Ritmo now proposes to construct two (2) additional six (6)-unit apartment buildings along with an accessory garage and associated parking on the Property (the "Project"). A proposed layout plan is included at **Attachment B**. This plan has undergone several revisions as part of a robust Planning Board review in connection with the Planning Board's formulation of a recommendation to the ZBA on this matter. Should the ZBA grant the relief requested, the Planning Board's review will continue in the context of a Site Plan Amendment. As of the filing

of this submission, the plan is being further updated to reflect a “swapping” of the location of the proposed residential structure to the south with the proposed accessory garage to the north. Given that this recommendation was just received at the Planning Board meeting last evening, the plan has not yet been updated, but will be within the next several days. A supplemental submission will be made upon receipt of the updated plan. This modification is being made mindful of the fact that the several neighbors to the south are located closer than the sole neighbor to the north. We are scheduled to again appear before the Planning Board at its November 28th meeting, for further discussion on plan refinements.

The Project is being advanced, in part, because of a unique set of circumstances, including unanticipated issues encountered during the construction process of the initial project and unanticipated market forces, which have combined to render the initial project materially more costly than initially anticipated.

Overview of Relief Requested

Use Variance Overview

As this Board is aware, multiple family dwelling units are not listed as principal or special permitted uses in the R-P Zoning District. In order to provide the ZBA with as much information as possible, this application summarizes three available options to address this issue and the legal authority supportive of each option.

In brief, paragraph 1 below under the “use variance” heading attaches and incorporates our previous letter to the Planning Board attorney summarizing case law which stands for the proposition that once a use variance is granted, the contemplated use becomes conforming and a further use variance for the same use is not necessary. This perspective was rejected by the Planning Department in its October 31, 2022 Building and Zoning Permit Denial (the “Denial Letter”).

If the ZBA disagrees with our perspective on this issue, paragraph 2 summarizes how courts have treated requests to modify previously issued use variances. As detailed further below, courts have found that modifying previously issued use variances does not require the re-application of the four-part test of hardship necessary for obtaining a use variance in the first instance.

Finally, notwithstanding the case law cited in paragraph 2, paragraph 3 presents an analysis of the Applicant’s request in connection with the factors set forth at Town Law Section 267-b and Section 220-69(D)(2) of the Zoning Ordinance to establish that the applicable zoning regulations and restrictions have caused unnecessary hardship, in support of the Applicant’s request for two additional residential structures and an associated garage.

Area Variance Overview

We believe there are two area variance requests required (i) distance of building from property line and (ii) number of principal buildings on a lot.

Distance of Building From Property Line

While the Property is located in the R-P Zoning District, which generally contains a 25-foot setback requirement applicable to permitted uses in that zone (i.e. general business and nonmedical professional offices; professional medical offices), Section 220-26 of the Zoning Ordinance contains dimensional regulations applicable to Multiple-family dwellings (the “Supplementary Regulations”). Our client’s project satisfies all of these dimensional regulations (some by a large margin) with the exception of the “yard requirements”, which provide that no building shall be closer than 40 feet to the defined project property line¹. For example, the Dimensional Regulations require the following:

- The minimum size of the site shall be two acres.
 - The Property is approximately 3.39 acres.
- The maximum dwelling units per gross acre for condominiums shall be six. For all other dwelling units, the maximum units per gross acre shall be 10.
 - This limitation would yield approximately 33 units. The Applicant is proposing an additional 12 units, for a total of 18.
- The maximum building height shall be 35 feet.
 - The Applicant anticipates the dwelling structures will be a maximum height of 30 feet or less.
- The maximum number of stories shall be three.
 - The Applicant is proposing two story dwelling structures.
- Site Coverage. The maximum site coverage by all buildings and structures shall be 30% of the total area.
 - The Applicant is proposing site coverage by all buildings and structures less than or equal to 20% of the total area, consistent with the underlying requirements in the R-P Zoning District (i.e. a standard that is more strict than the Supplementary Regulations).
- Yard Requirements.
 - No building shall be closer than 70 feet to the street line of any street;
 - All proposed structures will comply with this;
 - No building shall be closer than 30 feet to the edge of the pavement of any interior access drive.
 - All proposed structures will comply with this;
 - No building shall be closer than 40 feet to the defined project property line.
 - The current plan provides for 25-foot setbacks, consistent with the underlying requirements of the R-P Zone. This is the subject of the first

¹ Zoning Code Section 220-26

area variance request discussed below.

This letter contains an analysis of the area variance balancing test below.

Number of Principal Buildings on a Lot

The Denial Letter, citing the definition of “Lot” contained at Section 220-4 of the Zoning Code, (which provides that only one principal use and one principal building are permitted on any “lot”) indicates that, *“As proposed, the construction of two new additional multiple-family dwelling units would constitute additional principal buildings and therefore does not comply with the zoning code. Therefore, a new use variance is required.”*

We do not dispute that a variance is required to address this issue. However, the Denial Letter incorrectly states that a use variance is required to address this issue. Because the relief sought is from a physical, rather than a use requirement, the appropriate relief is area variance relief.

The New York State Court of Appeals has held that a use variance should apply where the requested “use” is prohibited in the zoning district, while the area variance should apply where the “use” itself is permitted but does not meet a dimensional or physical requirement imposed by zoning regulations. See *Colin Realty Co., LLC v. Town of N. Hempstead*, 24 N.Y.3d 96 (N.Y. 2014) (holding that a request for off-street parking should be treated as an area variance as long as the purpose itself is permitted). Notwithstanding the “use” issue discussed at length in this letter, the issue of a “lot” allowing only one principal building is a dimensional or physical requirement. Accordingly, this letter evaluates the area variance criteria applicable to this request below.

Use Variance

1. The Previously Granted Use Variance Operates to Render the Applicant’s Proposed Use Conforming.

Given that the initial project was permitted by way of use variance, a threshold issue encountered is whether the construction of the (2) additional six (6)-unit apartment buildings would be permitted pursuant to the previously granted use variance. We believe that the law provides that once a use variance is granted, the contemplated use becomes conforming. Our client is proposing to increase the number of structures on the lot, not the nature of the use that was established by the previously granted use variance. We provided the Planning Board attorney with an analysis of this issue in our February 10, 2022 letter, included here as **Attachment C** for your reference.

The Planning Department disagrees with this perspective, as reflected in the Denial Letter, which, among other things, found that: “the construction of two new additional multiple-family dwelling units does not comply with the use variance granted at the 10/21/20 ZBA meeting; therefore, a new use variance is required”.

While we respectfully disagree with this conclusion and seek to appeal this aspect of the Denial Letter, our client nevertheless wishes to cooperate fully with the ZBA, and provide it with all of the information necessary to obtain the appropriate variance relief.

2. Request to Modify Previously Issued Use Variance

While the Planning Department's Denial Letter indicates that "a new use variance is required", the request is properly characterized as a request to modify the previously issued use variance. New York courts have consistently held that the four-factor variance test contained in Town Law Sec. 267-b (i.e. a showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship) does not apply to requests to modify previously issued use variances.

Our approach is informed by the decision of the New York State Supreme Court, Appellate Division, Second Department, in the matter of *Jackson v. Zoning Board of Appeals of City of Long Beach*². In the *Jackson* matter, the applicant was granted a use variance which permitted him to convert a two-family dwelling into a one-family dwelling with a dental office on the main level. *Id.* at 268. The use variance required the applicant to reside at the premises on a permanent basis. *Id.* Six years later, the applicant applied to the ZBA for elimination and/or modification of the condition. The Appellate Division found that obtaining elimination and/or modification did not require the applicant to again satisfy the four-part test of hardship necessary for obtaining a use variance. Rather, modification could be sought from the ZBA without the need to again establish the requisite hardship. *Id.*

Likewise, the Appellate Division, Third Department, has held that "a mere increase in the volume of business activity will not of itself require a use variance" and does not need to undergo the four-part variance test. *Red House Farms Inc. v. ZBA of East Greenbush*, 234 A.D.2d 770, 772 (3d Dep't 1996)(holding that the success of the applicant's business resulted in a need to expand his workforce and renovate the existing tenant house and to increase his employees in a manner that did not require the Zoning Board to review the application under the four-part variance test). *Id.*

The principles underlying the *Jackson* and *Red House Farms* decisions are consistent with New York State Town Law 267 and 267-b. A "use variance" is defined to be "... *the authorization by the zoning board of appeals for the use of land for a purpose which is otherwise not allowed or is prohibited by the applicable zoning regulations.*"³ (emphasis added). In this instance, Mr. Ritmo has previously been granted a use variance to allow an apartment building on property where such buildings are not permitted. The question before the ZBA is, given the Planning Department's view that the previously issued variance does not provide for the additional structures, may the variance be modified to allow such structures? In considering this question, the ZBA should note that while the additional structures would result in a greater density, they would not serve a distinct purpose (use) beyond that which was previously authorized. To require the Applicant to again make a showing that the applicable zoning regulations and restrictions have caused unnecessary hardship would be duplicative of the previous review given the only issue presented is the permissible density of structures on the lot, not the purpose for which the lot is being used.

3. Even if the Current Application Is Reviewed Pursuant to the Use Variance Criteria contained at Town Law Section 267-b and Section 220-69(D)(2) of the

² 270 A.D.2d 267 (March 6, 2000).

³ New York State Town Law Section 267(1)(a)

Town's Zoning Ordinance, the Current Application Satisfies the Use Variance Criteria.

While we think it unnecessary and contrary to the principles contained in the above referenced cases, in the interest of full cooperation with the ZBA and supplying as much information as possible, we include the below analysis of our client's request, pursuant to Town Law Section 267-b and Section 220-69(D)(2) of the Town's Zoning Ordinance.

1. *Reasonable Rate of Return*

The Applicant has demonstrated that the underlying zoning requirements as applied to the Property have caused unnecessary hardship. In light of unforeseen events subsequent to the issuance of the existing use variance, the existing six-unit apartment building has proven inadequate for realizing a reasonable return.

Following the ZBA's issuance of a Use Variance and commencement of construction, several unanticipated conditions required further investment by the Applicant. This included the uncovering of a water line that was determined to be the wrong size by the Town, requiring the installation of a new line at Applicant's expense and the discovery of a deteriorated cast iron sewer line requiring replacement. Additionally, market forces exacerbated the Applicant's expenses, including supply chain shortages and inflation, which collectively operated to increase project costs materially above that which was anticipated at the time of the issuance of the use variance.

Specifically, in developing the six-unit existing apartment building, the Applicant spent roughly \$145,000 more than anticipated. In order to complete the conversion to a six-unit building, the Applicant borrowed an additional \$130,000, which was not foreseen at the time of the initial variance issuance. Under the present circumstances, the Applicant estimates it will take an additional eight (8) years to recoup the expenditures.

2. *The Hardship is Unique*

The hardship is unique to the Applicant. The initial need for a use variance resulted from the circumstances surrounding the change of use of the Property from a mixed-use veterinary clinic/three-unit apartment building into a six-unit apartment building, consistent with the historic use of the Property and the residential nature of its neighboring properties. Given the scope of the initial application and use variance, as interpreted by the Planning Department in its Denial Letter, the need to modify the previously issued use variance uniquely affects this Property. Moreover, unique constructability issues (the need to replace a water and sewer lines at the Property) directly impacted the Applicant's ability to advance the initial project on its initially contemplated budget.

3. *The variance will not alter the essential character of the neighborhood*

Granting the use variance will not alter the essential character of the surrounding neighborhood. The Project is located in an established residential neighborhood and has already operated to enhance the aesthetic appeal of the Property. We are unaware of any complaints or adverse impacts associated with it.

Other alternative additional uses for the Property, which would not require a use variance, such as office buildings, medical offices, adult day care facilities or nursery schools and child day-cares would not be consistent with the use of the Property and adjacent properties. Indeed, the fact that the original use variance operated to return this parcel to residential use was an important consideration of the ZBA in its previous deliberations.

Granting the variance will benefit the neighborhood by providing additional housing to residents in the Town. During its consideration of the existing use variance, the Board discussed the workforce changes created by the Covid-19 pandemic. While we have thankfully moved beyond the acute stages of the pandemic, those workforce changes remain, and a greater proportion of the workforce is working from home at least partially compared to pre-pandemic times, creating less pressure on commercial and professional office development, and increased interest in residential uses.

4. *The Hardship is not self-created*

As discussed above, the Applicant has experienced a unique set of circumstances outside of its control, including constructability issues and market forces, that have ultimately resulted in its need to pursue the Project in order to realize a reasonable return. While the Applicant is making this request of his own volition, the fluctuations in the market and construction issues encountered are not the result of any action or inaction by the Applicant.

Area Variances

Relief From Section 220-26 of the Zoning Code – Distance of Building From Property Line

New York State Town Law Sec. 267-b(3) requires the ZBA, in deciding whether to grant an area variance, to undertake a “balancing test” that considers 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. An analysis of the balancing test factors follows:

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

The location of structures within the 40-foot setback contained in the Supplementary Regulations will not result in an undesirable change in the character of the neighborhood or a detriment to nearby properties. The underlying setback in the R-P District is 25 feet and thus the proposed setback is consistent with the existing character of the neighborhood. Moreover, the 40-foot setback provided for in the Supplementary Regulations contemplates a multi-family dwelling development materially more dense than the Applicant is proposing. As noted above, our client is proposing 12 additional units for a total of 18 units where the Supplementary Regulations provide for up to 33; buildings will be two stories in height where three stories are permitted and site coverage for buildings and structures will abide by the 20% requirement in the R-P Zoning District, rather than the 30% requirement allowed by the Supplementary Regulations. Thus, the need for

a 40-foot setback is minimized given the smaller scale development contemplated for this particular multi-family development than would otherwise be permitted.

It is also worth noting that if the Applicant were proposing a use that is permitted by the underlying zoning (i.e. general business and nonmedical professional offices; professional medical offices); it would have only been subject to the 25-foot setback requirement, even though the permitted uses are less compatible with the neighboring residential uses. The consistent nature of the residential uses should be considered by the Board as part of this review.

We also note that the Project has benefited from the Planning Board review to date. The Applicant has agreed to move its proposed residential structure along the southerly Property boundary to the northern Property boundary, as the neighboring residential use to the north is at a greater distance than those to the south. This will operate to preserve more of the tree line to the south. Moreover, the Applicant will provide additional landscaping and screening where possible along the Property lines to further buffer the Property from adjoining uses.

Finally, we note that the Applicant is not proposing any decks, terraces or patios extending from the rear of the residential structure to be located along the northerly property line. This will further guard against the possibility of any detriment to neighboring property owners.

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

N.Y.S Town Law § 267-b(3)(b)(2) requires the Board to consider “whether the benefit sought by the applicant can be achieved by some method, feasible for the Applicant to pursue, other than an area variance.” The benefit sought by the Applicant – installation of two additional apartment buildings on its lot containing a total of 12 units with accessory parking, cannot be achieved by some other method, given the requirements of the Supplementary Regulations and existing site constraints.

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

The requested Area Variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Please refer to our discussion above in the first element of the balancing test.

4) Whether the requested area variance is substantial.

Given the underlying setback requirement in the R-P Zoning District is 25 feet, and the Supplementary Regulations contemplate a multi-family dwelling development materially more dense than the Applicant is proposing, the request is not substantial.

The mitigation measures discussed in the first element of the balancing test above are also relevant to this consideration. In determining whether a variance request is substantial, the ZBA must examine the totality of the circumstances. *See Friends of Shawangunks, Inc. v. Zoning Bd. of Appeals of Town of Gardiner*, 56 A.D.3d 883, 886, 867 N.Y.S.2d 238, 241 (3d Dep’t

2008)(although variances were substantial the ZBA properly determined area variances will not have a substantial impact on the community.); *see also Schaller v. New Paltz Zoning Bd. of Appeals*, 108 A.D.3d 821, 824, 968 N.Y.S.2d 702, 705 (3rd Dep’t 2013)(upholding ZBA determination that an area variance was not substantial when compared to the nearby buildings).

5) Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting of the area variance.

While the Applicant is requesting the area variance as part of its effort to obtain a reasonable return on its investment in the property, and thus could be deemed to be self-created, we note that the fluctuations in the market and construction issues encountered are not the result of any action or inaction by the Applicant. We note that as provided for in Town Law § 267-b(3)(b)(5), this criteria does not necessarily preclude the granting of the area variance.

Relief From Section 220-4 of the Zoning Code – Number of Principal Buildings on a Lot

New York State Town Law Sec. 267-b(3) requires the ZBA, in deciding whether to grant an area variance, to undertake a “balancing test” that considers 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. An analysis of the balancing test factors follows:

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

The Project will not result in an undesirable change in the character of the neighborhood or a detriment to nearby properties. Although the Project is located in the R-P District, where multifamily dwellings are not permitted, the applicant was issued a use variance on October 21, 2020 establishing the right for a multi-family dwelling on the Property. The addition of two additional apartment buildings and an associated accessory garage is not anticipated to create an undesirable change in the neighborhood or a detriment to nearby properties. The fundamental residential use of the structures is consistent with the existing neighborhood. To mitigate any potential impacts from the additional structures, the Applicant has proposed including screening where possible. Moreover, a substantial portion of the rear of the property will remain undeveloped, as there is an existing pond and potential wetland buffer areas that are not proposed to be developed. The Project meets open space and coverage requirements. Please also see the mitigation measures discussed in the first element of the balancing test related to the setback variance above, as the same considerations are relevant here.

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

N.Y.S Town Law § 267-b(3)(b)(2) requires the Board to consider “whether the benefit sought by the applicant can be achieved by some method, feasible for the Applicant to pursue, other than an area variance.” The benefit sought by the Applicant – installation of two additional apartment buildings on its lot, cannot be achieved by some other method, given the language of the Zoning Code and the existence of a principal structure.

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

The requested Area Variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. As mentioned above, the Applicant intends to include screening where possible to shield neighboring property owners. Additionally, no development is proposed for any wetland area or buffer area.

As provided in the Layout Plan, the proposed Project will provide an excess of 4,800 square feet of open space, resulting in a building coverage that is under 20%. *See* Zoning Code § 220-26D. Additionally, pursuant to Zoning Code § 220-26(A)(2), the maximum dwelling units per gross acre for multiple family dwellings is ten (10). Mr. Ritmo is requesting 12 additional units (for a total of 18 units), rather than the approximately 33 units that are provided for by the Zoning Code.

4) Whether the requested area variance is substantial.

While the request for two additional principal buildings on one lot may be substantial in number, the area variance requested is not anticipated to have a substantial impact on the community for the reasons discussed above.

5) Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting of the area variance.

While the Applicant is requesting the area variance as part of its effort to obtain a reasonable return on its investment in the property, and thus could be deemed to be self-created, we note that the fluctuations in the market and construction issues encountered are not the result of any action or inaction by the Applicant. We note that as provided for in Town Law § 267-b(3)(b)(5), this criteria does not necessarily preclude the granting of the area variance.

Conclusion

We appreciate your attention to and thorough review of this variance application. The Project has been improved based on feedback received from the Planning Board. We look forward to discussing this matter further with you at an upcoming ZBA meeting and taking your comments and concerns into consideration as well.

Very truly yours,

Robert A. Stout, Jr.

Robert A. Stout Jr.

Enclosures

cc: Alex Ritmo
Insite Northeast Engineering & Land Surveying, P.C.

ATTACHMENT A

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

**FILED
TOWN OF NISKAYUNA**

October 23, 2020

OCT 23 2020

Alex Ritmo
2990 Furbeck Rd
Altamont, NY 12009

**MICHELE M MARTINELLI
TOWN CLERK**

Dear Mr. Ritmo,

At its regularly scheduled meeting held on October 21, 2020, the Zoning Board of Appeals ("the Board") reviewed the following case:

Appeal by Alex Ritmo for a variance from Section 220-52 (A) of the Zoning Ordinance of the Town of Niskayuna as it applies to the property at 2721 Balltown Road, Niskayuna, New York, located in the R-P: Residential and Professional Zoning District, to convert a preexisting non-conforming animal hospital / apartment building into a 6-unit apartment building. The Animal Hospital portion of the main building would be converted into three (3) additional apartment units, the existing three (3) units would remain, and the kennels and outbuildings associated with the Animal Hospital would be removed. Section 220-52 (A) states "No nonconforming use shall be changed to other than a conforming use for the district in which it is situated". As proposed, multiple-family dwelling units are not listed as Permitted (conforming) Uses in Schedule of Supplementary Regulations 220 Attachment 22 Schedule I-H R-P District. Therefore, a use variance is required.

It was the decision of the Board to grant the use variance as written.

The Board based its decision on the findings of fact set forth in the applicant's appeal and the discussion between the applicant (or the applicant's representative) and the Board members during the meeting. You can view a video of the meeting at https://www.youtube.com/watch?v=dSg2z9RWL_w.

The approval of a variance by the Board does not constitute authorization to proceed with the establishment on extension of any use, nor the construction of any structure. It shall authorize the filing of an application for permits with the Building Department on approval as required by Town Code.

Town Code Section A235-10(D) provides: "Unless otherwise specified, any order or decision of the Board for a permitted use shall expire if a building or occupancy permit for the use is not obtained by the applicant within 90 days from the date of the decision; however, the Board may extend this time an additional 90 days." As such, you must proceed with applying for a permit within 90 days of the date of this decision.

Sincerely,

Fred Goodman/LMS

Fred Goodman
Chairman

cc: Town Clerk
Building Department
ZBA File

ATTACHMENT B

11/7/2022 2:28 PM G:\2020 PROJECTS\20031 - 2721 BALLTOWN ROAD\02_CAD\AC-110 AS-BUILT JAKE WORKING.DWG



SITE STATISTICS:

APPLICANT: RITMO CONSTRUCTION
SITE ADDRESS: 2721 BALLTOWN ROAD
TOWN OF NISKAYUNA, NY
PARCEL NUMBER: 31.-1-61
TOTAL PARCEL AREA: 3.39± ACRES
EXISTING ZONING: R-P RESIDENTIAL & PROFESSIONAL
EXISTING USE: MULTIFAMILY RESIDENTIAL
6 DWELLING UNITS (11 TOTAL BR)
PROPOSED USE: MULTIFAMILY RESIDENTIAL
12 DWELLING UNITS (22 TOTAL BR)
EXISTING OPEN SPACE: EXCESS OF 2,400 SF
(400 SQFT PER DWELLING FOR A
MINIMUM OF 2,400 SF PURSUANT
TO ZONING ORDINANCE 220-26D)
PROPOSED OPEN SPACE: EXCESS OF 4,800 SF
(400 SQFT PER DWELLING FOR A
MINIMUM OF 4,800 SF PURSUANT
TO ZONING ORDINANCE 220-26D)

TOTAL DISTURBANCES:

EXISTING: 10,037 SF
PROPOSED: 30,669 SF
TOTAL: 40,706 SF

ACOE WETLAND CLASSIFICATION:

SYSTEM (P): PALUSTRINE
CLASS (UB): UNCONSOLIDATED BOTTOM
WATER REGIME (H): PERMINATLY FLOODED
SPECIAL MODIFIER (h): DIKED/IMPOUNDED

REGULATIONS FOR R-P ZONE							
MINIMUM LOT SIZE			MAXIMUM PERCENTAGE OF COVERAGE BY BUILDINGS AND STRUCTURES	MINIMUM YARD DIMENSIONS			
AREA	WIDTH (FEET)	DEPTH (FEET)		FRONT	1 SIDE	BOTH SIDES	REAR
1	100	150	20	30	25	50	25

APPROXIMATE LOCATION OF
AREA AVAILABLE AS
RECREATIONAL OPEN SPACE
(MINIMUM 2,400 SF)
FINAL LOCATION SHALL BE
DETERMINED BY THE APPLICANT

ACOE WETLAND
AREA CLASSIFIED
AS PUBHH

PROPOSED 6-UNIT
78' X 48'
BUILDING

PROPOSED DUMPSTER

12 SPACE
PROPOSED
GARAGE

PROPOSED 6-UNIT
78' X 48'
BUILDING

EXISTING 6-UNIT
BUILDING
FTE = 362.3
APPROX. 3,200 SF
ELEC.
MTR.
S.D.
AC
GEN.

20' 10' 0 20'

11/07/2022

1

NO.

11/07/2022

1

NO.

DATE

11/07/2022

DATE

DESCRIPTION

COMMENTS ADDRESSED

DESCRIPTION

REV

MCJ

REV

CHK

MCJ

CHK

DRAFT COPY
NOT FOR
CONSTRUCTION

DRAFT COPY
NOT FOR
CONSTRUCTION

INSITE NORTHEAST
Engineering & Land Surveying, P.C.
2301 Western Avenue • Guilderland, NY 12094
516-867-5322 • www.insitenortheast.com

LAYOUT PLAN
2721 BALLTOWN ROAD
SBL 31-1-161

TOWN OF NISKAYUNA

SCHENECTADY COUNTY

NEW YORK STATE

DATE: 11/07/22

JOB #: 20031

SCALE: AS SHOWN

SURVEYED BY: XXXX

DRAWN BY: MCJ

CHECKED BY: MCJ

DWG. NO.

PLOT

SHEET 1 OF 1

DRAWING COPYRIGHT © 2019
UNAUTHORIZED ALTERATION OR
ADDITION TO THIS MAP IS A VIOLATION
OF SECTION 7209, SUB-DIVISION 2 OF
THE NEW YORK STATE EDUCATION
LAW. ONLY COPIES FROM THE
ORIGINAL SIGNATURE IN RED INK, AND
THE EMBOSSED SEAL OF THE
PREPARED AND BE CONSIDERED TO
BE TRUE AND VALID COPIES.

MARK C. JACOBSON, P.E.
NYS LICENSE NO. 081500

MICHAEL I. GROFF, P.L.S.
NYS LICENSE NO. 49454

ATTACHMENT C

WHITEMAN
OSTERMAN
& HANNA LLP

Attorneys at Law
www.woh.com

One Commerce Plaza
Albany, New York 12260
518.487.7600 phone
518.487.7777 fax

Robert A. Stout Jr.
Partner
518.487.7730 phone
rstout@woh.com

February 10, 2022

Via Email Only

Alaina Finan, Esq.
Planning Board Attorney
Town of Niskayuna
One Niskayuna Circle
Niskayuna, NY 12309

Re: 2721 Balltown Road (the "Premises")

Dear Ms. Finan:

We represent Alex Ritmo and 2721 Balltown, LLC, owner of the above referenced Premises, located in the Town's Residential and Professional (R-P) District. At its meeting on October 23, 2020, the Zoning Board of Appeals granted a use variance in connection with the conversion of a pre-existing non-conforming animal hospital/apartment building into a 6-unit apartment building. The variance was required because multiple-family dwelling units are not listed as Permitted Uses in the Schedule of Supplementary Regulations 220 Attachment 22, Schedule I-H, R-P District. Please see enclosed **Attachment A**, Town of Niskayuna Zoning Board of Appeals letter dated October 23, 2020 (the "ZBA Approval").

Subsequently, Mr. Ritmo obtained Site Plan approval from the Planning Board by Resolution No. 2020-36, filed as of December 15, 2020. Please see enclosed **Attachment B**. Given the success of the approved project, Mr. Ritmo is currently exploring his options and is considering seeking approval from the Town for an additional multiple-family dwelling unit on the Premises, which is an approximately 3.4 acre parcel. While any such proposal would be subject

to Site Plan review and approval by the Planning Board, we seek to initially confirm that no additional use variance is required from the Zoning Board of Appeals related to any potential extension of the previously approved use.

In making such request, we note that the Appellate Division, Second Department has observed that *“a use for which a use variance has been granted is a conforming use and, as a result, no further use variance is required for its expansion, unlike a use that is permitted to continue only by virtue of its prior lawful, nonconforming status...”* Scarsdale Shopping Center Associates, LLC v. Board of Appeals on Zoning for the City of New Rochelle 64 A.D.3d 604 at 606. The Appellate Division went on to point out that: *“[t]he use of the property remains subject to the terms of the use variance ... and, where the Board of Appeals has previously determined that the development is limited only to a certain extent by the terms of the variance, the Board of Appeals is not free to later disregard that determination ...”* Id. See also Kogel v. Zoning Board of Appeals of Town of Huntington, 58 A.D. 3d 630 (Second Dept. 2009).

In the present instance, the ZBA Approval recites the nature of the underlying application that required a use variance, namely, the applicant’s request to convert a pre-existing non-conforming animal hospital/apartment building into a 6-unit apartment building. The ZBA Approval contains no limiting language, other than providing that a building/occupancy permit must be obtained within 90 days and that: *“The approval of a variance by the Board does not constitute authorization to proceed with the establishment on¹ extension of any use, nor the construction of any structure. It shall authorize the filing of an application for permits with the Building Department on approval as required by Town Code.”* The effect of this is to require that prior to proceeding with or extending the use, the applicant need obtain the requisite building and other permits required.

Prior to our client investing in preparing the necessary site plan/building permit applications, we seek to confirm that the Town will not require an additional use variance, should our client submit a proposed site plan related to the extension of the previously approved use. We believe requiring a use variance would be inconstant with how courts have handled the issue.

Are you available for a brief conversation to discuss your perspective on the next appropriate steps to have this request be considered?

Very truly yours,
Rob Stout
Robert A. Stout Jr.

¹ We believe the intended language was “or” extension of any use.

ATTACHMENT A

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

**FILED
TOWN OF NISKAYUNA**

October 23, 2020

OCT 23 2020

Alex Ritmo
2990 Furbeck Rd
Altamont, NY 12009

**MICHELE M MARTINELLI
TOWN CLERK**

Dear Mr. Ritmo,

At its regularly scheduled meeting held on October 21, 2020, the Zoning Board of Appeals ("the Board") reviewed the following case:

Appeal by Alex Ritmo for a variance from Section 220-52 (A) of the Zoning Ordinance of the Town of Niskayuna as it applies to the property at 2721 Balltown Road, Niskayuna, New York, located in the R-P: Residential and Professional Zoning District, to convert a preexisting non-conforming animal hospital / apartment building into a 6-unit apartment building. The Animal Hospital portion of the main building would be converted into three (3) additional apartment units, the existing three (3) units would remain, and the kennels and outbuildings associated with the Animal Hospital would be removed. Section 220-52 (A) states "No nonconforming use shall be changed to other than a conforming use for the district in which it is situated". As proposed, multiple-family dwelling units are not listed as Permitted (conforming) Uses in Schedule of Supplementary Regulations 220 Attachment 22 Schedule I-H R-P District. Therefore, a use variance is required.

It was the decision of the Board to grant the use variance as written.

The Board based its decision on the findings of fact set forth in the applicant's appeal and the discussion between the applicant (or the applicant's representative) and the Board members during the meeting. You can view a video of the meeting at https://www.youtube.com/watch?v=dSg2z9RWL_w.

The approval of a variance by the Board does not constitute authorization to proceed with the establishment on extension of any use, nor the construction of any structure. It shall authorize the filing of an application for permits with the Building Department on approval as required by Town Code.

Town Code Section A235-10(D) provides: "Unless otherwise specified, any order or decision of the Board for a permitted use shall expire if a building or occupancy permit for the use is not obtained by the applicant within 90 days from the date of the decision; however, the Board may extend this time an additional 90 days." As such, you must proceed with applying for a permit within 90 days of the date of this decision.

Sincerely,

Fred Goodman/LMS

Fred Goodman
Chairman

cc: Town Clerk
Building Department
ZBA File

ATTACHMENT B

AT A REGULAR MEETING OF THE PLANNING BOARD AND ZONING COMMISSION OF THE TOWN OF NISKAYUNA DULY CALLED AND HELD ON THE 14TH DAY OF DECEMBER 2020 AT 7:00 P.M., THE FOLLOWING MEMBERS WERE PRESENT BY VIDEOCONFERENCE, PURSUANT TO NYS EXECUTIVE ORDER 202.1:

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**

DEC 15 2020

**MICHELE M MARTINELLI
TOWN CLERK**

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

The meeting was duly called to order by the Chairman.

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

WHEREAS, Alex Ritmo, owner of Ritmo Construction, has made an application to the Planning Board for site plan review with a use variance for a 6 unit multi-family dwelling unit apartment at 2721 Balltown Road, Niskayuna, and

WHEREAS, the site plan is shown on a drawing entitled "Proposed Layout Plan 2721 Balltown Road" dated 11/20/20 authored by Institute Northeast Engineering and Land Surveying, P.C., and

WHEREAS, the zoning classification of the property is R-P Residential and Professional zoning district, and

WHEREAS, the previous owner / use, Aqueduct Animal Hospital was a registered nonconforming use at this address, and

WHEREAS, per Town Zoning Code Section 220-10 District Regulations K R-P Residential and Professional the proposed 6 unit multi-family dwelling unit apartment building is neither a (1) permitted principal use, (2) permitted accessory use or (3) special principal use it is therefore nonconforming, and

WHEREAS, the site plan application was denied by the Planning Board and Zoning Commission by reason of Article IX. Nonconforming Uses and Structures Section 220-52 Changes in nonconforming uses (A) which states "No nonconforming use shall be changed to other than a conforming use for the district in which it is situated". Schedule of Supplementary Regulations 220 Attachment 22 Schedule I-H R-P District does not include multiple-family dwelling units as a Permitted (conforming) Use, and

WHEREAS, Mr. Ritmo submitted an appeal to the Niskayuna Zoning Board of Appeals (ZBA) and during their regularly scheduled meeting on 10/21/20 was granted a use variance, and

WHEREAS, a zoning coordination referral was sent to the Schenectady County Department of Economic Development & Planning on September 25, 2020 and they responded that they deferred to local consideration, and

WHEREAS, Mr. Robert E. Rice Jr., P.E., Regional Program and Planning Manager for the New York State Department of Transportation (NYSDOT), contacted Ms. Robertson, Town Planner, in a letter dated December 2, 2020 regarding SEQR: 2020.1-6.013 Site Plan Application 2721 Balltown Road, Town of Niskayuna, Schenectady County. Mr. Rice's letter included the following four points.

1. The NYSDOT acknowledges the Town of Niskayuna as Lead Agency for environmental review. NYSDOT believes we are an involved agency under SEQR.
2. A NYSDOT Highway Work Permit will be necessary...driveway shall be improved to meet commercial highway standards.
3. Access shall be limited to one driveway. NYSDOT would require removal of driveway to the south.
4. A PERM 32 NYSDOT permit application will be required for any utility work or connection needed in the NYSDOT right-of-way.

WHEREAS, the Conservation Advisory Council (CAC) reviewed EAF 2020-08 for the project during their 11/4/20 meeting and voted to recommend a negative declaration with comments, and

WHEREAS, the Planning Board referred this application to the Town's Superintendent of Water, Sewer and Engineering, the Fire District Chief and the Chief of Police and there were no objections to the proposal, and

WHEREAS the Planning Board, acting in accordance with the State Environmental Quality Review (SEQR) regulations and local law, has contacted all involved agencies, and they have concurred with the Planning Board that it should assume the position of lead agency for site plan review of this project.

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

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 Town Planner to file a negative SEQR declaration for the site plan:

RESOLVED, that the Planning Board and Zoning Commission finds the above referenced site plan meets the requirements of the Zoning Code, and therefore, hereby approves this site plan and tenant change with the following conditions.

1. The final parking lot configuration and curb cut onto Balltown Road shall be provided to the Planning Office for review and approval at a future date, and such configuration shall comply with the points identified in the letter authored by Mr. Robert E. Rice Jr, P.E., Regional Program and Planning Manager, of the New York State Department of Transportation dated December 2, 2020.
2. Mr. Ritmo will work with the Architectural Review Board (ARB) on façade upgrades and building modifications at 2721 Balltown Road to give it a more residential feel in harmony with the neighboring properties in this predominantly residential zoning district.

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 DEPARTMENT

One Niskayuna Circle
Niskayuna, New York 12309-4381

Laura Robertson, AICP
4530
Town Planner
4592

Phone: (518) 386-

Fax: (518) 386-

lrobertson@niskayuna.org

BUILDING AND ZONING PERMIT DENIAL

Address: 2721 Balltown Road
31.-1-61

Application Date: October 31, 2022

=====

Alex Ritmo
2990 Furbeck Road
Altamont, NY 12009

Re: 2721 Balltown Rd., R-P Residential and Professional Zoning District, 3.40 acres.

Dear Mr. Ritmo:

You are hereby notified, as required by Section 220-67 F of the Zoning Ordinance of the Town of Niskayuna, that your site plan application to construct two (2) additional six (6)-unit apartment buildings along with an accessory garage structure and associated parking at 2721 Balltown Road has been denied for the following reasons.

1. Failure to comply with the use variance granted by the ZBA on 10/21/20

The current 6-unit multiple-family dwelling building was granted a use variance by the Niskayuna Zoning Board of Appeals (ZBA) at their regularly scheduled meeting on 10/21/20. In his approval letter dated 10/23/20 Mr. Fred Goodman, Chairman of the ZBA, states "the Animal Hospital portion of the main building would be converted into three (3) additional apartment units, the existing three (3) units would remain and the kennels and outbuildings associated with the Animal Hospital would be removed". As proposed, the construction of two new additional multiple-family dwelling units does not comply with the use variance granted at the 10/21/20 ZBA meeting; therefore, a new use variance is required.

2. Failure to comply with Section 220-4 of the Niskayuna Zoning Code

Section 220-4 states: "LOT - A portion or parcel of land considered as a unit devoted to a certain use. A "lot" is occupied or is to be occupied by one principal use in one principal building, together with any accessory buildings or uses permitted by this chapter. Only one principal use and one principal building are permitted on any "lot". A "lot" may or may not be the land shown as a "lot" on a duly recorded plat". As proposed, the construction of two new additional

multiple-family dwelling units would constitute additional principal buildings and therefore does not comply with the zoning code. Therefore, a new use variance is required.

3. Failure to comply with Section 220-10 (K) of the Niskayuna Zoning Code

Section 220-10 District regulations states: "The principal uses and accessory uses permitted and those uses allowed upon granting of a special permit in each district are set forth in this section as follows". Section 220-10 (K) lists the principal, accessory and special permit uses for the R-P zoning district. As proposed, multiple-family dwelling units are not listed as principal or special permitted uses. Therefore, a new use variance is required.

Under the provisions of Section 220-69 of the Zoning Ordinance of the Town of Niskayuna, you may appeal this decision to the Zoning Board of Appeals and the undersigned within 60 days.

10/31/2022

Date



Deputy Zoning Enforcement Officer

cc: Thomas Cannizzo, Building Inspector
Kenneth Hassett, Building Inspector
Alaina Finan, Deputy Town Attorney

WHITEMAN
OSTERMAN
& HANNA LLP

Attorneys at Law
www.woh.com

One Commerce Plaza
Albany, New York 12260
518.487.7600 phone
518.487.7777 fax
RStout@woh.com

Robert A. Stout Jr.
Partner
518.487.7730 phone

October 12, 2022

VIA EMAIL & HAND DELIVERY

Chairman Walsh and
Members of the Planning Board
Town of Niskayuna
One Niskayuna Circle
Niskayuna, NY 12309

***Re: 2721 Balltown, LLC/Alexander Ritmo – Site Plan
2721 Balltown Road (SBL: 31-1-61)(the “Premises”)***

Dear Chairman Walsh and Members of the Planning Board:

We represent Alex Ritmo and 2721 Balltown, LLC, owner of the above referenced Premises (collectively with 2721 Balltown, LLC, referred to as the “Applicant”). The Premises are located in the Residential and Professional zoning district (“R-P District”) under the Town of Niskayuna (the “Town”) Zoning Ordinance (the “Zoning Ordinance”). The Applicant is requesting Site Plan Approval to construct two 6-unit apartment buildings on the Project Site with related off-street parking and infrastructure (the “Project”).

By letter dated October 2nd, 2022, our client submitted an Application for Building and Zoning Permit with respect to the Project (the “Permit Application”). The Permit Application is included here as **Attachment A** for your reference. As set forth in the Permit Application, in 2020, the Town’s Zoning Board of Appeals (the “ZBA”) issued the Applicant a use variance for the Premises in connection with the conversion of a pre-existing non-conforming animal hospital/apartment building into a 6-unit apartment building. Subsequently, the Planning Board issued Site Plan Approval for the same. The use variance issued by the ZBA and Site Plan Approval issued by the Planning Board are included with the enclosed Permit Application.

The project as initially contemplated in 2020 has been completed and the building occupied. The Applicant is now requesting an amended Site Plan Approval to construct two additional 6-unit apartment buildings on the Premises, along with an accessory garage and associated parking. The Project includes two buildings with 6-units each, inclusive of 11 bedrooms per building, along with twelve (12) additional parking spaces.

We believe the law provides that once a use variance has been granted, the contemplated use becomes a conforming use and, as a result, no further use variance is required for its expansion, provided an amended Site Plan approval is obtained from this board. In furtherance of this perspective, we submitted a letter to the Planning Board Attorney on February 10, 2022 containing reference to relevant case law. That letter is also included in the attached Permit Application.

We respectfully request to be placed on the next available agenda of the Planning Board. To that end, we are enclosing:

- 1) Planning Board Site Plan Application (**Attachment B**);
- 2) Short Environmental Assessment Form (**Attachment C**);
- 3) Layout Plan, prepared by Insite Northeast Engineering & Land Surveying, P.C. (**Attachment D**); and
- 4) Our Firm's Check in the amount of \$200, representing the Site Plan Application Fee.

Further, we are including 11 additional copies of the Layout Plan and five additional copies of the SEAF for the Board's convenience.

We look forward to meeting with and obtaining initial feedback from the Planning Board. Upon receipt of such feedback, the Applicant will provide any additional information requested by the Planning Board.

Please do not hesitate to contact me with any questions or concerns at (518) 487-7730 or rstout@woh.com.

Very truly yours,

/s/ *Robert A. Stout*

Robert A. Stout

ATTACHMENT A

One Commerce Plaza
Albany, New York 12260
518.487.7600 phone
518.487.7777 fax

Robert A. Stout Jr.
Partner
518.487.7730 phone
RStout@woh.com

October 2, 2022

VIA EMAIL

Thomas Cannizzo/Kenneth Hassett, Building Inspectors
One Niskayuna Circle
Niskayuna, New York 12309

***Re: 2712 Balltown, LLC/Alexander Ritmo – Site Plan
Property: 2721 Balltown Road (SBL: 31-1-61) (the “Premises”)
Application for Building and Zoning Permit***

Dear Mr Cannizzo and Mr. Hassett:

We represent Alex Ritmo and 2721 Balltown, LLC, owner of the above referenced Premises (Mr. Ritmo and 2712 Balltown, LLC are collectively referred to as the “Applicant”). The Premises is located in the Residential and Professional zoning district (“R-P District”) as set forth in the Town of Niskayuna (the “Town”) Zoning Ordinance (the “Zoning Ordinance”). In 2020, the Town’s Zoning Board of Appeals (the “ZBA”) issued the Applicant a use variance for the Premises in connection with the conversion of a pre-existing non-conforming animal hospital/apartment building into a 6-unit apartment building. Subsequently, the Planning Board issued Site Plan Approval for the same. The use variance issued by the ZBA and Site Plan Approval issued by the Planning Board are included here as **Attachments A and B**, respectively.

The project as initially contemplated in 2020 has been completed and the building occupied. The Applicant is now requesting an amended Site Plan Approval to construct two additional 6-unit apartment buildings on the Premises, along with an accessory garage and associated parking (the “Amended Project”). The Amended Project includes two buildings with 6-units each, inclusive of 11 bedrooms per building, along with twelve (12) additional parking spaces. A proposed layout plan is included as **Attachment C**.

We believe the law provides that once a use variance has been granted, the contemplated use becomes a conforming use and, as a result, no further use variance is required for its expansion, provided an amended Site Plan approval is obtained. In furtherance of this perspective, we

submitted a letter to the Planning Board Attorney on February 10, 2022 containing reference to relevant case law. Please see **Attachment D** (without attachments). As a threshold issue, we are asking to confirm that our client's application may be advanced without further review by the ZBA. We believe the case law supports such an approach. However, we understand that it is generally the Town's preference to subject physical expansions of projects that have previously received a use variance to additional ZBA review pursuant to use variance criteria, in addition to also requiring Site Plan Review. If that is the case, we believe we can make a showing to the ZBA that a unique set of circumstances, including unanticipated issues encountered during the construction process and unanticipated market forces, including rampant inflation, have combined to prevent the Applicant from realizing a reasonable rate of return on his investment for the initial project.

In sum, the Applicant is proposing the additional units to further assist in recouping his initial investment and realize a reasonable return in connection with the already issued use variance. Since the Amended Project is in its early stages of development, and because we would like some clarity from your office and the Planning Board as to whether an additional use variance is required prior making an additional investment in the Amended Project, our client has not yet prepared a full set of site/construction plans.

We look forward to receiving feedback from the Town's Building Department and Planning Board, and providing whatever additional information the Town believes appropriate. To that end, we have enclosed an Application for Building and Zoning Permit, included as **Attachment E**, which we are also submitting in quadruplicate hard copy to your office, as provided for in Section 220-67 of the Zoning Ordinance.

Please do not hesitate to contact me with any questions or concerns at (518) 487-7730 or rstout@woh.com.

Very truly yours,
Rob Stout
Robert A. Stout

Enclosures

cc: Laura Robertson, Town Planner
Clark Henry, Assistant Town Planner

Attachment A

Niskayuna Zoning Board of Appeals

Use Variance Approval Letter dated October 23, 2020

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

**FILED
TOWN OF NISKAYUNA**

October 23, 2020

OCT 23 2020

Alex Ritmo
2990 Furbeck Rd
Altamont, NY 12009

**MICHELE M MARTINELLI
TOWN CLERK**

Dear Mr. Ritmo,

At its regularly scheduled meeting held on October 21, 2020, the Zoning Board of Appeals ("the Board") reviewed the following case:

Appeal by Alex Ritmo for a variance from Section 220-52 (A) of the Zoning Ordinance of the Town of Niskayuna as it applies to the property at 2721 Balltown Road, Niskayuna, New York, located in the R-P: Residential and Professional Zoning District, to convert a preexisting non-conforming animal hospital / apartment building into a 6-unit apartment building. The Animal Hospital portion of the main building would be converted into three (3) additional apartment units, the existing three (3) units would remain, and the kennels and outbuildings associated with the Animal Hospital would be removed. Section 220-52 (A) states "No nonconforming use shall be changed to other than a conforming use for the district in which it is situated". As proposed, multiple-family dwelling units are not listed as Permitted (conforming) Uses in Schedule of Supplementary Regulations 220 Attachment 22 Schedule I-H R-P District. Therefore, a use variance is required.

It was the decision of the Board to grant the use variance as written.

The Board based its decision on the findings of fact set forth in the applicant's appeal and the discussion between the applicant (or the applicant's representative) and the Board members during the meeting. You can view a video of the meeting at https://www.youtube.com/watch?v=dSg2z9RWL_w.

The approval of a variance by the Board does not constitute authorization to proceed with the establishment on extension of any use, nor the construction of any structure. It shall authorize the filing of an application for permits with the Building Department on approval as required by Town Code.

Town Code Section A235-10(D) provides: "Unless otherwise specified, any order or decision of the Board for a permitted use shall expire if a building or occupancy permit for the use is not obtained by the applicant within 90 days from the date of the decision; however, the Board may extend this time an additional 90 days." As such, you must proceed with applying for a permit within 90 days of the date of this decision.

Sincerely,

Fred Goodman/LMS

Fred Goodman
Chairman

cc: Town Clerk
Building Department
ZBA File

Attachment B

Niskayuna Planning Board and Zoning Commission

Site Plan Resolution dated December 14, 2020

AT A REGULAR MEETING OF THE PLANNING BOARD AND ZONING COMMISSION OF THE TOWN OF NISKAYUNA DULY CALLED AND HELD ON THE 14TH DAY OF DECEMBER 2020 AT 7:00 P.M., THE FOLLOWING MEMBERS WERE PRESENT BY VIDEOCONFERENCE, PURSUANT TO NYS EXECUTIVE ORDER 202.1:

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

DEC 15 2020

MICHELE M MARTINELLI
TOWN CLERK

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

The meeting was duly called to order by the Chairman.

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

WHEREAS, Alex Ritmo, owner of Ritmo Construction, has made an application to the Planning Board for site plan review with a use variance for a 6 unit multi-family dwelling unit apartment at 2721 Balltown Road, Niskayuna, and

WHEREAS, the site plan is shown on a drawing entitled "Proposed Layout Plan 2721 Balltown Road" dated 11/20/20 authored by Institute Northeast Engineering and Land Surveying, P.C., and

WHEREAS, the zoning classification of the property is R-P Residential and Professional zoning district, and

WHEREAS, the previous owner / use, Aqueduct Animal Hospital was a registered nonconforming use at this address, and

WHEREAS, per Town Zoning Code Section 220-10 District Regulations K R-P Residential and Professional the proposed 6 unit multi-family dwelling unit apartment building is neither a (1) permitted principal use, (2) permitted accessory use or (3) special principal use it is therefore nonconforming, and

WHEREAS, the site plan application was denied by the Planning Board and Zoning Commission by reason of Article IX. Nonconforming Uses and Structures Section 220-52 Changes in nonconforming uses (A) which states "No nonconforming use shall be changed to other than a conforming use for the district in which it is situated". Schedule of Supplementary Regulations 220 Attachment 22 Schedule I-H R-P District does not include multiple-family dwelling units as a Permitted (conforming) Use, and

WHEREAS, Mr. Ritmo submitted an appeal to the Niskayuna Zoning Board of Appeals (ZBA) and during their regularly scheduled meeting on 10/21/20 was granted a use variance, and

WHEREAS, a zoning coordination referral was sent to the Schenectady County Department of Economic Development & Planning on September 25, 2020 and they responded that they deferred to local consideration, and

WHEREAS, Mr. Robert E. Rice Jr., P.E., Regional Program and Planning Manager for the New York State Department of Transportation (NYSDOT), contacted Ms. Robertson, Town Planner, in a letter dated December 2, 2020 regarding SEQR: 2020.1-6.013 Site Plan Application 2721 Balltown Road, Town of Niskayuna, Schenectady County. Mr. Rice's letter included the following four points.

1. The NYSDOT acknowledges the Town of Niskayuna as Lead Agency for environmental review. NYSDOT believes we are an involved agency under SEQR.
2. A NYSDOT Highway Work Permit will be necessary...driveway shall be improved to meet commercial highway standards.
3. Access shall be limited to one driveway. NYSDOT would require removal of driveway to the south.
4. A PERM 32 NYSDOT permit application will be required for any utility work or connection needed in the NYSDOT right-of-way.

WHEREAS, the Conservation Advisory Council (CAC) reviewed EAF 2020-08 for the project during their 11/4/20 meeting and voted to recommend a negative declaration with comments, and

WHEREAS, the Planning Board referred this application to the Town's Superintendent of Water, Sewer and Engineering, the Fire District Chief and the Chief of Police and there were no objections to the proposal, and

WHEREAS the Planning Board, acting in accordance with the State Environmental Quality Review (SEQR) regulations and local law, has contacted all involved agencies, and they have concurred with the Planning Board that it should assume the position of lead agency for site plan review of this project.

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

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 Town Planner to file a negative SEQR declaration for the site plan:

RESOLVED, that the Planning Board and Zoning Commission finds the above referenced site plan meets the requirements of the Zoning Code, and therefore, hereby approves this site plan and tenant change with the following conditions.

1. The final parking lot configuration and curb cut onto Balltown Road shall be provided to the Planning Office for review and approval at a future date, and such configuration shall comply with the points identified in the letter authored by Mr. Robert E. Rice Jr, P.E., Regional Program and Planning Manager, of the New York State Department of Transportation dated December 2, 2020.
2. Mr. Ritmo will work with the Architectural Review Board (ARB) on façade upgrades and building modifications at 2721 Balltown Road to give it a more residential feel in harmony with the neighboring properties in this predominantly residential zoning district.

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.

Attachment C

**Layout Plan prepared by Insite Northeast Engineering and Land Surveying dated September 21,
2022**

Attachment D

Letter to Planning Board Attorney, Alaina Finan, Esq., dated February 10, 2022

WHITEMAN
OSTERMAN
& HANNA LLP

Attorneys at Law
www.woh.com

One Commerce Plaza
Albany, New York 12260
518.487.7600 phone
518.487.7777 fax

Robert A. Stout Jr.
Partner
518.487.7730 phone
rstout@woh.com

February 10, 2022

Via Email Only

Alaina Finan, Esq.
Planning Board Attorney
Town of Niskayuna
One Niskayuna Circle
Niskayuna, NY 12309

Re: 2721 Balltown Road (the "Premises")

Dear Ms. Finan:

We represent Alex Ritmo and 2721 Balltown, LLC, owner of the above referenced Premises, located in the Town's Residential and Professional (R-P) District. At its meeting on October 23, 2020, the Zoning Board of Appeals granted a use variance in connection with the conversion of a pre-existing non-conforming animal hospital/apartment building into a 6-unit apartment building. The variance was required because multiple-family dwelling units are not listed as Permitted Uses in the Schedule of Supplementary Regulations 220 Attachment 22, Schedule I-H, R-P District. Please see enclosed **Attachment A**, Town of Niskayuna Zoning Board of Appeals letter dated October 23, 2020 (the "ZBA Approval").

Subsequently, Mr. Ritmo obtained Site Plan approval from the Planning Board by Resolution No. 2020-36, filed as of December 15, 2020. Please see enclosed **Attachment B**. Given the success of the approved project, Mr. Ritmo is currently exploring his options and is considering seeking approval from the Town for an additional multiple-family dwelling unit on the Premises, which is an approximately 3.4 acre parcel. While any such proposal would be subject

to Site Plan review and approval by the Planning Board, we seek to initially confirm that no additional use variance is required from the Zoning Board of Appeals related to any potential extension of the previously approved use.

In making such request, we note that the Appellate Division, Second Department has observed that “*a use for which a use variance has been granted is a conforming use and, as a result, no further use variance is required for its expansion, unlike a use that is permitted to continue only by virtue of its prior lawful, nonconforming status...*” *Scarsdale Shopping Center Associates, LLC v. Board of Appeals on Zoning for the City of New Rochelle* 64 A.D.3d 604 at 606. The Appellate Division went on to point out that: “*[t]he use of the property remains subject to the terms of the use variance ... and, where the Board of Appeals has previously determined that the development is limited only to a certain extent by the terms of the variance, the Board of Appeals is not free to later disregard that determination ...*” *Id.* See also *Kogel v. Zoning Board of Appeals of Town of Huntington*, 58 A.D. 3d 630 (Second Dept. 2009).

In the present instance, the ZBA Approval recites the nature of the underlying application that required a use variance, namely, the applicant’s request to convert a pre-existing non-conforming animal hospital/apartment building into a 6-unit apartment building. The ZBA Approval contains no limiting language, other than providing that a building/occupancy permit must be obtained within 90 days and that: “*The approval of a variance by the Board does not constitute authorization to proceed with the establishment on¹ extension of any use, nor the construction of any structure. It shall authorize the filing of an application for permits with the Building Department on approval as required by Town Code.*” The effect of this is to require that prior to proceeding with or extending the use, the applicant need obtain the requisite building and other permits required.

Prior to our client investing in preparing the necessary site plan/building permit applications, we seek to confirm that the Town will not require an additional use variance, should our client submit a proposed site plan related to the extension of the previously approved use. We believe requiring a use variance would be inconstant with how courts have handled the issue.

Are you available for a brief conversation to discuss your perspective on the next appropriate steps to have this request be considered?

Very truly yours,

Rob Stout

Robert A. Stout Jr.

¹ We believe the intended language was “or” extension of any use.

Attachment E

Building Permit Application Form



TOWN OF NISKAYUNA

APPLICATION FOR BUILDING AND ZONING PERMIT

One Niskayuna Circle

Niskayuna, New York 12309

Phone: 518-386-4522 Fax: 518-386-4592

Email: building@niskayuna.org

Application # _____

APPLICATION IS HEREBY MADE to the Town of Niskayuna Building Department for the issuance of a building and zoning permit pursuant to Town Code and the New York State Uniform Fire Prevention and Building Code. Application is hereby made for the construction of new buildings and accessory structures, additions and alterations to all buildings and structures, signage installation, drainage, excavation, fill and grading work, and replacement, removal and demolition projects, as herein described. The Applicant or Owner agrees to comply with all applicable laws, ordinances, regulations and all conditions expressed on this application which are part of these requirements, and will also allow or arrange for inspectors to enter the premises for inspections.

BUILDING SITE ADDRESS 2721 Balltown Road

DESCRIBE WORK APPLIED FOR Applicant is proposing to construct two (2) additional six-unit apartment buildings on the Property.

ESTIMATED VALUE OF ALL WORK (labor and materials): _____

TOTAL \$ _____

Please submit three sets of plans with this application.

APPLICANT Alex Ritmo/2721 Balltown, LLC

DAY PHONE (518) 538-0250

CHECK ONE:



CONTRACTOR



HOMEOWNER



OTHER (explain) Owner/Contractor

ADDRESS 2721 Balltown Road

CITY Niskayuna

STATE NY

ZIP 12309

EMAIL ADDRESS ritmoconstruction@gmail.com>

CONTRACTOR _____

DAY PHONE _____

ADDRESS _____

CITY _____

STATE _____

ZIP _____

Note: Proof of insurance is required. Please review our **Insurance Requirements** document to ensure contractors and homeowners have filed all appropriate documents with the Building Department.

PROPERTY OWNER 2721 Balltown, LLC

DAY PHONE (518) 538-0250

ADDRESS (if different than above) c/o Robert Stout, Esq., Whiteman Osterman & Hanna

CITY One Commerce Plaza, Albany

STATE NY

ZIP 12260

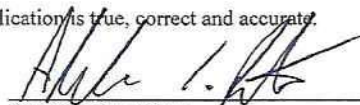
PLEASE SIGN Page 2

The applicant has reviewed and fully understands the requirements and conditions listed on this application. Article II, Section 75.5B of the Code of the Town of Niskayuna requires that where such application is made by a person other than the owner, it shall be accompanied by an affidavit of the owner or applicant that the proposed work is authorized by the owner and that the applicant is authorized to make such application.

Applicants who are the owners of the property DO NOT need to have this application notarized.

The undersigned hereby swears that the information provided on this application is true, correct and accurate.

Sworn to me on this _____ day of _____, _____


Signature of Applicant

Alex R. Marino
Printed Name

9/28/22
Date

Notary Public, State of New York

(FOR OFFICE USE ONLY BELOW)

BUILDING SITE ADDRESS 2721 Balltown Road

KNOWN EASEMENTS: _____ WATER _____ SEWER _____ DRAINAGE _____ OTHER

PERMIT FEE DUE \$ _____ BASED ON _____

COMMENTS _____

ZONING DISTRICT _____ SECTION-BLOCK-LOT _____

REQUIRED INSPECTIONS:

- ____ 1. FOOTING FORMS AND REINFORCING PRIOR TO POURING OF CONCRETE
- ____ 2. FOUNDATION LOCATION PROVIDED AND STONE DRIVEWAY BASE INSTALLED PRIOR TO FOUNDATION INSPECTION
- ____ 3. FOUNDATION WALL AND DRAIN TILE INCLUDING LATERAL PRIOR TO BACKFILLING
- ____ 4. FIREPLACE INSPECTION AT BOX AND AT HALF STACK
- ____ 5. ROUGH PLUMBING
- ____ 6. ROUGH ELECTRICAL
- ____ 7. ROUGH FRAMING INSPECTION INCLUDING TRUSS CERTIFICATES AND ROUGH GRADING ESTABLISHED
- ____ 8. INSULATION INCLUDING PROPER VENTILATION
- ____ 9. FINAL PLUMBING
- ____ 10. FINAL ELECTRICAL
- ____ 11. FINAL BUILDING INSPECTION
- ____ 12. FINAL GRADING AND SOIL EROSION CONTROL
- ____ 13. (ADDITIONAL INSPECTIONS) _____

APPROVED BY _____

DATE _____

ATTACHMENT B

TOWN OF NISKAYUNA
Application for Site Plan Review

Applicant (Owner or Agent):

Name Alexander Ritmo

Address 2721 Balltown Road
Niskayuna, NY

Telephone 518-538-0250 Fax _____

Location:

Number & Street 2721 Balltown Road

Section-Block-Lot 31 - 1 - 6

Zoning District R-P District

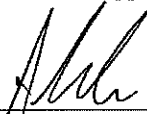
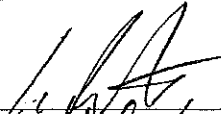
Proposal Description:

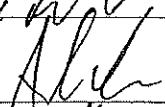
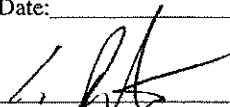
The Applicant is proposing to construct two (2) additional six 6-unit apartment buildings along with an accessory garage and associated parking on the Premises

Each site plan application shall be accompanied by:

1. Twelve (12) site plan maps prepared by a licensed engineer, architect or surveyor.
 - a. The site plan shall include the following: the title of the drawing, including the name(s), address(es), phone and fax numbers of the applicant and the name address, phone and fax number of the person, firm or organization preparing the map.
 - b. The North point, date and scale.
 - c. Boundaries of the property.
 - d. Existing watercourses and direction of existing and proposed drainage flow.
 - e. The location of all proposed site improvements; proposed water and utility facilities; a description of the method of sewage disposal and location of such facilities; the location of all proposed signs; and location of proposed areas of vegetation.
2. A lighting plan showing the lighting distribution of existing or proposed lights, specifications, photometric data, and catalog cuts of the proposed fixture(s) which meet the requirements of Article VIIIB of the Zoning Ordinance of the Town of Niskayuna entitled "Guidelines for Lighting of Outdoor Areas under Site Plan Review".
3. Six (6) copies of the short or long Environmental Assessment Form (EAF), as required by 6NYCRR Part 617, "State Environmental Quality Review", and Chapter 95, "Environmental Quality Review", of the Code of the Town of Niskayuna.

4. If the application is being made by someone other than the current property owner, the applicant or the agent for the applicant must provide proof that they are authorized to pursue this site plan approval. Such proof may be in the form of a contract for sale or letter by the current owner that the applicant/agent is authorized to proceed with this application.
5. Administration Fees: An application for site plan approval shall be submitted to the Planning Board at least ten (10) business days prior to a regular meeting of the Planning Board. Each petition shall be accompanied by a minimum fee of *two hundred dollars (\$200.00)* plus an additional fee based on the square footage of new building construction. Fees are payable to the Town of Niskayuna.
6. Consulting Fees: The cost incurred by the Town for the review of an application by the Town Engineer, consulting engineering firm or other consulting fees, in connection with a Board's review of a proposed application shall be charged to the applicant. The Board to whom the application is made shall obtain an estimate from any designated consultant of the amount sufficient to defray the cost of such services and shall collect from the applicant the estimated charges. Any portion of the estimated charges so collected, which are not expended by the Town, shall be returned to the applicant. Any such costs incurred by the Town beyond the estimated charges initially collected from the applicant, shall be collected from the applicant prior to final action upon the application.

Signature of applicant:   Date: _____

Signature of owner (if different from applicant):  
Alexander J. Ritiro

Date: 10/10/22

ATTACHMENT C

Short Environmental Assessment Form

Part 1 - Project Information

Instructions for Completing

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

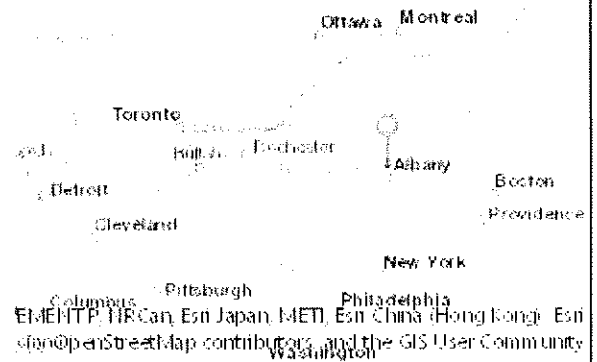
Complete all items in Part 1. You may also provide any additional information which you believe will be needed by or useful to the lead agency; attach additional pages as necessary to supplement any item.

Part 1 – Project and Sponsor Information			
Alex Ritmo/2721 Balltown, LLC			
Name of Action or Project: Site Plan Application			
Project Location (describe, and attach a location map): 2721 Balltown Road, Niskayuna, NY			
Brief Description of Proposed Action: The Applicant is proposing an expansion of the existing multi-family use on the Property. The Applicant received a use variance from the Zoning Board of Appeals in October 2020 to redevelop a mixed-use veterinary clinic/three-unit apartment building into a six-unit apartment building. The Applicant is now requesting to construct two (2) additional six-unit apartment buildings on the Property.			
Name of Applicant or Sponsor: Alex Ritmo		Telephone: 518-538-0250	
		E-Mail:	
Address: 2721 Balltown Road			
City/PO: Niskayuna		State: NY	Zip Code: 12309
1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation? If Yes, attach a narrative description of the intent of the proposed action and the environmental resources that may be affected in the municipality and proceed to Part 2. If no, continue to question 2.		NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/>
2. Does the proposed action require a permit, approval or funding from any other government Agency? If Yes, list agency(s) name and permit or approval:		NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/>
3. a. Total acreage of the site of the proposed action?		3.4 acres	
b. Total acreage to be physically disturbed?		.704 acres .93 if prior disturbance is included	
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor?		3.4 acres	
4. Check all land uses that occur on, are adjoining or near the proposed action:			
5. <input type="checkbox"/> Urban <input type="checkbox"/> Rural (non-agriculture) <input type="checkbox"/> Industrial <input type="checkbox"/> Commercial <input checked="" type="checkbox"/> Residential (suburban)			
<input type="checkbox"/> Forest <input type="checkbox"/> Agriculture <input type="checkbox"/> Aquatic <input type="checkbox"/> Other(Specify):			
<input type="checkbox"/> Parkland			

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

14. Identify the typical habitat types that occur on, or are likely to be found on the project site. Check all that apply: <input type="checkbox"/> Shoreline <input type="checkbox"/> Forest <input type="checkbox"/> Agricultural/grasslands <input type="checkbox"/> Early mid-successional <input type="checkbox"/> Wetland <input type="checkbox"/> Urban <input checked="" type="checkbox"/> Suburban		
15. Does the site of the proposed action contain any species of animal, or associated habitats, listed by the State or Federal government as threatened or endangered?	NO	YES
	<input checked="" type="checkbox"/>	<input type="checkbox"/>
16. Is the project site located in the 100-year flood plan?	NO	YES
	<input checked="" type="checkbox"/>	<input type="checkbox"/>
17. Will the proposed action create storm water discharge, either from point or non-point sources? If Yes, <div style="margin-left: 40px;"> a. Will storm water discharges flow to adjacent properties? b. Will storm water discharges be directed to established conveyance systems (runoff and storm drains)? </div> If Yes, briefly describe:	NO	YES
	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input checked="" type="checkbox"/>
All storm water generated at the site will be directed to established conveyance systems. The entire site disturbance, including existing and proposed structures, will be less than one acre.		
18. Does the proposed action include construction or other activities that would result in the impoundment of water or other liquids (e.g., retention pond, waste lagoon, dam)? If Yes, explain the purpose and size of the impoundment:	NO	YES
	<input checked="" type="checkbox"/>	<input type="checkbox"/>
19. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility? If Yes, describe:	NO	YES
	<input checked="" type="checkbox"/>	<input type="checkbox"/>
20. Has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) for hazardous waste? If Yes, describe:	NO	YES
	<input checked="" type="checkbox"/>	<input type="checkbox"/>
I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE Applicant/sponsor name: <u>2721 Balltown, LLC</u> Date: <u>10/12/22</u> Signature: <u>[Signature]</u> Title: <u>Project Attorney</u>		

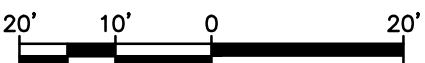
Disclaimer: The EAF Mapper is a screening tool intended to assist project sponsors and reviewing agencies in preparing an environmental assessment form (EAF). Not all questions asked in the EAF are answered by the EAF Mapper. Additional information on any EAF question can be obtained by consulting the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



Source: USGS, Intermap, INCREMENT, NRCan, Esri Japan, METI, Esri China (Hong Kong), Esri Korea, Esri (Thailand), NGCC, (c) OpenStreetMap contributors, and the GIS User Community

Part 1 / Question 7 [Critical Environmental Area]	No
Part 1 / Question 12a [National or State Register of Historic Places or State Eligible Sites]	No
Part 1 / Question 12b [Archeological Sites]	Yes
Part 1 / Question 13a [Wetlands or Other Regulated Waterbodies]	Yes - Digital mapping information on local and federal wetlands and waterbodies is known to be incomplete. Refer to EAF Workbook.
Part 1 / Question 15 [Threatened or Endangered Animal]	No
Part 1 / Question 16 [100 Year Flood Plain]	No
Part 1 / Question 20 [Remediation Site]	No

ATTACHMENT D



DRAWING COPYRIGHT © 2019
UNAUTHORIZED ALTERATION OR
ADDITION TO THIS MAP IS A VIOLATION
OF SECTION 7209, SUB-DIVISION 2 OF
THE NEW YORK STATE EDUCATION
LAW. ONLY COPIES FROM THE
ORIGINAL SIGNATURE IN RED INK, AND
THE EMBOSSED SEAL OF THE
PREPARER SHALL BE CONSIDERED TO
BE TRUE AND VALID COPIES.



TOWN OF NISKAYUNA

COUNSERVATION ADVISORY COUNCIL

AGENDA STATEMENT

AGENDA ITEM NO. V. 2

MEETING DATE: 12/7/2022

ITEM TITLE: DISCUSSION: 1851 Union St. – Mohawk Club – major subdivision of an existing 14 acre portion of the property to construct twenty-two (22) new single-family townhomes.

PROJECT LEAD: TBD

APPLICANT: Matthew Moberg, agent for the owner

SUBMITTED BY: Laura Robertson, Town Planner

REVIEWED BY:

☐ Planning Board (PB) ☐ Zoning Board of Appeals (ZBA) ☐ Town Board
☐ OTHER:

ATTACHMENTS:

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

SUMMARY STATEMENT:

Matthew Moberg, agent for the owner of the Mohawk Golf Club, submitted a Sketch Plan Application for a Major Subdivision of a 14 acre portion of the existing property including the construction of twenty-two (22) single-family townhomes at 1851 Union St.

BACKGROUND INFORMATION

The property is located within the R-1 Low Density Residential zoning district.

The following drawings were provided with the application.

1. A 1-page drawing entitled "Sketch 22-lot Townhouse Layout Residential Subdivision Mohawk Golf Club 1851 Union St. and 1245 Ruffner Rd." by ABD Engineers, LLP 411 Union St. Schenectady, NY dated October 20, 2022 and labeled Dwg. "5429A-S4 Townhouse" with no subsequent revisions.
2. A 2-page drawing set entitled "Unit – A" by Pigliavento Builders

The sketch plan includes the removal of a single family home on Ruffner Road in order to construct access to the greater Mohawk Golf Club parcel. The road is proposed as a boulevard with a strip of greenspace between traffic lanes.

ZONING CODE ANALYSIS

Niskayuna Zoning Code Article IV: Use Regulations

Section 220-10 District Regulations: includes "single-family dwellings" as Permitted principal uses in the R-1 zoning district.

Section 220-4 Definitions: includes “dwelling, single family – A detached building designed for or occupied exclusively by one family. See “dwelling.”

Dwelling: – A building designed or used exclusively as the living quarters for one or more families. This shall not be deemed to include mobile home, motel, hotel or tourist home. See “single-family dwelling”, “multi-family dwelling” and “dwelling unit.”

Dwelling, multi-family: - A detached building containing separate living units for two or more families which may have joint services or facilities or both. Such dwellings may include, among others, garden apartments, cooperatives or condominiums.

Dwelling unit: – A building or portion thereof providing complete housekeeping facilities for one family. For the purposes of this chapter, a single-family dwelling shall consist of one “dwelling unit.”

Townhouse: - A single-family dwelling which is one of a series of noncommunicating 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.

Based on the definitions above, the Planning Department finds that Townhomes, as single family dwellings, are a permitted principal use in the R-1 zoning district but, with their contiguous sidewall, do not comply with the side setback requirement of the R-1 district and therefore require area variances from the Zoning Board of Appeals (ZBA). The aforementioned sketch plan drawing provided with the application includes the table of 67 required area variances shown below.

ZONING: R-1 (LOW DENSITY RESIDENTIAL) – SINGLE FAMILY DWELLINGS
NOTE: BOLD NUMBERS INDICATE VARIANCE REQUESTED

	Front Setback	Side Setback (L)	Side Setback (R)	Rear Setback	Lot Width	Lot Depth	Lot Area	Maximum Coverage
Required	35 ft	20 ft	20 ft	25 ft	100 ft	125 ft	18,000 SF	25%
Lot1	35	N/A	0	95	66	188	12,674	19%
Lot2	35	0	38	95	70	188	13,114	19%
Lot3	47	39	0	66	77	170	12,905	19%
Lot4	35	0	45	66	79	156	15,651	16%
Lot5	35	40	0	104	61	175	23,374	10%
Lot6	35	0	40	58	61	134	13,924	18%
Lot7	35	33	0	48	61	134	12,054	20%
Lot8	35	0	33	73	61	152	15,764	16%
Lot9	35	40	0	69	75	152	12,061	20%
Lot10	56	0	36	65	72	178	12,235	20%
Lot11	35	37	0	88	68	180	12,240	20%
Lot12	35	0	37	88	68	180	12,240	20%
Lot13	35	36	0	87	68	180	12,240	20%
Lot14	35	0	36	87	68	180	12,240	20%
Lot15	58	37	0	64	72	179	12,231	20%
Lot16	35	0	46	53	83	114	12,210	20%
Lot17	35	57	0	21	92	94	12,381	20%
Lot18	35	0	55	60	83	151	38,506	6%
Lot19	35	49	0	59	69	154	12,351	20%
Lot20	35	0	44	61	83	154	12,575	19%
Lot21	35	38	0	94	69	185	12,811	19%
Lot22	35	0	N/A	95	69	187	13,254	18%
TOTAL VARIANCES	0	11	11	1	22	2	20	0
GRAND TOTAL	67							

Additional Utility Concerns

The Town of Niskayuna maintains a 6 inch watermain on Ruffner Road, which is in the High Pressure Zone. This Zone may not have the capacity to handle the addition of 22 single family units. An independent engineering analysis of the water system capacity for this area will be required.

The sewer line to the Niskayuna Waste Water treatment plant is near or at capacity. An independent engineering analysis of the sewer system capacity for this development may be required.

There are known drainage issues in the area. Depending on where the storm water management pond is discharged to – an independent downstream drainage analysis may be required.

A wetland delineation will be required.

Emergency Access

Section 189-17 (J) (1) states: “Where culs-de-sac are designed to be permanent, they should, in general, not exceed 500 feet in length and shall terminate in a circular turnaround having a minimum right-of-way radius of 60 feet and pavement radius of 45 feet.” As these cul-de-sacs appear to be longer than 500 feet , the Planning Board should discussed a proposed secondary means of access for emergencies if possible.

General Planning

It is important to keep in mind the long term gains to the Mohawk Golf Club that come from integrating potential residential development into the golf course campus while preserving the natural and scenic quality of open space and ensuring the subdivision is in harmony with the development pattern of the neighboring properties.

Some thoughts to consider that may help with some of the above goals include:

1. A more organic shaped road which follows the contours of the land and has vistas which open out onto the golf course, which would add value both to the golf course and the proposed homes.
2. A walking connection from the proposed subdivision to the golf course.
3. Quality open spaces such as a gathering pavilion or picnic area which overlook the golf course and provide amenities to the home owners, which would continually connect them to the land and to the golf course.
4. Discussion on parkland, preservation of natural features and trees, and conformance with

the Comprehensive Plan are important to the ultimate layout of any proposed subdivision in the area.

11/14/22 Planning Board (PB) meeting --- Mr. Dave Kimmer of ABD Engineering and Mr. Bill Sweet of the Mohawk Club presented the project to the PB. They noted that the proposed project would disturb approximately 10 acres of the property. The Board noted the number of variances that will be required particularly those related to the size of the proposed lots. The Planning Office stated that cul-de-sacs have emergency access challenges. The developers indicated that they believe the boulevard entrance with wide access roads should address this concern. The PB expressed concerns regarding the mass and scale of the garage doors that dominate the front facades of the townhomes. The PB asked that Mr. Kimmer and Mr. Sweet provide additional information on the items listed below.

1. Explore and present alternate site plan layouts that eliminate the need for cul-de-sacs. This may include ring roads or a road looping through the property.
2. Reduce the number of required variances by adjusting the lot sizes to be more zoning code compliant. This may require impeding on the currently proposed 50' buffer between the existing homes on Ruffner Rd. and the proposed townhomes.
3. Investigate widening the boulevard roads to facilitate emergency access.
4. Explore ways to decrease the visual impact of the aligned front facing garages, including working with the Niskayuna ARB.

11/15/22 Conservation Advisory Council (CAC) meeting – Dave Kimmer and Bill Sweet repeated the presentation they made to the PB on 11/14/22. During the discussion Mr. Sweet added that the Mohawk Club would maintain the storm water management areas. The CAC was concerned with the loss of greenspace with the proposal and asked for greenspace to be offset somewhere else on the Club parcel. The developer did not want to offset greenspace within the Mohawk Golf Club. The CAC requested the developer maximize the undevelopable greenspace within the subdivision by reducing some of the oversize lots at the ends and adding this area to the community greenspace. The CAC agreed with the additional detail the PB requested and added that they would like the developer to explore quantifying and mitigating the increased traffic on Ruffner Road and the surrounding area.

11/16/22 Architectural Review Board (ARB) meeting – the ARB reviewed the site plan and elevation images of the project very briefly at their 11/16/22 meeting. The Planning Office made them aware of the PB's concern regarding the size and proportion of the garage doors. The ARB will review the project in more detail during their December meeting.

The project is on the agenda for the CACs continued input as the process evolves. There is no new information to present since the November 15 meeting.

Full Environmental Assessment Form
Part 1 - Project and Setting

Instructions for Completing Part 1

Part 1 is to be completed by the applicant or project sponsor. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification.

Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information; indicate whether missing information does not exist, or is not reasonably available to the sponsor; and, when possible, generally describe work or studies which would be necessary to update or fully develop that information.

Applicants/sponsors must complete all items in Sections A & B. In Sections C, D & E, most items contain an initial question that must be answered either “Yes” or “No”. If the answer to the initial question is “Yes”, complete the sub-questions that follow. If the answer to the initial question is “No”, proceed to the next question. Section F allows the project sponsor to identify and attach any additional information. Section G requires the name and signature of the applicant or project sponsor to verify that the information contained in Part 1 is accurate and complete.

A. Project and Applicant/Sponsor Information.

Name of Action or Project: Mohawk Golf Club Subdivision - Ruffner Road		
Project Location (describe, and attach a general location map): 1851 Union Street/1245 Ruffner Road		
Brief Description of Proposed Action (include purpose or need): Subdivide 14± acres from existing Mohawk Golf Course, adjacent to Ruffner Road. A new boulevard entrance will be built through 1245 Ruffner Road to access two new cul-de-sac streets, on which twenty-two (22) new single-family townhouse lots are proposed as an Average Density Development, with roads to be dedicated to the Town, and common lands to remain under ownership of the Golf Course.		
Name of Applicant/Sponsor: Matthew Moberg (MGC Golf Operations, LLC)	Telephone: 814-571-4414	
	E-Mail: mmoberg@homesteadfunding.com	
Address: 8 Airline Drive		
City/PO: Albany	State: NY	Zip Code: 12205
Project Contact (if not same as sponsor; give name and title/role): Joseph J. Bianchine, P.E. (ABD Engineers, LLP)	Telephone: 518-377-0315	
	E-Mail: joe@abdeng.com	
Address: 411 Union Street		
City/PO: Schenectady	State: NY	Zip Code: 12305
Property Owner (if not same as sponsor):	Telephone:	
	E-Mail:	
Address:		
City/PO:	State:	Zip Code:

B. Government Approvals

B. Government Approvals, Funding, or Sponsorship. (“Funding” includes grants, loans, tax relief, and any other forms of financial assistance.)

Government Entity	If Yes: Identify Agency and Approval(s) Required	Application Date (Actual or projected)
a. City Counsel, Town Board, <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No or Village Board of Trustees	Town of Niskayuna Town Board, approval for Average Density Development	To be submitted
b. City, Town or Village Planning Board or Commission <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Town of Niskayuna Planning Board, Subdivision Approval	To be submitted
c. City, Town or Village Zoning Board of Appeals <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
d. Other local agencies <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
e. County agencies <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Schenectady County Planning Board, referral	To be submitted
f. Regional agencies <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
g. State agencies <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
h. Federal agencies <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Army Corps of Engineers, Wetland Determination	To be submitted
i. Coastal Resources. i. Is the project site within a Coastal Area, or the waterfront area of a Designated Inland Waterway? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No ii. Is the project site located in a community with an approved Local Waterfront Revitalization Program? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No iii. Is the project site within a Coastal Erosion Hazard Area? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		

C. Planning and Zoning

C.1. Planning and zoning actions.

Will administrative or legislative adoption, or amendment of a plan, local law, ordinance, rule or regulation be the only approval(s) which must be granted to enable the proposed action to proceed? ☐ Yes ☒ No

- If Yes, complete sections C, F and G.
- If No, proceed to question C.2 and complete all remaining sections and questions in Part 1

C.2. Adopted land use plans.

a. Do any municipally- adopted (city, town, village or county) comprehensive land use plan(s) include the site where the proposed action would be located? ☒ Yes ☐ No

If Yes, does the comprehensive plan include specific recommendations for the site where the proposed action would be located? ☒ Yes ☐ No

b. Is the site of the proposed action within any local or regional special planning district (for example: Greenway; Brownfield Opportunity Area (BOA); designated State or Federal heritage area; watershed management plan; or other?) ☒ Yes ☐ No

If Yes, identify the plan(s):

NYS Heritage Areas: Mohawk Valley Heritage Corridor

c. Is the proposed action located wholly or partially within an area listed in an adopted municipal open space plan, or an adopted municipal farmland protection plan? ☐ Yes ☒ No

If Yes, identify the plan(s):

C.3. Zoning

a. Is the site of the proposed action located in a municipality with an adopted zoning law or ordinance. ☒ Yes ☐ No
If Yes, what is the zoning classification(s) including any applicable overlay district?

R1 (Low Density Residential)

b. Is the use permitted or allowed by a special or conditional use permit? ☒ Yes ☐ No

c. Is a zoning change requested as part of the proposed action? ☐ Yes ☒ No

If Yes,

i. What is the proposed new zoning for the site? _____

C.4. Existing community services.

a. In what school district is the project site located? Niskayuna CSD

b. What police or other public protection forces serve the project site?

Niskayuna PD

c. Which fire protection and emergency medical services serve the project site?

Niskayuna FD #1

d. What parks serve the project site?

River Road Park, Blatnick Park, Niskayuna Soccer Park

D. Project Details

D.1. Proposed and Potential Development

a. What is the general nature of the proposed action (e.g., residential, industrial, commercial, recreational; if mixed, include all components)? Residential

b. a. Total acreage of the site of the proposed action? 14± acres

b. Total acreage to be physically disturbed? 12± acres

c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor? 190± acres

c. Is the proposed action an expansion of an existing project or use? ☐ Yes ☒ No

i. If Yes, what is the approximate percentage of the proposed expansion and identify the units (e.g., acres, miles, housing units, square feet)? % _____ Units: _____

d. Is the proposed action a subdivision, or does it include a subdivision? ☒ Yes ☐ No

If Yes,

i. Purpose or type of subdivision? (e.g., residential, industrial, commercial; if mixed, specify types)
Residential

ii. Is a cluster/conservation layout proposed? ☒ Yes ☐ No

iii. Number of lots proposed? 22 residential + 1 HOA

iv. Minimum and maximum proposed lot sizes? Minimum 0.22± Maximum 0.93±

e. Will the proposed action be constructed in multiple phases? ☐ Yes ☒ No

i. If No, anticipated period of construction: 24 months

ii. If Yes:

- Total number of phases anticipated _____
- Anticipated commencement date of phase 1 (including demolition) _____ month _____ year
- Anticipated completion date of final phase _____ month _____ year

• Generally describe connections or relationships among phases, including any contingencies where progress of one phase may determine timing or duration of future phases: _____

f. Does the project include new residential uses? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If Yes, show numbers of units proposed.				
	<u>One Family</u>	<u>Two Family</u>	<u>Three Family</u>	<u>Multiple Family (four or more)</u>
Initial Phase	22 Townhouses			
At completion of all phases				

g. Does the proposed action include new non-residential construction (including expansions)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If Yes,	
i. Total number of structures _____ ii. Dimensions (in feet) of largest proposed structure: _____ height; _____ width; and _____ length iii. Approximate extent of building space to be heated or cooled: _____ square feet	

h. Does the proposed action include construction or other activities that will result in the impoundment of any liquids, such as creation of a water supply, reservoir, pond, lake, waste lagoon or other storage? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If Yes,	
i. Purpose of the impoundment: <u>Temporary stormwater</u> ii. If a water impoundment, the principal source of the water: <input type="checkbox"/> Ground water <input type="checkbox"/> Surface water streams <input checked="" type="checkbox"/> Other specify: <u>Stormwater runoff</u> iii. If other than water, identify the type of impounded/contained liquids and their source. _____ iv. Approximate size of the proposed impoundment. Volume: _____ TBD million gallons; surface area: _____ acres v. Dimensions of the proposed dam or impounding structure: _____ TBD height; _____ length vi. Construction method/materials for the proposed dam or impounding structure (e.g., earth fill, rock, wood, concrete): <u>TBD</u>	

D.2. Project Operations

a. Does the proposed action include any excavation, mining, or dredging, during construction, operations, or both? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No (Not including general site preparation, grading or installation of utilities or foundations where all excavated materials will remain onsite) If Yes:	
i. What is the purpose of the excavation or dredging? _____ ii. How much material (including rock, earth, sediments, etc.) is proposed to be removed from the site? • Volume (specify tons or cubic yards): _____ • Over what duration of time? _____ iii. Describe nature and characteristics of materials to be excavated or dredged, and plans to use, manage or dispose of them. _____ _____ iv. Will there be onsite dewatering or processing of excavated materials? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, describe. _____ _____ v. What is the total area to be dredged or excavated? _____ acres vi. What is the maximum area to be worked at any one time? _____ acres vii. What would be the maximum depth of excavation or dredging? _____ feet viii. Will the excavation require blasting? <input type="checkbox"/> Yes <input type="checkbox"/> No ix. Summarize site reclamation goals and plan: _____ _____ _____	

b. Would the proposed action cause or result in alteration of, increase or decrease in size of, or encroachment into any existing wetland, waterbody, shoreline, beach or adjacent area? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If Yes:	
i. Identify the wetland or waterbody which would be affected (by name, water index number, wetland map number or geographic description): <u>Freshwater Forested/Shrub Wetland (isolated)</u> _____ _____	

ii. Describe how the proposed action would affect that waterbody or wetland, e.g. excavation, fill, placement of structures, or alteration of channels, banks and shorelines. Indicate extent of activities, alterations and additions in square feet or acres:
Wetlands will be channeled using culverts to further direct them to the existing municipal storm system.

iii. Will the proposed action cause or result in disturbance to bottom sediments? ☐ Yes ☒ No
 If Yes, describe: _____

iv. Will the proposed action cause or result in the destruction or removal of aquatic vegetation? ☒ Yes ☐ No
 If Yes:

- acres of aquatic vegetation proposed to be removed: TBD
- expected acreage of aquatic vegetation remaining after project completion: TBD
- purpose of proposed removal (e.g. beach clearing, invasive species control, boat access): _____
Site preparation
- proposed method of plant removal: Excavation
- if chemical/herbicide treatment will be used, specify product(s): N/A

v. Describe any proposed reclamation/mitigation following disturbance: _____
N/A

c. Will the proposed action use, or create a new demand for water? ☒ Yes ☐ No
 If Yes:

i. Total anticipated water usage/demand per day: _____ 6,000± gallons/day

ii. Will the proposed action obtain water from an existing public water supply? ☒ Yes ☐ No
 If Yes:

- Name of district or service area: Niskayuna Water District #3
- Does the existing public water supply have capacity to serve the proposal? ☒ Yes ☐ No
- Is the project site in the existing district? ☒ Yes ☐ No
- Is expansion of the district needed? ☐ Yes ☒ No
- Do existing lines serve the project site? ☐ Yes ☒ No

iii. Will line extension within an existing district be necessary to supply the project? ☒ Yes ☐ No
 If Yes:

- Describe extensions or capacity expansions proposed to serve this project: _____
1,100± feet of new water main
- Source(s) of supply for the district: Schenectady-Niskayuna SSA

iv. Is a new water supply district or service area proposed to be formed to serve the project site? ☐ Yes ☒ No
 If Yes:

- Applicant/sponsor for new district: _____
- Date application submitted or anticipated: _____
- Proposed source(s) of supply for new district: _____

v. If a public water supply will not be used, describe plans to provide water supply for the project: _____
N/A

vi. If water supply will be from wells (public or private), what is the maximum pumping capacity: 3,000± gallons/minute.

d. Will the proposed action generate liquid wastes? ☒ Yes ☐ No
 If Yes:

i. Total anticipated liquid waste generation per day: _____ 5,400± gallons/day

ii. Nature of liquid wastes to be generated (e.g., sanitary wastewater, industrial; if combination, describe all components and approximate volumes or proportions of each): _____
Sanitary wastewater

iii. Will the proposed action use any existing public wastewater treatment facilities? ☒ Yes ☐ No
 If Yes:

- Name of wastewater treatment plant to be used: Niskayuna Wastewater Treatment Plant
- Name of district: Niskayuna Sewer District #6
- Does the existing wastewater treatment plant have capacity to serve the project? ☒ Yes ☐ No
- Is the project site in the existing district? ☒ Yes ☐ No
- Is expansion of the district needed? ☐ Yes ☒ No

Page 6 of 13

<p>h. Will the proposed action generate or emit methane (including, but not limited to, sewage treatment plants, landfills, composting facilities)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>If Yes:</p> <p>i. Estimate methane generation in tons/year (metric): _____</p> <p>ii. Describe any methane capture, control or elimination measures included in project design (e.g., combustion to generate heat or electricity, flaring): _____</p>			
<p>i. Will the proposed action result in the release of air pollutants from open-air operations or processes, such as quarry or landfill operations? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>If Yes: Describe operations and nature of emissions (e.g., diesel exhaust, rock particulates/dust): _____</p>			
<p>j. Will the proposed action result in a substantial increase in traffic above present levels or generate substantial new demand for transportation facilities or services? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If Yes:</p> <p>i. When is the peak traffic expected (Check all that apply): <input checked="" type="checkbox"/> Morning <input type="checkbox"/> Evening <input type="checkbox"/> Weekend <input type="checkbox"/> Randomly between hours of _____ to _____.</p> <p>ii. For commercial activities only, projected number of truck trips/day and type (e.g., semi trailers and dump trucks): _____ <div style="text-align: center;">N/A</div></p> <p>iii. Parking spaces: Existing <u>0</u> Proposed <u>N/A</u> Net increase/decrease <u>N/A</u></p> <p>iv. Does the proposed action include any shared use parking? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>v. If the proposed action includes any modification of existing roads, creation of new roads or change in existing access, describe: <u>New private roads with access to existing Town road are proposed to serve the 22 townhome lots.</u></p> <p>vi. Are public/private transportation service(s) or facilities available within ½ mile of the proposed site? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>vii. Will the proposed action include access to public transportation or accommodations for use of hybrid, electric or other alternative fueled vehicles? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>viii. Will the proposed action include plans for pedestrian or bicycle accommodations for connections to existing pedestrian or bicycle routes? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>			
<p>k. Will the proposed action (for commercial or industrial projects only) generate new or additional demand for energy? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If Yes:</p> <p>i. Estimate annual electricity demand during operation of the proposed action: _____</p> <p>ii. Anticipated sources/suppliers of electricity for the project (e.g., on-site combustion, on-site renewable, via grid/local utility, or other): _____</p> <p>iii. Will the proposed action require a new, or an upgrade, to an existing substation? <input type="checkbox"/> Yes <input type="checkbox"/> No</p>			
<p>l. Hours of operation. Answer all items which apply.</p> <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; vertical-align: top;"> <p>i. During Construction:</p> <ul style="list-style-type: none"> • Monday - Friday: <u>7am-5pm</u> • Saturday: <u>7am-5pm</u> • Sunday: <u>7am-5pm</u> • Holidays: <u>7am-5pm</u> </td> <td style="width: 50%; vertical-align: top;"> <p>ii. During Operations:</p> <ul style="list-style-type: none"> • Monday - Friday: <u>Residential (24/7)</u> • Saturday: <u>Residential (24/7)</u> • Sunday: <u>Residential (24/7)</u> • Holidays: <u>Residential (24/7)</u> </td> </tr> </table>		<p>i. During Construction:</p> <ul style="list-style-type: none"> • Monday - Friday: <u>7am-5pm</u> • Saturday: <u>7am-5pm</u> • Sunday: <u>7am-5pm</u> • Holidays: <u>7am-5pm</u> 	<p>ii. During Operations:</p> <ul style="list-style-type: none"> • Monday - Friday: <u>Residential (24/7)</u> • Saturday: <u>Residential (24/7)</u> • Sunday: <u>Residential (24/7)</u> • Holidays: <u>Residential (24/7)</u>
<p>i. During Construction:</p> <ul style="list-style-type: none"> • Monday - Friday: <u>7am-5pm</u> • Saturday: <u>7am-5pm</u> • Sunday: <u>7am-5pm</u> • Holidays: <u>7am-5pm</u> 	<p>ii. During Operations:</p> <ul style="list-style-type: none"> • Monday - Friday: <u>Residential (24/7)</u> • Saturday: <u>Residential (24/7)</u> • Sunday: <u>Residential (24/7)</u> • Holidays: <u>Residential (24/7)</u> 		

<p>m. Will the proposed action produce noise that will exceed existing ambient noise levels during construction, operation, or both? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If yes:</p> <p>i. Provide details including sources, time of day and duration:</p> <p style="margin-left: 20px;">Noise from construction equipment _____</p>	
<p>ii. Will the proposed action remove existing natural barriers that could act as a noise barrier or screen? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p style="margin-left: 20px;">Describe: <u>Tree clearing for development</u></p>	
<p>n. Will the proposed action have outdoor lighting? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If yes:</p> <p>i. Describe source(s), location(s), height of fixture(s), direction/aim, and proximity to nearest occupied structures:</p> <p style="margin-left: 20px;"><u>Residential building lighting, 75+ feet from nearest residential property line.</u></p>	
<p>ii. Will proposed action remove existing natural barriers that could act as a light barrier or screen? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p style="margin-left: 20px;">Describe: <u>Tree clearing for development</u></p>	
<p>o. Does the proposed action have the potential to produce odors for more than one hour per day? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p style="margin-left: 20px;">If Yes, describe possible sources, potential frequency and duration of odor emissions, and proximity to nearest occupied structures: _____</p> <p style="margin-left: 20px;">_____</p> <p style="margin-left: 20px;">_____</p>	
<p>p. Will the proposed action include any bulk storage of petroleum (combined capacity of over 1,100 gallons) or chemical products 185 gallons in above ground storage or any amount in underground storage? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>If Yes:</p> <p>i. Product(s) to be stored _____</p> <p>ii. Volume(s) _____ per unit time _____ (e.g., month, year)</p> <p>iii. Generally, describe the proposed storage facilities: _____</p> <p style="margin-left: 20px;">_____</p>	
<p>q. Will the proposed action (commercial, industrial and recreational projects only) use pesticides (i.e., herbicides, insecticides) during construction or operation? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If Yes:</p> <p>i. Describe proposed treatment(s):</p> <p style="margin-left: 20px;">_____</p> <p style="margin-left: 20px;">_____</p> <p style="margin-left: 20px;">_____</p>	
<p>ii. Will the proposed action use Integrated Pest Management Practices? <input type="checkbox"/> Yes <input type="checkbox"/> No</p>	
<p>r. Will the proposed action (commercial or industrial projects only) involve or require the management or disposal of solid waste (excluding hazardous materials)? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If Yes:</p> <p>i. Describe any solid waste(s) to be generated during construction or operation of the facility:</p> <ul style="list-style-type: none"> • Construction: _____ tons per _____ (unit of time) • Operation : _____ tons per _____ (unit of time) <p>ii. Describe any proposals for on-site minimization, recycling or reuse of materials to avoid disposal as solid waste:</p> <ul style="list-style-type: none"> • Construction: _____ • Operation: _____ <p>iii. Proposed disposal methods/facilities for solid waste generated on-site:</p> <ul style="list-style-type: none"> • Construction: _____ • Operation: _____ 	

s. Does the proposed action include construction or modification of a solid waste management facility? ☐ Yes ☒ No

If Yes:

i. Type of management or handling of waste proposed for the site (e.g., recycling or transfer station, composting, landfill, or other disposal activities): _____

ii. Anticipated rate of disposal/processing:

- _____ Tons/month, if transfer or other non-combustion/thermal treatment, or
- _____ Tons/hour, if combustion or thermal treatment

iii. If landfill, anticipated site life: _____ years

t. Will the proposed action at the site involve the commercial generation, treatment, storage, or disposal of hazardous waste? ☐ Yes ☒ No

If Yes:

i. Name(s) of all hazardous wastes or constituents to be generated, handled or managed at facility: _____

ii. Generally describe processes or activities involving hazardous wastes or constituents: _____

iii. Specify amount to be handled or generated _____ tons/month

iv. Describe any proposals for on-site minimization, recycling or reuse of hazardous constituents: _____

v. Will any hazardous wastes be disposed at an existing offsite hazardous waste facility? ☐ Yes ☐ No

If Yes: provide name and location of facility: _____

If No: describe proposed management of any hazardous wastes which will not be sent to a hazardous waste facility: _____

E. Site and Setting of Proposed Action

E.1. Land uses on and surrounding the project site

a. Existing land uses.

i. Check all uses that occur on, adjoining and near the project site.

☐ Urban ☐ Industrial ☐ Commercial ☒ Residential (suburban) ☐ Rural (non-farm)

☐ Forest ☐ Agriculture ☐ Aquatic ☒ Other (specify): Golf Course

ii. If mix of uses, generally describe: _____

b. Land uses and covertypes on the project site.

Land use or Covertypes	Current Acreage	Acreage After Project Completion	Change (Acres +/-)
• Roads, buildings, and other paved or impervious surfaces	0	2.5	+2.5
• Forested	14.0	2.6	-11.4
• Meadows, grasslands or brushlands (non-agricultural, including abandoned agricultural)	0	0	0
• Agricultural (includes active orchards, field, greenhouse etc.)	0	0	0
• Surface water features (lakes, ponds, streams, rivers, etc.)	0	0	0
• Wetlands (freshwater or tidal) (Isolated)	TBD	TBD	TBD
• Non-vegetated (bare rock, earth or fill)	0	0	0
• Other Describe: <u>Landscaped</u>	0	8.9	+8.9

c. Is the project site presently used by members of the community for public recreation? i. If Yes: explain:	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
d. Are there any facilities serving children, the elderly, people with disabilities (e.g., schools, hospitals, licensed day care centers, or group homes) within 1500 feet of the project site? If Yes, i. Identify Facilities: <div>Hillside Elementary School, Van Antwerp Middle School</div>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
e. Does the project site contain an existing dam? If Yes: i. Dimensions of the dam and impoundment: <ul style="list-style-type: none"> • Dam height: _____ feet • Dam length: _____ feet • Surface area: _____ acres • Volume impounded: _____ gallons OR acre-feet ii. Dam's existing hazard classification: _____ iii. Provide date and summarize results of last inspection: _____	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
f. Has the project site ever been used as a municipal, commercial or industrial solid waste management facility, or does the project site adjoin property which is now, or was at one time, used as a solid waste management facility? If Yes: i. Has the facility been formally closed? <ul style="list-style-type: none"> • If yes, cite sources/documentation: _____ ii. Describe the location of the project site relative to the boundaries of the solid waste management facility: _____ iii. Describe any development constraints due to the prior solid waste activities: _____	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
g. Have hazardous wastes been generated, treated and/or disposed of at the site, or does the project site adjoin property which is now or was at one time used to commercially treat, store and/or dispose of hazardous waste? If Yes: i. Describe waste(s) handled and waste management activities, including approximate time when activities occurred: _____	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
h. Potential contamination history. Has there been a reported spill at the proposed project site, or have any remedial actions been conducted at or adjacent to the proposed site? If Yes: i. Is any portion of the site listed on the NYSDEC Spills Incidents database or Environmental Site Remediation database? Check all that apply: <input type="checkbox"/> Yes – Spills Incidents database Provide DEC ID number(s): _____ <input type="checkbox"/> Yes – Environmental Site Remediation database Provide DEC ID number(s): _____ <input type="checkbox"/> Neither database ii. If site has been subject of RCRA corrective activities, describe control measures: _____ iii. Is the project within 2000 feet of any site in the NYSDEC Environmental Site Remediation database? If yes, provide DEC ID number(s): _____ iv. If yes to (i), (ii) or (iii) above, describe current status of site(s): _____	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

v. Is the project site subject to an institutional control limiting property uses? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <ul style="list-style-type: none"> If yes, DEC site ID number: _____ Describe the type of institutional control (e.g., deed restriction or easement): _____ Describe any use limitations: _____ Describe any engineering controls: _____ Will the project affect the institutional or engineering controls in place? <input type="checkbox"/> Yes <input type="checkbox"/> No Explain: _____ _____ 																			
E.2. Natural Resources On or Near Project Site																			
a. What is the average depth to bedrock on the project site? _____ 6+ feet																			
b. Are there bedrock outcroppings on the project site? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If Yes, what proportion of the site is comprised of bedrock outcroppings? _____ %																			
c. Predominant soil type(s) present on project site: <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 60%;">Silt Loam</td> <td style="width: 20%; text-align: right;">100 %</td> <td style="width: 20%;"></td> </tr> <tr> <td>_____</td> <td style="text-align: right;">_____ %</td> <td></td> </tr> <tr> <td>_____</td> <td style="text-align: right;">_____ %</td> <td></td> </tr> </table>		Silt Loam	100 %		_____	_____ %		_____	_____ %										
Silt Loam	100 %																		
_____	_____ %																		
_____	_____ %																		
d. What is the average depth to the water table on the project site? Average: _____ 2± feet																			
e. Drainage status of project site soils: <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 30%;"><input type="checkbox"/> Well Drained:</td> <td style="width: 30%; text-align: right;">_____ % of site</td> <td style="width: 40%;"></td> </tr> <tr> <td><input checked="" type="checkbox"/> Moderately Well Drained:</td> <td style="text-align: right;">100 % of site</td> <td></td> </tr> <tr> <td><input type="checkbox"/> Poorly Drained</td> <td style="text-align: right;">_____ % of site</td> <td></td> </tr> </table>		<input type="checkbox"/> Well Drained:	_____ % of site		<input checked="" type="checkbox"/> Moderately Well Drained:	100 % of site		<input type="checkbox"/> Poorly Drained	_____ % of site										
<input type="checkbox"/> Well Drained:	_____ % of site																		
<input checked="" type="checkbox"/> Moderately Well Drained:	100 % of site																		
<input type="checkbox"/> Poorly Drained	_____ % of site																		
f. Approximate proportion of proposed action site with slopes: <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 40%;"><input checked="" type="checkbox"/> 0-10%:</td> <td style="width: 30%; text-align: right;">100 % of site</td> <td style="width: 30%;"></td> </tr> <tr> <td><input type="checkbox"/> 10-15%:</td> <td style="text-align: right;">_____ % of site</td> <td></td> </tr> <tr> <td><input type="checkbox"/> 15% or greater:</td> <td style="text-align: right;">_____ % of site</td> <td></td> </tr> </table>		<input checked="" type="checkbox"/> 0-10%:	100 % of site		<input type="checkbox"/> 10-15%:	_____ % of site		<input type="checkbox"/> 15% or greater:	_____ % of site										
<input checked="" type="checkbox"/> 0-10%:	100 % of site																		
<input type="checkbox"/> 10-15%:	_____ % of site																		
<input type="checkbox"/> 15% or greater:	_____ % of site																		
g. Are there any unique geologic features on the project site? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If Yes, describe: _____ _____																			
h. Surface water features. <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 80%;">i. Does any portion of the project site contain wetlands or other waterbodies (including streams, rivers, ponds or lakes)?</td> <td style="width: 20%; text-align: right;"><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</td> </tr> <tr> <td>ii. Do any wetlands or other waterbodies adjoin the project site?</td> <td style="text-align: right;"><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</td> </tr> </table> If Yes to either <i>i</i> or <i>ii</i> , continue. If No, skip to E.2.i. <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 80%;">iii. Are any of the wetlands or waterbodies within or adjoining the project site regulated by any federal, state or local agency?</td> <td style="width: 20%; text-align: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</td> </tr> </table> iv. For each identified regulated wetland and waterbody on the project site, provide the following information: <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 10%;">• Streams:</td> <td style="width: 40%;">Name _____</td> <td style="width: 50%;">Classification _____</td> </tr> <tr> <td>• Lakes or Ponds:</td> <td>Name _____</td> <td>Classification _____</td> </tr> <tr> <td>• Wetlands:</td> <td>Name Freshwater Forested/Shrub Wetland (isolated)</td> <td>Approximate Size TBD</td> </tr> <tr> <td>• Wetland No. (if regulated by DEC)</td> <td colspan="2">_____</td> </tr> </table>		i. Does any portion of the project site contain wetlands or other waterbodies (including streams, rivers, ponds or lakes)?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	ii. Do any wetlands or other waterbodies adjoin the project site?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	iii. Are any of the wetlands or waterbodies within or adjoining the project site regulated by any federal, state or local agency?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	• Streams:	Name _____	Classification _____	• Lakes or Ponds:	Name _____	Classification _____	• Wetlands:	Name Freshwater Forested/Shrub Wetland (isolated)	Approximate Size TBD	• Wetland No. (if regulated by DEC)	_____	
i. Does any portion of the project site contain wetlands or other waterbodies (including streams, rivers, ponds or lakes)?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No																		
ii. Do any wetlands or other waterbodies adjoin the project site?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No																		
iii. Are any of the wetlands or waterbodies within or adjoining the project site regulated by any federal, state or local agency?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No																		
• Streams:	Name _____	Classification _____																	
• Lakes or Ponds:	Name _____	Classification _____																	
• Wetlands:	Name Freshwater Forested/Shrub Wetland (isolated)	Approximate Size TBD																	
• Wetland No. (if regulated by DEC)	_____																		
v. Are any of the above water bodies listed in the most recent compilation of NYS water quality-impaired waterbodies? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If yes, name of impaired water body/bodies and basis for listing as impaired: _____ _____																			
i. Is the project site in a designated Floodway? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No																			
j. Is the project site in the 100-year Floodplain? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No																			
k. Is the project site in the 500-year Floodplain? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No																			
l. Is the project site located over, or immediately adjoining, a primary, principal or sole source aquifer? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If Yes: <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 10%;">i. Name of aquifer:</td> <td>Sole Source Aquifer Names: Schenectady-Niskayuna SSA</td> </tr> </table>		i. Name of aquifer:	Sole Source Aquifer Names: Schenectady-Niskayuna SSA																
i. Name of aquifer:	Sole Source Aquifer Names: Schenectady-Niskayuna SSA																		

<p>m. Identify the predominant wildlife species that occupy or use the project site: _____</p> <p style="margin-left: 20px;">Typical Suburban _____</p> <p>_____</p>	
<p>n. Does the project site contain a designated significant natural community? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>If Yes:</p> <p style="margin-left: 20px;">i. Describe the habitat/community (composition, function, and basis for designation): _____</p> <p style="margin-left: 20px;">ii. Source(s) of description or evaluation: _____</p> <p style="margin-left: 20px;">iii. Extent of community/habitat:</p> <ul style="list-style-type: none"> • Currently: _____ acres • Following completion of project as proposed: _____ acres • Gain or loss (indicate + or -): _____ acres 	
<p>o. Does project site contain any species of plant or animal that is listed by the federal government or NYS as endangered or threatened, or does it contain any areas identified as habitat for an endangered or threatened species? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>If Yes:</p> <p style="margin-left: 20px;">i. Species and listing (endangered or threatened): _____</p> <p>_____</p> <p>_____</p>	
<p>p. Does the project site contain any species of plant or animal that is listed by NYS as rare, or as a species of special concern? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>If Yes:</p> <p style="margin-left: 20px;">i. Species and listing: _____</p> <p>_____</p> <p>_____</p>	
<p>q. Is the project site or adjoining area currently used for hunting, trapping, fishing or shell fishing? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>If yes, give a brief description of how the proposed action may affect that use: _____</p> <p>_____</p> <p>_____</p>	
<p>E.3. Designated Public Resources On or Near Project Site</p>	
<p>a. Is the project site, or any portion of it, located in a designated agricultural district certified pursuant to Agriculture and Markets Law, Article 25-AA, Section 303 and 304? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>If Yes, provide county plus district name/number: _____</p>	
<p>b. Are agricultural lands consisting of highly productive soils present? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p style="margin-left: 20px;">i. If Yes: acreage(s) on project site? _____</p> <p style="margin-left: 20px;">ii. Source(s) of soil rating(s): _____</p>	
<p>c. Does the project site contain all or part of, or is it substantially contiguous to, a registered National Natural Landmark? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>If Yes:</p> <p style="margin-left: 20px;">i. Nature of the natural landmark: <input type="checkbox"/> Biological Community <input type="checkbox"/> Geological Feature</p> <p style="margin-left: 20px;">ii. Provide brief description of landmark, including values behind designation and approximate size/extent: _____</p> <p>_____</p> <p>_____</p>	
<p>d. Is the project site located in or does it adjoin a state listed Critical Environmental Area? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>If Yes:</p> <p style="margin-left: 20px;">i. CEA name: _____</p> <p style="margin-left: 20px;">ii. Basis for designation: _____</p> <p style="margin-left: 20px;">iii. Designating agency and date: _____</p>	

e. Does the project site contain, or is it substantially contiguous to, a building, archaeological site, or district which is listed on the National or State Register of Historic Places, or that has been determined by the Commissioner of the NYS Office of Parks, Recreation and Historic Preservation to be eligible for listing on the State Register of Historic Places? If Yes: i. Nature of historic/archaeological resource: <input type="checkbox"/> Archaeological Site <input type="checkbox"/> Historic Building or District ii. Name: _____ iii. Brief description of attributes on which listing is based: _____	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
f. Is the project site, or any portion of it, located in or adjacent to an area designated as sensitive for archaeological sites on the NY State Historic Preservation Office (SHPO) archaeological site inventory?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
g. Have additional archaeological or historic site(s) or resources been identified on the project site? If Yes: i. Describe possible resource(s): _____ ii. Basis for identification: _____	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
h. Is the project site within five miles of any officially designated and publicly accessible federal, state, or local scenic or aesthetic resource? If Yes: i. Identify resource: <u>Mohawk Towpath Scenic Byway</u> ii. Nature of, or basis for, designation (e.g., established highway overlook, state or local park, state historic trail or scenic byway, etc.): <u>Scenic Byway</u> iii. Distance between project and resource: _____ 1 miles.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
i. Is the project site located within a designated river corridor under the Wild, Scenic and Recreational Rivers Program 6 NYCRR 666? If Yes: i. Identify the name of the river and its designation: _____ ii. Is the activity consistent with development restrictions contained in 6NYCRR Part 666?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No

F. Additional Information

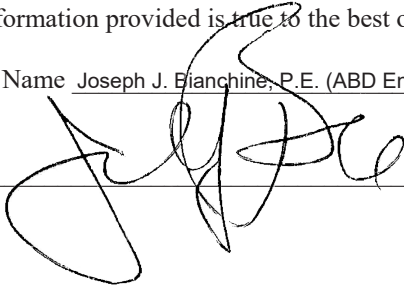
Attach any additional information which may be needed to clarify your project.

If you have identified any adverse impacts which could be associated with your proposal, please describe those impacts plus any measures which you propose to avoid or minimize them.

G. Verification

I certify that the information provided is true to the best of my knowledge.

Applicant/Sponsor Name Joseph J. Blanchine, P.E. (ABD Engineers, LLP) Date 7/20/2022

Signature  Title Professional Engineer



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



B.i.i [Coastal or Waterfront Area]	No
B.i.ii [Local Waterfront Revitalization Area]	No
C.2.b. [Special Planning District]	Yes - Digital mapping data are not available for all Special Planning Districts. Refer to EAF Workbook.
C.2.b. [Special Planning District - Name]	NYS Heritage Areas: Mohawk Valley Heritage Corridor
E.1.h [DEC Spills or Remediation Site - Potential Contamination History]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.1.h.i [DEC Spills or Remediation Site - Listed]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.1.h.i [DEC Spills or Remediation Site - Environmental Site Remediation Database]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.1.h.iii [Within 2,000' of DEC Remediation Site]	No
E.2.g [Unique Geologic Features]	No
E.2.h.i [Surface Water Features]	No
E.2.h.ii [Surface Water Features]	No
E.2.h.iii [Surface Water Features]	No
E.2.h.v [Impaired Water Bodies]	No
E.2.i. [Floodway]	No
E.2.j. [100 Year Floodplain]	No
E.2.k. [500 Year Floodplain]	No
E.2.l. [Aquifers]	Yes
E.2.l. [Aquifer Names]	Sole Source Aquifer Names: Schenectady-Niskayuna SSA
E.2.n. [Natural Communities]	No
E.2.o. [Endangered or Threatened Species]	No

E.2.p. [Rare Plants or Animals]	No
E.3.a. [Agricultural District]	No
E.3.c. [National Natural Landmark]	No
E.3.d [Critical Environmental Area]	No
E.3.e. [National or State Register of Historic Places or State Eligible Sites]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.3.f. [Archeological Sites]	No
E.3.i. [Designated River Corridor]	No

PARTNERS
JOSEPH J. BIANCHINE, P.E.
LUIGI A. PALLESCHI, P.E.
MARK C. BLACKSTONE, P.L.S.

ABD ENGINEERS, LLP.
411 Union Street
Schenectady, NY 12305
518-377-0315 Fax 518-377-0379
www.abdeng.com

DEDICATED
RESPONSIVE
PROFESSIONAL

October 20, 2022

**Re: Mohawk Golf Club Subdivision
1849 Union St & 1245 Ruffner Rd
Town of Niskayuna
Project #5429A**

Ms. Laura Robertson, Town Planner
Town of Niskayuna
One Niskayuna Circle
Niskayuna, NY 12309-4381

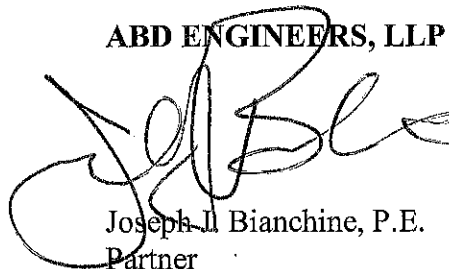
Dear Laura:

The Mohawk Golf Club is proposing to subdivide approximately fourteen (14) acres from an unused area of their golf course, adjacent to Ruffner Road. The course owns an existing home at 1245 Ruffner Road, which will be removed; a new boulevard entrance will be built through the lot, incorporating part of a disused twenty-foot-wide Town right-of-way. The boulevard will branch off onto two new cul-de-sacs on which a total of twenty-two (22) new single-family townhouse lots are proposed. This project is proposed as a **conventional subdivision** with public roads built to Town standards, buffer lands, and a stormwater management pond which will be maintained as a golf course feature by the Mohawk Golf Course. Because the Town Code does not have provisions for conventional townhome development, a table of the requested area variances is provided on the plan.

Enclosed for sketch review of this proposed subdivision are twelve (12) copies of the Subdivision Plan. We would greatly appreciate your immediate consideration of this project and placement on the November 14, 2022 Planning Board agenda. Should you have any questions or need anything further, please do not hesitate to contact me.

Very truly yours,

ABD ENGINEERS, LLP

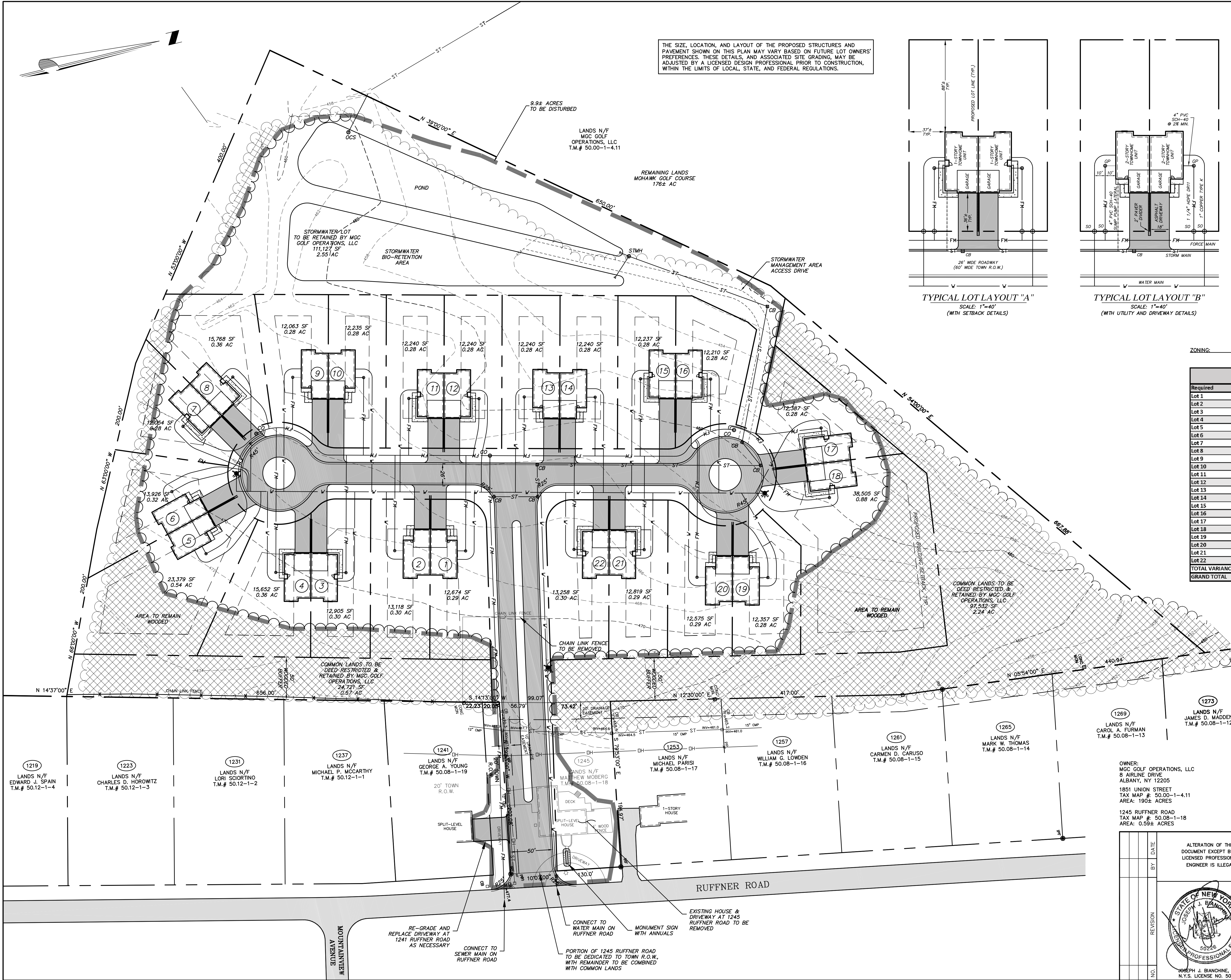


Joseph J. Bianchine, P.E.
Partner

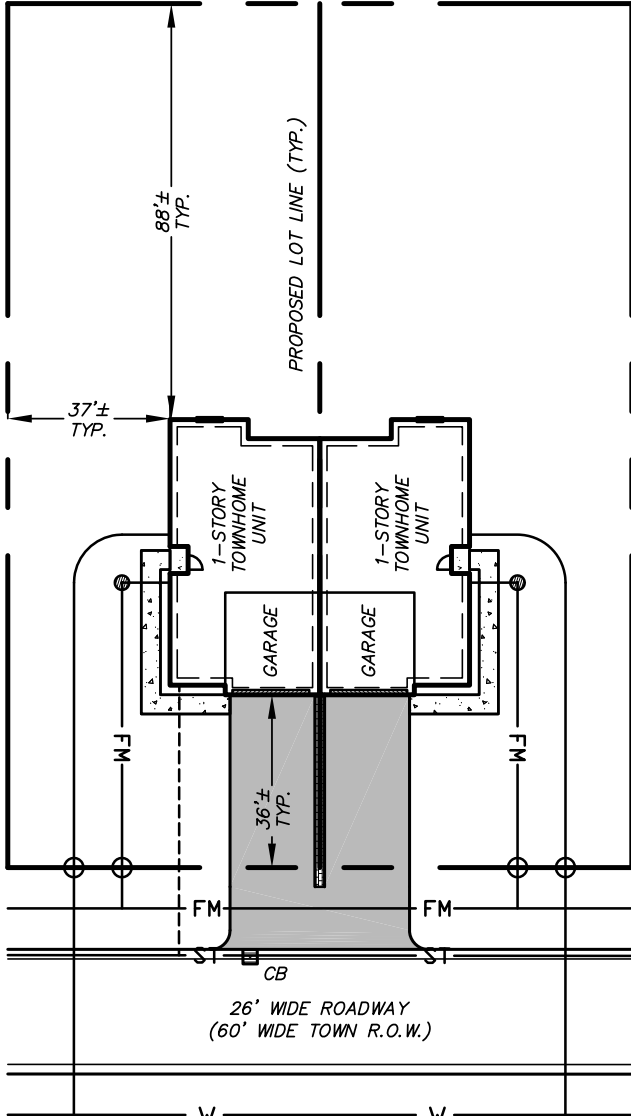
JJB:dmk
encl.

cc: Matt Moberg w/encl (via email)
Bill Sweet w/encl (via email)

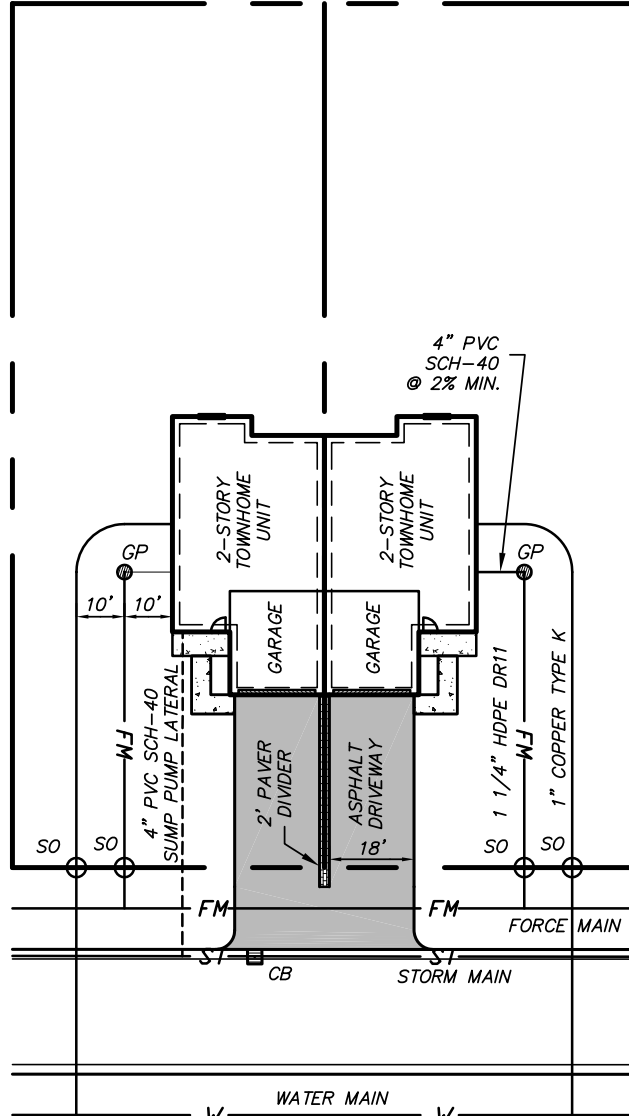
5429A-2022-10-20



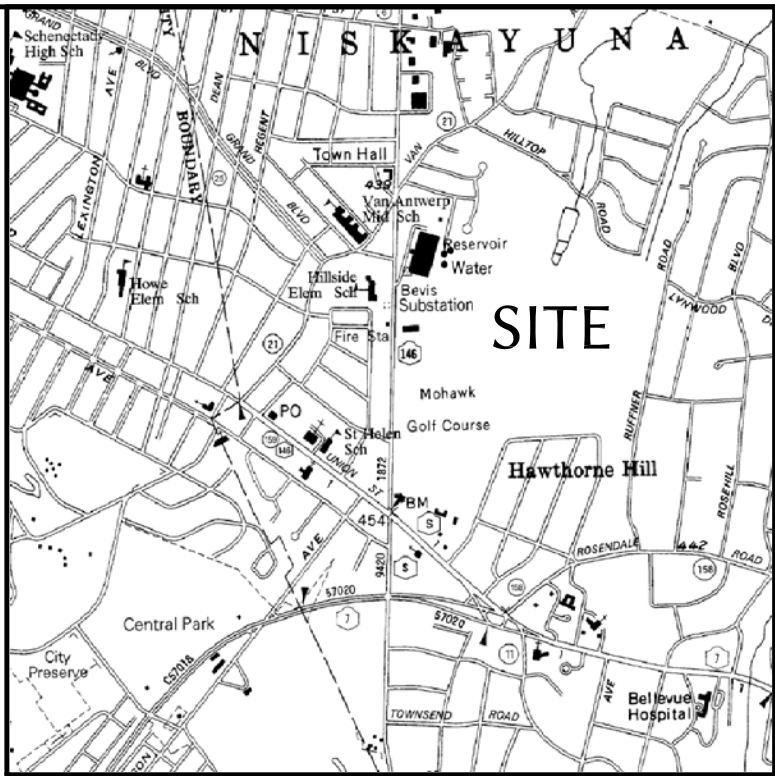
THE SIZE, LOCATION, AND LAYOUT OF THE PROPOSED STRUCTURES AND PAVEMENT SHOWN ON THIS PLAN MAY VARY BASED ON FUTURE LOT OWNERS' PREFERENCES. THESE DETAILS, AND ASSOCIATED SITE GRADING, MAY BE ADJUSTED BY A LICENSED DESIGN PROFESSIONAL PRIOR TO CONSTRUCTION, WITHIN THE LIMITS OF LOCAL, STATE, AND FEDERAL REGULATIONS.



TYPICAL LOT LAYOUT "A"
SCALE: 1"=40'
(WITH SETBACK DETAILS)



TYPICAL LOT LAYOUT "B"
SCALE: 1"=40'
(WITH UTILITY AND DRIVEWAY DETAILS)



SITE LOCATION

GENERAL NOTES:

- BASE MAPPING PREPARED BY ABD ENGINEERS, LLP FROM A FIELD SURVEY COMPLETED IN JUNE 2021, AND GIS INFORMATION.
- THE PLANS SHOW SOME KNOWN SUBSURFACE STRUCTURES, ABOVEGROUND STRUCTURES AND/OR UTILITIES BELIEVED TO EXIST WITHIN THE WORKING AREA. EXACT LOCATION OF WHICH MAY VARY FROM THE LOCATIONS INDICATED. IN PARTICULAR, THE CONTRACTOR IS WARNED THAT THE EXACT OR EVEN APPROXIMATE LOCATION OF SUCH PIPE LINES, SUBSURFACE STRUCTURES AND/OR UTILITIES IN THE AREA MAY BE DIFFERENT FROM THAT SHOWN OR MAY NOT BE SHOWN AND IT SHALL BE HIS OR HER RESPONSIBILITY TO PROCEED WITH GREAT CARE IN EXECUTING ANY WORK. PROVIDE (48) HOURS BEFORE YOU DIG, DRILL OR BLAST, CALL U.F.P.O. (1-800-962-7962).
- EXISTING AND PROPOSED GAS, ELECTRIC, AND TELECOMMUNICATIONS SERVICE LAYOUTS ARE SCHEMATIC ONLY. ALL REMOVALS, FINAL LOCATIONS, AND INSTALLATION REQUIREMENTS SHALL BE COORDINATED WITH ALL UTILITY COMPANIES.

NOTE: PROPERTY LINES SHOWN ARE BASED ON SCHENECTADY COUNTY TAX MAP

ZONING: R-1 (LOW DENSITY RESIDENTIAL) - SINGLE FAMILY DWELLINGS
NOTE: BOLD NUMBERS INDICATE VARIANCE REQUESTED

	Front Setback	Side Setback (L)	Side Setback (R)	Rear Setback	Lot Width	Lot Depth	Lot Area	Maximum Coverage
Required	35 ft	20 ft	20 ft	25 ft	100 ft	125 ft	18,000 SF	25%
Lot 1	35	N/A	0	95	66	188	12,674	19%
Lot 2	35	0	38	95	70	188	13,118	19%
Lot 3	47	39	0	66	77	170	12,905	19%
Lot 4	35	0	45	66	79	156	15,652	16%
Lot 5	35	40	0	104	61	175	23,379	10%
Lot 6	35	0	40	58	61	134	13,926	18%
Lot 7	35	33	0	48	61	134	12,054	20%
Lot 8	35	0	33	73	61	152	15,768	16%
Lot 9	35	40	0	69	75	152	12,063	20%
Lot 10	56	0	36	65	72	178	12,235	20%
Lot 11	35	37	0	88	68	180	12,240	20%
Lot 12	35	0	37	88	68	180	12,240	20%
Lot 13	35	36	0	87	68	180	12,240	20%
Lot 14	35	0	36	87	68	180	12,240	20%
Lot 15	58	37	0	64	72	179	12,237	20%
Lot 16	35	0	46	53	83	114	12,210	20%
Lot 17	35	57	0	21	92	94	12,387	20%
Lot 18	35	0	55	60	83	151	38,506	6%
Lot 19	35	49	0	59	69	154	12,357	20%
Lot 20	35	0	44	61	83	154	12,575	19%
Lot 21	35	38	0	94	69	185	12,819	19%
Lot 22	35	0	N/A	95	69	187	13,258	18%
TOTAL VARIANCES	0	11	11	1	22	2	20	0
GRAND TOTAL	67							

OWNER:
MGC GOLF OPERATIONS, LLC
8 AIRLINE DRIVE
ALBANY, NY 12205
1851 UNION STREET
TAX MAP #: 50.00-1-4.11
AREA: 190± ACRES
1245 RUFFNER ROAD
TAX MAP #: 50.08-1-18
AREA: 0.59± ACRES

ALTERATION OF THIS DOCUMENT EXCEPT BY A LICENSED PROFESSIONAL ENGINEER IS ILLEGAL.

JOSEPH J. BIANCHINI, P.E.
N.Y.S. LICENSE NO. 50226

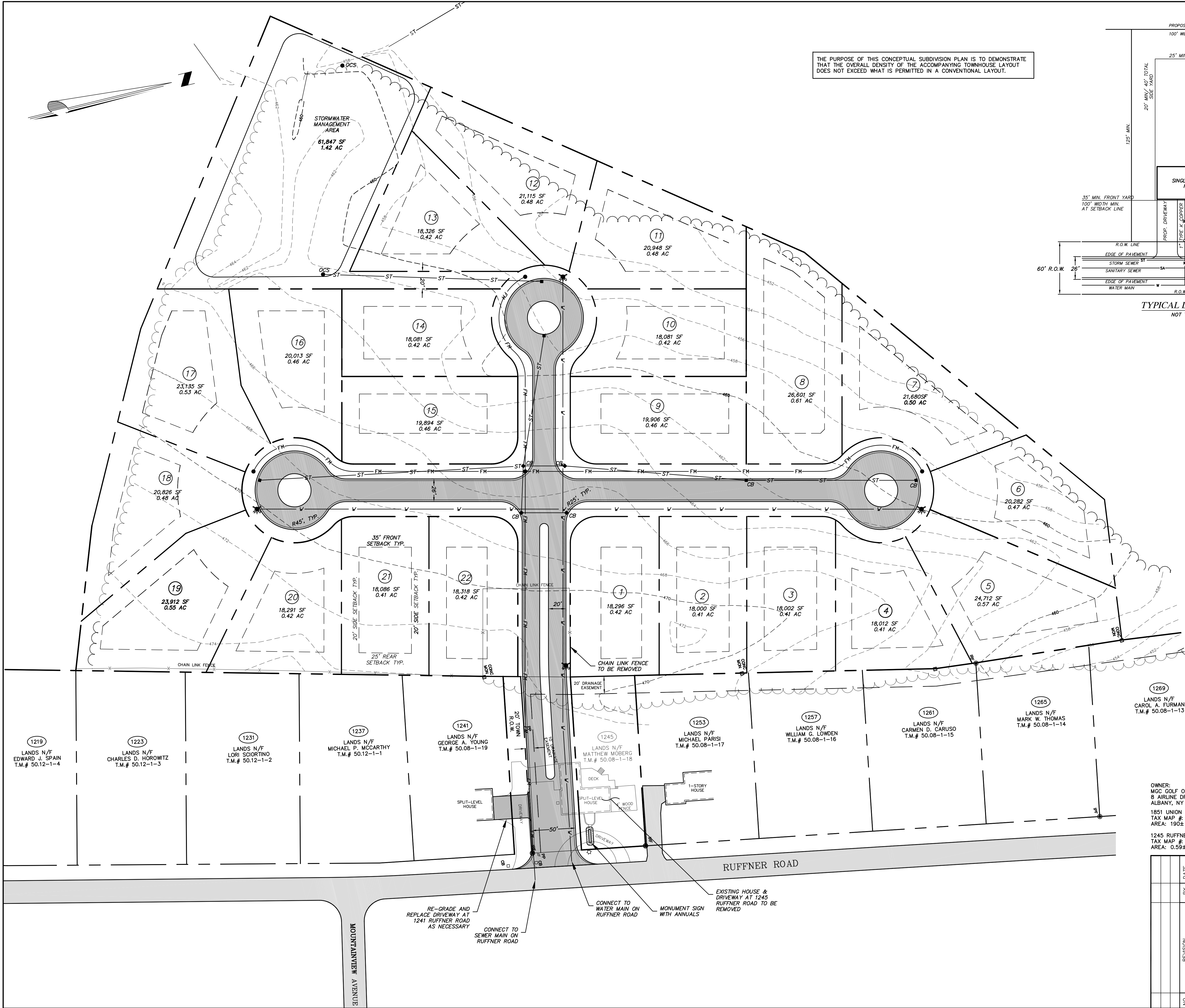
SKETCH 22-LOT TOWNHOUSE LAYOUT
RESIDENTIAL SUBDIVISION
MOHAWK GOLF CLUB
1851 UNION STREET & 1245 RUFFNER ROAD

TOWN OF NISKAYUNA COUNTY OF SCHENECTADY

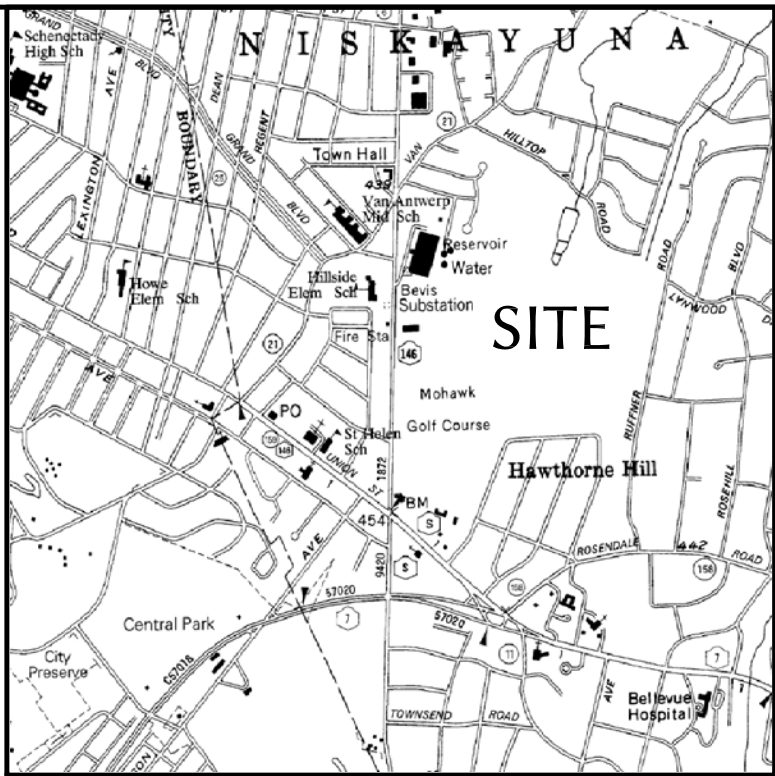
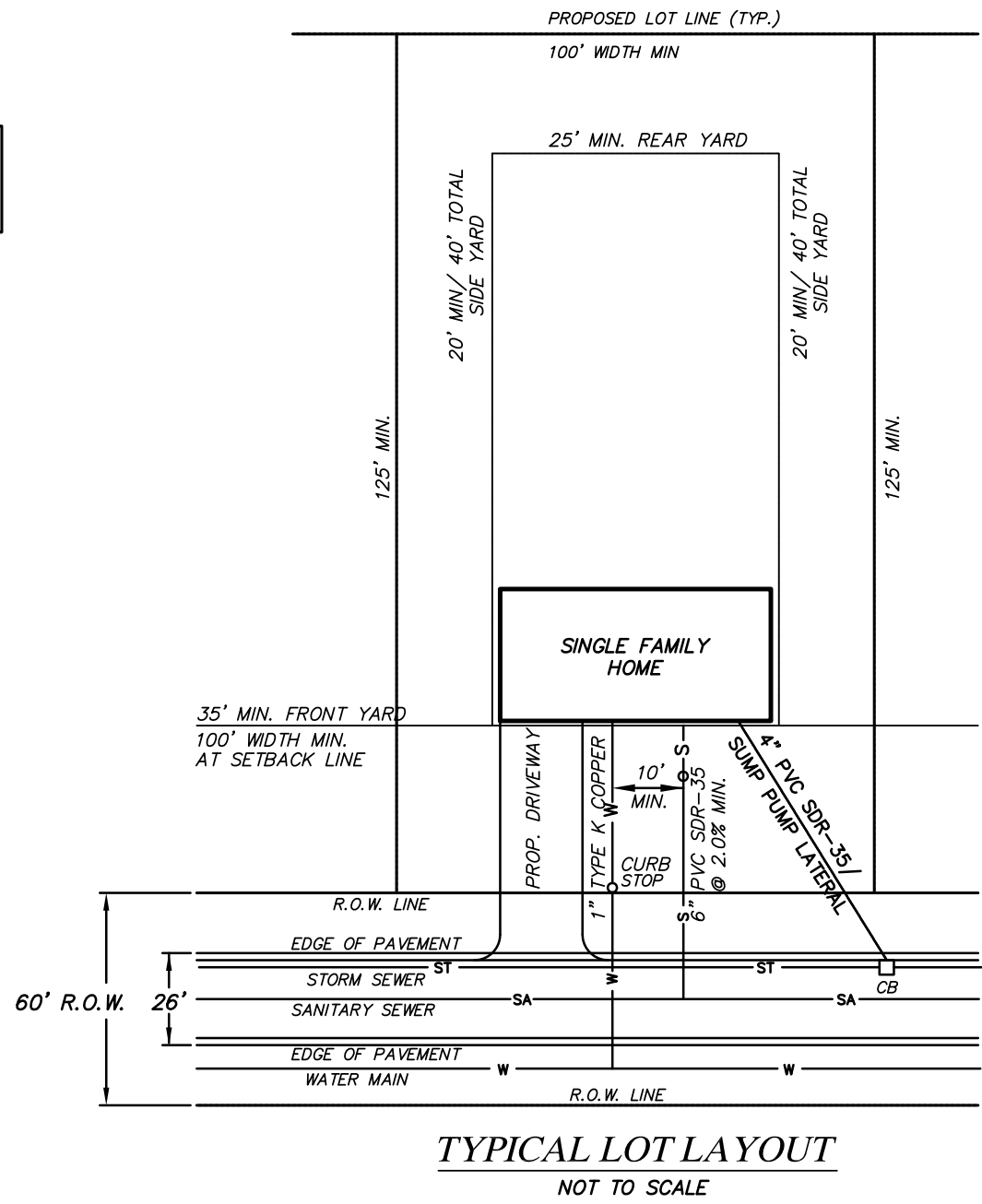
STATE OF NEW YORK

ABD ENGINEERS, LLP

411 Union Street
Schenectady, NY 12305
518-377-0315 Fax 518-377-0379
www.abdeng.com



THE PURPOSE OF THIS CONCEPTUAL SUBDIVISION PLAN IS TO DEMONSTRATE THAT THE OVERALL DENSITY OF THE ACCOMPANYING TOWNHOUSE LAYOUT DOES NOT EXCEED WHAT IS PERMITTED IN A CONVENTIONAL LAYOUT.



SITE LOCATION

GENERAL NOTES:

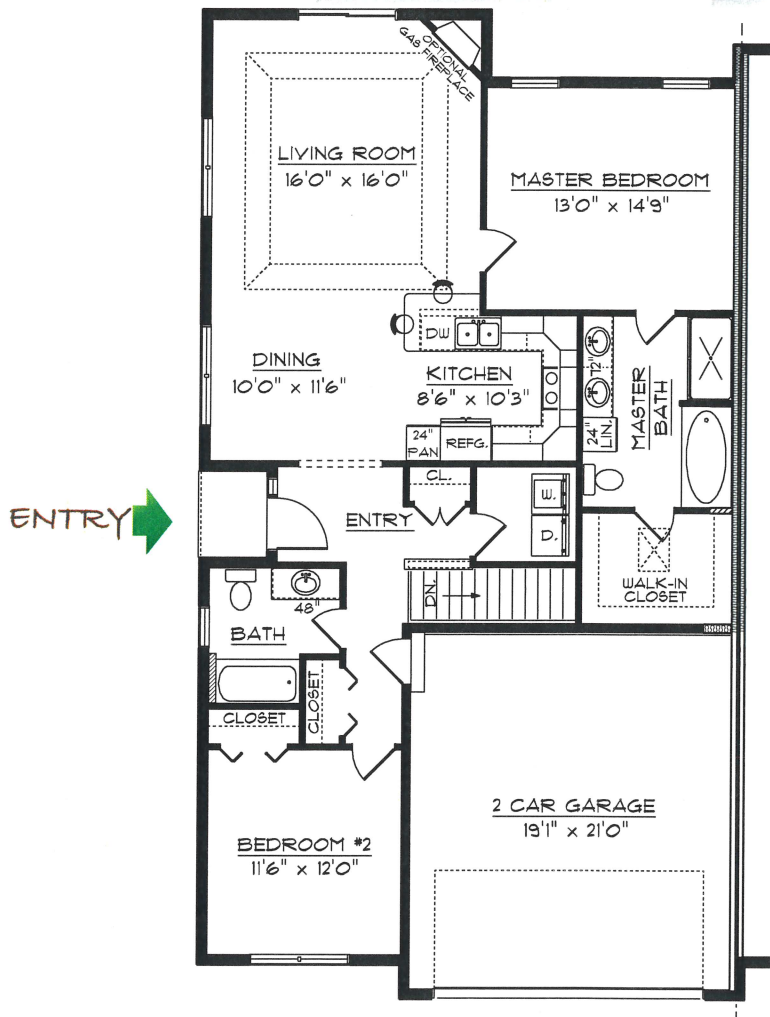
1. BASE MAPPING PREPARED BY ABD ENGINEERS, LLP FROM A FIELD SURVEY COMPLETED IN JUNE 2021, AND GIS INFORMATION.
2. THE PLANS SHOW SOME KNOWN SUBSURFACE STRUCTURES, ABOVEGROUND STRUCTURES AND/OR UTILITIES BELIEVED TO EXIST WITHIN THE WORKING AREA. EXACT LOCATION OF WHICH MAY VARY FROM THE LOCATIONS INDICATED. IN PARTICULAR, THE CONTRACTOR IS WARNED THAT THE EXACT OR EVEN APPROXIMATE LOCATION OF SUCH PIPE LINES, SUBSURFACE STRUCTURES AND/OR UTILITIES IN THE ARE MAY BE DIFFERENT FROM THAT SHOWN OR MAY NOT BE SHOWN AND IT SHALL BE HIS OR HER RESPONSIBILITY TO PROCEED WITH GREAT CARE IN EXECUTING ANY WORK. PROVIDE (48) HOURS BEFORE YOU DIG, DRILL OR BLAST, CALL U.F.P.O. (1-800-962-7962).
3. EXISTING AND PROPOSED GAS, ELECTRIC, AND TELECOMMUNICATIONS SERVICE LAYOUTS ARE SCHEMATIC ONLY. ALL REMOVALS, FINAL LOCATIONS, AND INSTALLATION REQUIREMENTS SHALL BE COORDINATED WITH ALL UTILITY COMPANIES.

NOTE: PROPERTY LINES SHOWN ARE BASED ON SCHENECTADY COUNTY TAX MAP

ZONING:	R-1 (LOW DENSITY RESIDENTIAL) SINGLE FAMILY DWELLINGS
	REQUIRED (CONVENTIONAL ZONING)
LOT AREA:	18,000 SF MIN.
LOT WIDTH:	100' MIN.
LOT DEPTH:	125' MIN.
LOT COVERAGE:	25% MAX.
YARD DIMENSIONS:	
FRONT:	35' MIN.
SIDE:	20' MIN.
REAR:	25' MIN.

OWNER:
MGC GOLF OPERATIONS, LLC
8 AIRLINE DRIVE
ALBANY, NY 12205
1851 UNION STREET
TAX MAP #: 50.08-1-4.11
AREA: 190± ACRES
1245 RUFFNER ROAD
TAX MAP #: 50.08-1-18
AREA: 0.59± ACRES

NO.	REVISION	BY	DATE	<div>ALTERATION OF THIS DOCUMENT EXCEPT BY A LICENSED PROFESSIONAL ENGINEER IS ILLEGAL.</div> <div></div>	CONCEPTUAL 22-LOT CONVENTIONAL LAYOUT RESIDENTIAL SUBDIVISION MOHAWK GOLF CLUB 1851 UNION STREET & 1245 RUFFNER ROAD				
					TOWN OF NISKAYUNA	COUNTY OF SCHENECTADY			
					STATE OF NEW YORK ENGINEERS, LLP 411 Union Street Schenectady, NY 12305 518-377-0315 Fax 518-377-0379 www.abdeng.com				
					DATE: JULY 20, 2022	SHEET 1 OF 1			
				SCALE: 1" = 50' DWG. 5429A-S SINGLE FAM					



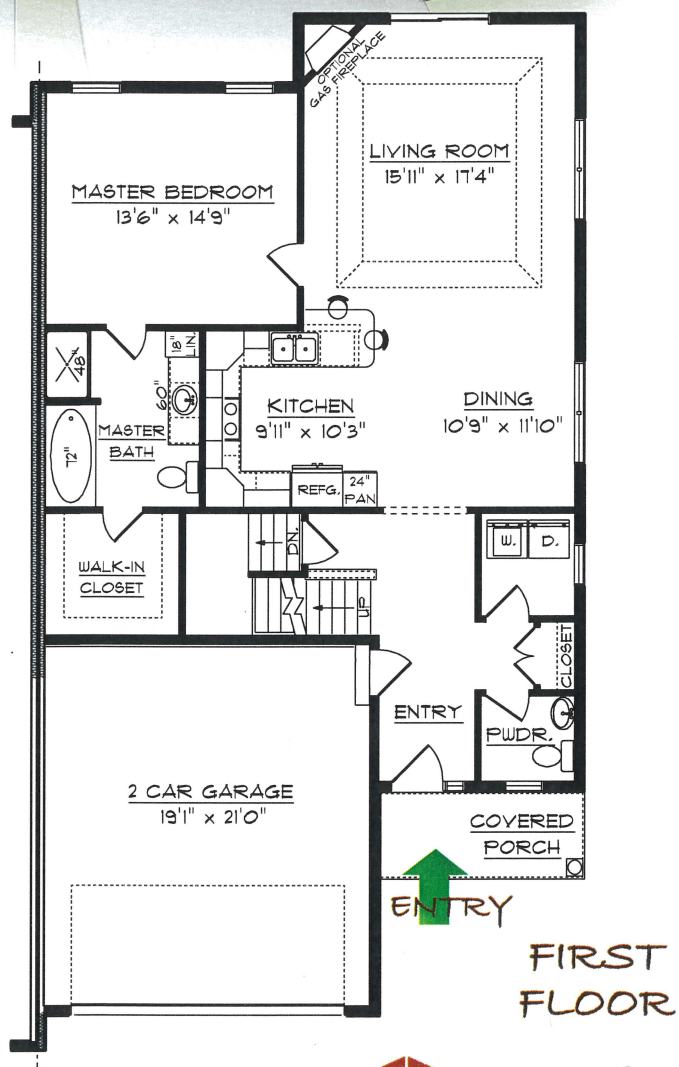
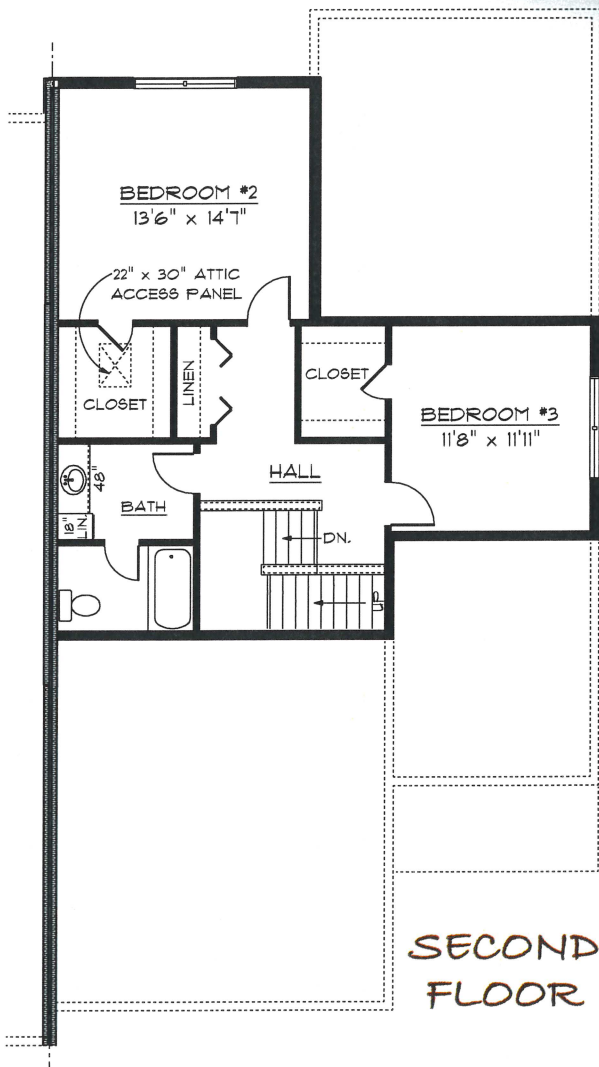
UNIT - A

LIVING AREA = 1,326 SF
GARAGE AREA = 417 SF

UNIT - B

1ST FLOOR = 1,222 SF
2ND FLOOR = 747 SF

LIVING AREA = 1,969 SF
GARAGE AREA = 426 SF



This drawing is for illustrative purposes only and is deemed to be accurate at the time of publication. All room sizes are approximate. The Builder reserves the right to make modifications and revisions as deemed necessary.

2023

JANUARY						
S	M	T	W	T	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

FEBRUARY						
S	M	T	W	T	F	S
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28				

MARCH						
S	M	T	W	T	F	S
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

APRIL						
S	M	T	W	T	F	S
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29

MAY						
S	M	T	W	T	F	S
30	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

JUNE						
S	M	T	W	T	F	S
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	

JULY						
S	M	T	W	T	F	S
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					











AUGUST						
S	M	T	W	T	F	S
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

SEPTEMBER						
S	M	T	W	T	F	S
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30

OCTOBER						
S	M	T	W	T	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

NOVEMBER						
S	M	T	W	T	F	S
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30		

DECEMBER						
S	M	T	W	T	F	S
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

 Planning	 Zoning	 CAC	 TB Agenda	 Town Board
 EDHPEC	 Tree	 NCSC	 HOLIDAYS	 Early Voting

Town of Niskayuna

Conservation Advisory Council

2023 Meeting Schedule

January	4	
February	1	
March	1	
April		*No Meeting in April
May	3	
June	7	
July	5	
August	2	
September	6	
October	4	
November	8	
December	6	

Meetings are held on Wednesdays at 7:00 p.m. in the
Town Board meeting room. Dates and times are
subject to change.