



# BOROUGH OF CONSHOHOCKEN

*Office of the Borough Manager*

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Stephanie Cecco  
Borough Manager

## ZONING NOTICE

JUNE 15<sup>TH</sup>, 2020 ZONING HEARING BOARD MEETING TO OCCUR VIA REMOTE MEANS

### ZONING HEARING Z-2018-13

NOTICE IS HEREBY given that the Conshohocken Zoning Hearing Board will conduct a public hearing on June 15th, 2020 at 7:00 p.m. prevailing time via remote means. The public is encouraged to participate as set forth below.

In response to the Governor's Stay at Home Order due to COVID-19, this meeting will be held using a Go-To-Meeting Platform. To the extent possible, members of Conshohocken Zoning Hearing Board and Borough staff/professionals will participate via both video and audio. (INSTRUCTIONS ON SECOND PAGE)

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

PETITIONER: Howlin Equities, LLC  
c/o Josh Denenberg  
801 Waverly Rd., Bryn Mawr, PA 19010

PREMISES INVOLVED: 1023 Fayette St., Conshohocken, PA 19428  
Residential Office Zoning District

OWNER OF RECORD: Same as Petitioner

The Petitioner is requesting an extension of zoning relief, originally granted in 2018 to the predecessor-in-interest 1023 Fayette Street LLC, from the following sections of the Conshohocken Zoning Ordinance: 27-703.E.6(a) – special exception of a change of non-conforming use; 27-703.D – expansion of a non-conforming use beyond 25% of the gross floor area; 27-2002 – the number of required off-street parking spaces; 27-1207.B and C – buffering and landscaping requirements in the RO District; and 27-2007.K – parking space sizes.

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

Thank you,  
Zoning Hearing Board

## ZONING HEARING REMOTE SESSION ACCESS INSTRUCTIONS

The public is encouraged to participate as follows:

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

You can also dial in using your phone.  
United States (Toll Free): [1 866 899 4679](tel:18668994679)

Access Code: 633-884-013

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

**Video Feed Participation:** The public may access the video feed by using the link provided below.

Please join my meeting from your computer, tablet or smartphone. (Link is also on the Borough of Conshohocken website: [www.conshohockenpa.gov](http://www.conshohockenpa.gov))

<https://global.gotomeeting.com/join/633884013>

New to GoToMeeting? Get the app now and be ready when your first meeting starts:  
<https://global.gotomeeting.com/install/633884013>

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

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

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

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

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

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

I/We \_\_\_\_\_

Request to be granted party status in Application Z \_\_\_\_\_.

Applicant: \_\_\_\_\_

Please print name and address below:

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Please Sign Below:

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Please return form via mail or e-mail to the below:  
*(Entry must be received no later than Wednesday June 10th, 2020)*

MAIL:  
Borough of Conshohocken  
Attn: Bobbi Jo Myrsiades  
400 Fayette St.  
Conshohocken, PA 19428

E-MAIL:  
[zoning@conshohockenpa.gov](mailto:zoning@conshohockenpa.gov)



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Stephanie Cecco  
Borough Manager

## MEMORANDUM

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Date: June 4, 2020  
To: Stephanie Cecco, Brittany Rogers  
From: Eric P. Johnson, P.E.  
Re: Z-2018-13 - 1023 Fayette Street Extension Request

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**History of the Site:** 1023 Fayette Street is a 4,476 square-foot lot located on the southwest corner of East 11<sup>th</sup> Avenue and Fayette Street, in the Residential Office Zoning District. The property is currently improved with an existing one-story, 960 square-foot building and parking lot. Originally, the building was occupied by a doctor's office, but over the years has been used for a number of different office uses. The property is considered a legal non-conforming use and is not a Victorian or early Twentieth Century design.

In August, 2018 a zoning hearing was held to consider a petition to expand the building to two (2) stories and re-configure the parking on the site. The size of the building would be increased to 3,200 square feet and eight (8) off-street parking spaces would be provided. Zoning relief was granted from the following sections of the Zoning Ordinance with no conditions attached to the approval:

- §27-703.E.6(a): A Special Exception for a change of non-conforming use
- §27-703(D): A Special Exception to physically expand a non-conforming use more than twenty-five percent (25%) of the gross square footage of the building
- §27-1207.B and C: A Variance to reduce the required buffering and landscaping on the site
- §27-2002: A variance to reduce the required number of off-street parking spaces

Per §27-613 of the Zoning Ordinance, the zoning relief granted expires six (6) months from the time of the decision. In February, 2019 a zoning hearing was held to consider a petition to extend the granted zoning relief for an additional year. The requested extension was granted and expired on February 26, 2020.

**Current Request:** The current property owner, Howlin Equities, LLC, is requesting an extension of zoning relief originally granted to the predecessor-in-interest, 1023 Fayette Street LLC, for an additional one (1) year. The extension request was received prior to the expiration of the prior extension.

**Zoning Determination:** The current property owner acquired title to the property from the prior owner on September 11, 2019. In seeking the extension of zoning relief, the owner has indicated they are currently in the process of recording Land Development Record Plans, developing new building interior layout plans, and preparing to relocate business operations. Therefore, an extension of the relief originally granted in 2018, and previously extended in 2019 to allow the project to continue.

THE LAW OFFICES OF ANDREW M. SLOM, ESQ., LLC

ANDREW M. SLOM  
ATTORNEY AT LAW

Licensed in NJ and PA

1617 JFK BOULEVARD  
SUITE 1250  
PHILADELPHIA, PA 19103  
Phone (267) 328-4783  
Fax (267) 348-7222  
Andrew@slomlegal.com

May 15, 2020

*Via E-mail*

Eric Johnson, PE, Zoning Officer  
Borough of Conshohocken  
400 Fayette Street, Suite 200  
Conshohocken, PA 19428

**RE: 1023 Fayette Street, Conshohocken, PA 19428  
Application No. Z-2018-13**

Dear Mr. Johnson:

Please be advised that I represent Howlin Equities, LLC (the "Applicant"), owner of the above-referenced property. This letter shall serve as our latest request for a one-year extension of the approvals obtained from the Zoning Hearing Board under application no. Z-2018-13 for the 1023 Fayette Street project.

The original application was filed by Applicant's predecessor-in-interest, 1023 Fayette Street, LLC (the "Prior Owner"), and was granted by the Zoning Hearing Board on October 2, 2018. Applicant subsequently acquired title to the Property from the Prior Owner on September 11, 2019.

With the prior zoning approvals set to expire on February 26, 2020, the owner of the Applicant, Josh Denenberg, submitted a request for extension of the previously-granted zoning relief on January 13, 2020 (a true and correct copy of the Zoning Extension Letter is attached hereto as **Exhibit "A"** and made a part hereof). As the zoning relief runs with the land, Applicant is entitled to request an extension of the zoning relief obtained from the Prior Owner, and respectfully requests that its request for an extension be placed on the next available agenda of the Zoning Hearing Board for their consideration.

Should you have any questions or require any additional information, please reach out to me and I will gladly supplement my request as needed.

Sincerely,



Andrew M. Slom  
Attorney for Howlin Equities, LLC

AMS

cc: Client (*via email*)

**EXHIBIT "A"**



Conshohocken Zoning Officer, Christine Stetler  
Conshohocken Borough Hall  
400 Fayette St., Suite 200  
Conshohocken, PA 19428

1/13/20

Ref: Zoning Hearing LD-2019-03

Dear Christine,

We are writing this request for an extension for the zoning relief that was previously granted. Howlin Equities LLC is our new entity that purchased the below property for Kay Lighting. We are coordinating the move and design of our lighting showroom and have several moving pieces to nail down before we can begin construction. This involves moving our warehouse/inventory which will take some time.

We are changing the interior layout of the building to work for our business and expect to finalize our plans within the next couple months if not sooner to submit for final approval for the below address.

I know plans also needed to be recorded within 90 days of signatures- please advise if we need to get an extension on that approval as well.

1023 Fayette St  
Conshohocken, PA 19428

Thanks in advance,

Josh Denenberg  
President, Kay Lighting

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PA Showroom • 317 Ridge Pike • Conshohocken, PA 19428 • 610-825-0100  
NYC Sales Office • 116 East 27<sup>th</sup> St. 11<sup>th</sup> Fl. • New York, NY 10016 • 610-837-9000



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Stephanie Cecco  
Borough Manager

February 27, 2019

1023 Fayette Street, LLC  
c/o Robert Caucci  
359 Summit Avenue  
Conshohocken, PA 19482

Re: Z-2018-13 Extension of Zoning Relief

Dear Bob:

The Conshohocken Zoning Hearing Board at its February 26, 2019 meeting extended zoning relief granted in 2018 for your project at 1023 Fayette Street. Relief was granted for one (1) year through February 26, 2020.

All other conditions and representations related to the project remain in effect. Permits for work on the project must be secured within the extension period, and compliance with all federal, state, and local ordinances is required.

Do not hesitate to contact me if you have any question on the extension or next steps in the process.

Sincerely,

Christine M. Stetler

cc: J. DiPietro, Esq.



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Stephanie Cecco  
Borough Manager

### Conshohocken Zoning Hearing Board

February 26, 2019 - 7:00 p.m.  
Conshohocken Borough Hall - 400 Fayette Street  
Conshohocken, PA 19428

Z-2018-13: Request for an Extension of Zoning Relief  
1023 Fayette Street, Conshohocken, PA

By letter dated 2/4/19, an extension of relief granted in 2018 for the project at 1023 Fayette Street was requested.

John Adam DiPietro, Esq. represented the owner of the property. Mr. DiPietro agreed to have the hearing on the extension before a three (3) member Zoning Hearing Board. Mr. Danek recused himself from the hearing.

Zoning relief remains in effect for six (6) months and the Petitioner is required to secure permits for the project within that time period. Because the project involves a commercial property, the land development process is required. The Developer sought a single tenant for the building that would not be a problem for neighboring residential properties. There also was a change in engineering staff for the project. The time involved in seeking a tenant and the change in engineers delayed submission of a land development application. Zoning on the project expired on 2/22/19. In order to complete the project an extension of zoning relief is required.

Special exceptions were granted for the change and expansion of a non-conforming use. Variances were granted for the required number of off-street parking spaces, the required buffering of parking lots, and parking space size.

Mr. DiPietro explained that there have been no changes in the project or in the plans presented to the Zoning Hearing Board in 2018. All representations made at the original zoning hearing remain the same. It was noted that the size of the building actually may diminish. The project will meet all other requirements of the Residential Office Zoning District.

Mr. Robert Caucci, the owner of the property, corroborated Mr. DiPietro's explanation of the status of the project.

David Rollins, 1013 Fayette Street, questioned the setback of the proposed second floor of the building. It was explained that the building was non-conforming with regard to set backs, and that second floor would have the same footprint as the first floor of the building.

MOTION: TO EXTEND THE ZONING RELIEF GRANTED IN 2018 FOR 1023 FAYETTE STREET FOR ONE (1) YEAR FROM 2/26/19.

Scharff Yes

Danek Recused

Cardamone Yes

Barton Yes

Motion Approved.



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P-3

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Karen Tutino, Member

## MEMORANDUM

Stephanie Cecco  
Borough Manager

Date: February 13, 2019

To: Zoning Hearing Board, ZHB Solicitor, Stephanie Cecco, and Brittany Rogers

From: Chris Stetler

Re: 1023 Fayette Street Extension Request

**History of the Site:** 1023 Fayette Street is located in the Residential Office Zoning District. The lot is 4,476 square feet, and is located at the south corner of East 11<sup>th</sup> Avenue and Fayette Street. Located on the property is a one story building of 960 square feet, with most of the remaining area on the lot paved for parking. Originally, the building was a doctor's office, but over the years has been used for a number of different office uses. The property is considered a legal non-conforming use, and is not considered a Victorian or early Twentieth Century design.

In August, 2018, a zoning hearing was held to consider a petition to expand the building to two (2) stories; and to re-configure the parking at the site. The size of the building would be increased to 3,200 square feet, and eight (8) off-street parking spaces would be provided. Zoning relief was sought to the following sections of the Zoning Ordinance:

§27-703 6. (a): A Special Exception for a change of non-conforming use;  
§27-703 (D): A Special Exception to physically expand a non-conforming use more than twenty-five percent (25%) of the gross square footage of the building;  
§27-1207 B and C: A Variance to reduce the required buffering and landscaping at the site; and  
§27-2002: A variance to reduce the required number of off-street parking spaces.

The Special Exceptions and Variances were granted, and no conditions were attached to the approval.

Zoning relief granted expires six (6) months from the time of the decision per §27-613 of the Zoning Ordinance; and expires if permits for the project are not secured. The Special Exceptions and variances for 1023 Fayette Street will expire 2/20/19.

**Current Proposal:** The owner of the property requests a six (6) month extension of the zoning relief granted in 2018.

**Zoning Determination:** The property in question is a commercial property. Changes to a commercial property constitute a land development under the Pennsylvania Municipalities Planning Code. For this reason the project is required to complete the Borough's established land development process, which requires review by the Borough and County Planning Commissions, and approval by

Conshohocken Borough Council. The land development process can require ninety (90) days or more to complete; and a property owner or developer cannot apply for permits until the project is approved.

For a variety of reasons, the Owner of 1023 Fayette Street did not proceed immediately with the land development process. While the land development process is beginning, it will not be completed by the time the zoning approval for the project expires. For this reason an extension of the relief granted in 2018 is required.

BEFORE THE ZONING HEARING BOARD OF CONSHOHOCKEN

P-4

IN RE: APPLICATION OF 1023 FAYETTE STREET, LLC

REGARDING

1023 FAYETTE STREET

2018-13

DECISION OF THE BOARD

I. HISTORY

On or about July 10, 2018, 1023 Fayette Street, LLC (hereinafter "Applicant") filed the within Application seeking special exceptions from the terms of 27-703(6)(A) and 27-703(6)(D), and variances from the terms of Sections 27-2002, 27-1207(B), 27-1207(C), and 27-2007(K), of the Conshohocken Borough Zoning Ordinance of 2001 (together with all amendments thereto, the "Zoning Ordinance"), seeking permission to expand the existing one-story building by adding a second floor, which will increase the square footage of the building from 960 square feet to 3,200 square feet, for a property located at 1023 Fayette Street, Conshohocken, Pennsylvania (hereinafter called "Subject Property"). The Applicant also seeks relief to only provide 9 parking spaces where 16 are required; reduce the required parking space size to 8' x 18'; and limit the size and landscaping of required buffer strips.

After notice was duly given and advertised for each application, a hearing was held on said Appeal at Borough Hall on Monday August 20, 2018 at 7:00 p.m.

At the hearing, the following Exhibits were introduced and admitted:

P-1 – Zoning Notice.

P-2 – Zoning Application.

P-3 – Addendum.

P-4 –Site Plan.

P-5 – Tax Map.

P-6 – Memo from Chris Stetler

P-7 – Letter from Michael Peters, Esquire

P-8 – Board of Assessment Records

P-9 - Deed

A-1 – Memorandum of law.

A-2- Rendering of Building

**FINDINGS OF FACT**

1. The Subject Property is located at 1023 Fayette Street, Conshohocken, Pennsylvania in the Borough Residential Office Zoning District.
2. The Subject Property is owned by 1023 Fayette Street, LLC.
3. The Applicant was represented by John Adam DiPietro, Esquire.
4. The Applicant is requesting two special exceptions and multiple variances in order to expand the one-story building by adding a second story.
5. Specifically, the Applicant seeks special exceptions from the terms of 27-703(6)(A) and 27- 703(6)(D), and variances from the terms of Sections 27-2002, 27-1207(B), 27-1207(C), and 27-2007(K).
6. As a result of adding square footage through the second floor addition, the Application would require relief for associated parking and is further asking for relief from certain buffering and landscaping requirements referenced in the Zoning Code.
7. Specifically, the Applicant proposes to increase the square footage of the building from 960 square feet to 3,200 square feet; provide 9 parking spaces where 16 are required; reduce

the required parking space size to 8' x 18'; and limit the size and landscaping of required buffer strips.

8. During the hearing Mr. DiPietro, Esquire called Mr. Robert Caucci, Jr. to testify.

After being sworn in, Mr. Caucci testified to the following:

- a. He is the principal of 1023 Fayette Street, LLC.
- b. The current building is 960 square feet and is not in the greatest of condition.
- c. Due to the size of the building it is difficult to lease and was previously vacant for 10 or 11 months before the current tenant moved in.
- d. The building pre-dates the Borough's Zoning Code and therefore is non-conforming.
- e. He would like to rent out the building to a single tenant once the improvements are completed. He is not looking to rent out the Subject Property to multiple tenants.
- f. One of the reasons he is trying to expand the building is that the current size is very difficult to market and the Subject Property was previously vacant for a long period of time.
- g. His goal is to construct the new building and then find a tenant that can occupy the space.
- h. Currently the parking lot only accommodates approximately seven cars. With the proposed addition, he would be required to have 16 off-street spaces.
- i. Based on the size of the lot, he could only offer nine off-street spaces if the parking spots were reduced from 9' x 18' to 8' x 18'.

- j. The project would be similar to the redeveloped Conshohocken Physical Therapy building which is also owned by the Applicant.
- k. In the neighborhood surrounding the Subject Property is a mix of commercial and residential properties.
- l. The proposed building would only be 27 feet high. Most of the residential properties in the neighborhood are closer to 35 feet high.
- m. He has owned Conshohocken Physical Therapy for 9 years and does not believe parking is an issue in this section of the Borough.
- n. None of the other businesses in the area have off-street parking.
- o. The existing building does not meet the front or side yard setback requirements.

9. During the hearing the Applicant amended the application to no longer ask for relief to reduce the parking spaces to 8'x18'. However, due to this change, the Applicant's relief regarding the amount of off-street parking increased by one, he will only be able to provide eight spaces.

10. Mr. DiPietro, Esquire, also called Mr. Samuel Kim to testify. After being sworn in Mr. Kim testified to the following:

- a. He is an architect and the principal of Ambit Architecture.
- b. He is familiar with Conshohocken and designed the Conshohocken Physical Therapy building.
- c. As a result of the propose improvements, the impervious coverage on the Subject Property would actually decrease.
- d. In order to increase the parking, the curb cut is going to be re-located so traffic will flow better within the parking area.

- e. Currently the Subject Property has a 0 foot setback and is non-conforming as the code requires a 25-foot setback.
- f. The side yard setback would also be 0 feet and is also non-conforming.
- g. The existing impervious coverage is 100% while the code only allows 50%. The proposed project will reduce impervious coverage by six percent (6%), and will add green space to the Subject Property.
- h. The wall on the side of the neighboring residential property will be all brick and will not have any windows pursuant to the building code and concerns with fire safety.
- i. The utilities will be on the first floor in a closet as the Subject Property does not have a basement.

11. There were a few neighbors that expressed their concerns with the project, particularly the side yard setbacks and traffic in the neighborhood based on the commercial use of the Subject Property. The Zoning Hearing Board understands the neighbors' concerns and took them into consideration when making a decision on this Application.

## **II. DISCUSSION**

Section 27-703 states:

“ The following regulations shall govern all properties to which nonconforming status is applied:

A. Nonconforming status shall continue, and a property may continue to be used as nonconforming until it complies with the requirements of this Chapter.

B. Change of Use.

(1) A nonconforming use may be changed to another nonconforming use which is equally appropriate or more appropriate to the district in which the property is located, and is no more detrimental than the existing nonconforming use, as a special exception by the Zoning Hearing Board in accordance with the provisions of Part 6 of this Chapter.

(2) A nonconforming use shall not be changed to another nonconforming use that is less appropriate to the district in which the property is located, and/or is more detrimental than the existing nonconforming use.

(3) If a nonconforming use is changed to a conforming use, then the previous nonconforming status shall become null and void in accordance with § 27-703(C) below.

C. Discontinuance. A nonconforming use, when discontinued, may be resumed any time within one year from such discontinuance, but not thereafter, unless a variance is granted by the Zoning Hearing Board in accordance with Part 6 of this Chapter. The resumption may be of the same use, or another nonconforming use which is equally appropriate or more appropriate to the district in which it is located, but shall not be less appropriate or more detrimental than the previous nonconforming use.

D. Physical Expansion. Physical expansion of a nonconforming building or building housing a nonconforming use shall be permitted only one time and shall be limited to 25% of the gross floor area of the existing building.

E. Extension or Expansion. A nonconforming use, building, or structure, not including signs, may be extended or expanded in compliance with all of the following:

(1) The parcel on which extension or expansion occurs shall include only that lot, held in single and separate ownership, on which the use, building, or structure existed at the time it became nonconforming. Expansion onto adjoining lots is prohibited.

(2) Nonconforming use of a building may be extended throughout the building only in compliance with § 27-703(D) of this Chapter.

(3) A building, which houses a nonconforming use, may be expanded only in compliance with § 27-703(D) of this Chapter.

(4) A nonconforming use may not be extended to a new building.

(5) A nonconforming building may be expanded only in compliance with § 27-703(E)(6) of this Chapter.

(6) In addition to § 27-703(A), (B), (C), (D), and (E) above, nonconforming uses must comply with the following:

(a) Extension and/or expansion as permitted in § 27-703(E)(1) through (5) above, shall be permitted only by special exception in accordance with Part 6 of this Chapter, only to the extent that all new construction shall comply with the dimensional standards of the district in which the use is located or the district in which the use is permitted, whichever is more restrictive.

(b) In addition, when a nonconforming use is expanded, the applicant must comply with all performance standards of the district in which the use is permitted or the district in which the use is located, whichever is more restrictive. The performance standards include, but are not limited to, the following: parking, signage lighting, landscaping, noise, and building and impervious coverage.

(c) In cases where a building is nonconforming as to front, side, or rear yard setback, an addition may be built on a line with the existing building, as long as it does not create an additional encroachment into a required yard. Any further encroachment with regard to required setbacks will require a variance.

1) Expansion shall not be permitted to extend closer to the road legal right-of-way than the front wall of the existing dwelling closest to the road.

2) Expansion shall not be permitted to create a new violation of the minimum side yard setback. An existing dwelling that violates the side yard may be expanded to the rear along the side yard building setback established by the wall of the existing building.

3) An existing dwelling that violates the rear yard may be expanded to the sides along the rear yard building setback established by the rear wall of the existing building.

F. Additional Building Regulations. The following regulations apply to buildings:

(1) When new ordinance provisions are adopted and affect planned construction, which has not been completed:

(a) Buildings under construction as of the date of adoption of new ordinance provisions, to the extent of completion of footings, may be completed as nonconforming buildings provided that valid building permits have been issued for those buildings.

(b) The use or uses of buildings governed by subsection (F)(1)(a) above shall comply with the permitted uses for the district in which they are located.

(2) Nonconforming primary structures damaged or destroyed by fire, explosion, accident, or calamity (as contrasted to deterioration due to time or neglect) may be reconstructed and used as before, provided that:

(a) If repairs constitute substantial improvement, as herein defined, the structure may be reconstructed only within strict conformity with all applicable regulations of this Chapter. If the repairs constitute less than substantial improvement, as herein defined, the structure may be reconstructed so as to match the dimensions and location of the damaged building, including height, width, depth and volume.

(b) Building reconstruction shall be started within one year from the date the building was damaged or destroyed, and shall be carried out without interruption.

(c) The building will pose no hazards to safety by virtue of its location.

(3) Legally condemned nonconforming buildings shall not be rebuilt or used except in conformance with this Chapter.

G. Contiguous Undeveloped Lots. Where two or more contiguous undeveloped lots are held in single ownership, within a subdivision which has been duly recorded prior to the effective date of this Chapter, which lots are individually not of the required minimum area or width for the district in which they are situated, such lots may be developed only in groups thereof in order to provide the minimum lot area and width required. When all lots in single ownership are combined and still do not meet area and/or width requirements, they may be considered a single nonconforming lot in accordance with § 27-703(G) of this Chapter.

H. Nonconforming Signs. If and when a nonconforming sign is replaced, the new sign shall comply with the requirements of this Chapter. "Replacement" shall not include simply revising the text or color of the sign, but shall refer to structural replacement and/or relocation of the sign.

I. Conforming Uses in Nonconforming Buildings or Lots. The conversion of one conforming use to another conforming use on a lot or in a building that is nonconforming shall be permitted by special exception from the Zoning Hearing Board in accordance with the provisions of Part 6 of this Chapter."

Section 27-2002 is titled "Required Off-Street Parking Capacity" and states:

"Any building or structure erected, altered, or used, and any lot used or occupied for any of the following purposes shall be provided with the minimum number of parking spaces set forth below, together with adequate driveways and street access in compliance with the requirements of the Conshohocken Borough Subdivision and Land Development Ordinance [Chapter 22]. When a use is not specifically listed below, the requirements of the most similar use shall apply.

Use	Requirement
Dwelling unit, multifamily dwelling (studio, efficiency or one-bedroom units)	1 1/2 spaces per dwelling unit.
Dwelling unit:	
Elderly/disabled housing	1 space per dwelling unit.
Independent living	1 space per dwelling unit.
Personal care home	1 space per every 2 private living units.
Dwelling unit, all other types	2 spaces per dwelling unit.
Places of assembly, such as church or auditorium	1 space per 4 seats.
Retail stores	1 space per 150 square feet of gross floor area.
Shopping centers	1 space per 200 square feet of gross leasable area.
Business or administrative offices	1 space per 250 square feet of gross floor area.
Laboratory or industry	The larger of 1 space per employee or per 450 square feet of gross floor area.
Services:	
1. Doctor, dentist, or similar type, including out-patient clinics	7 spaces per doctor, dentist, or similar practitioner.
2. Barber, beautician, tailor, or similar type	3 spaces per barber, beautician or similar practitioner.
3. Plus	1 space per 2 employees not included in subsection (1) or (2) above.
Tourist home, rooming house, bed-and-breakfast	2 spaces, plus 1 space per rental unit.
Self-service laundry	1 space per 3 washers, dryers and/or dry cleaning machines.
Place of indoor amusements (not sports or exercise)	1 space per 100 square feet of gross floor area.
The following uses require 1 space per employee and/or volunteer on the largest shift or during peak periods, plus the number of spaces listed below:	
1. Library, museum or similar place	1 space per 800 square feet of floor area in public use.
2. Hotel, motel, or similar use	1 space per rental unit.
3. Motor vehicle repairs (body or mechanical)	3 spaces per service bay.
4. Vehicle sales	1 space per 500 square feet of indoor sales area, plus 1 space per 5,000 square feet of outdoor sales area.
5. Meeting, training, or classroom space as a primary use	1 space per 2 seats of total seating capacity.
Restaurants:	

Use	Requirement
1. Drive-in or fast-food	The larger of 1 1/2 spaces per table or booth, or 1 space per 50 square feet of gross floor area; minimum of 25 spaces.
2. All others	1 space per 50 square feet of gross floor area.
Indoor sports facility	1 1/2 spaces per person for maximum court and exercise equipment capacity.
Studio for dance, art, music or photography	1 space per 5 students, and/or 1 space per 300 square feet of gross floor area for nonstudent patrons.
Day-care center	1 space per 3 children at maximum capacity.
Bank, financial institution	6 spaces per teller window, plus 3 spaces per automatic teller machine.
Elementary or intermediate schools	1 3/4 spaces per classroom.
High schools	5 spaces per classroom.”

Section 27-1207 is titled “Parking Lot Requirement” and states “In addition to the requirements found in Part 20, Off-Street Parking and Loading, the following requirements shall apply to all uses in the R-O District.

A. There shall be no parking permitted in the front yard.

B. The following setbacks apply to all parking lots in the R-O District:

(1) From the rear property line: 10 feet.

(2) From the side property line: five feet.

(3) From the rear of the main building: five feet.

C. Landscaping in conformance with § 27-2007 of this Chapter. Use of native plant materials and naturalistic design is encouraged...”

In a request for a variance, the Board is guided by Section 27-611 of the Ordinance and Section 910.2 of the Pennsylvania Municipalities Planning Code (hereinafter called “MPC”). An applicant for a variance has the burden of establishing that a literal enforcement of the provisions of the Ordinance will result in an unnecessary hardship as that term is defined by law, including

court decisions, and that the allowance of the variance will not be contrary to the public interest. Section 27-611 of the Zoning Ordinance and Section 910.2 of the MPC permit the Board to grant a variance where it is alleged that the provisions of the Ordinance inflict unnecessary hardship upon the Applicant and when the Board can make certain prescribed findings where relevant in a given case.

As the testimony and evidence presented to the Board in this case have shown, the Project appears to attempt to accommodate both a positive use of the Property with minimal relief being requested.

As a result of all the above, the Application meets the requirements of “unnecessary hardship” required under the MPC. See id. The Board, upon thorough and deliberate review of the materials submitted and testimony offered, has determined that the proposed variances are appropriate in consideration of the unique characteristics of the Property. Additionally, the requested variance will not adversely affect the public interest.

Additionally, in a request for a special exception, the Board is guided by both the Ordinance and the Pennsylvania Municipalities Planning Code. An applicant for a special exception has the burden of showing that the request adheres to the express standards and criteria of the special exceptions delineated by the governing body. The Zoning Board must decide requests for special exceptions in accordance with such standards and criteria and how the special exception would impact the public welfare. The Zoning Hearing Board has determined that the granting of the requested special exception would not negatively impact the public welfare.

### **III. CONCLUSIONS OF LAW**

From the facts presented, it is the judgment of the Board that Applicant shall be granted the requested variances and special exceptions. The Applicant has proven an unnecessary hardship

unique or peculiar to the property and that the variance is not contrary to the public interest. Accordingly, the Board is able to make the following relevant findings under Section 910.2 of the MPC:

1. That there are unique physical circumstances or conditions, including irregularity, narrowness or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the property, and that the unnecessary hardship is due to such condition, and not the circumstances or conditions generally created by the provisions of the Ordinance in the neighborhood or district in which the property is located;

2. That because of such physical circumstances or conditions there is no possibility that the property can be developed in strict conformity with the provisions of the Ordinance and that the authorization for a variance is therefore necessary to enable the reasonable use of the Subject Property;

3. That the variance will not alter the essential character of the neighborhood or district in which the Subject property is located, nor substantially or permanently impair the appropriate use or development of the adjacent property, or be detrimental to the public welfare;

4. That the unnecessary hardship has not been created by the Appellant; and,

5. That the variance will represent the minimum variance that will afford relief and will represent the least modification possible under Section 27-611.

**ORDER**

AND NOW, this *Friday* of *October* 2018, upon the Application of 1023 Fayette Street, LLC, seeking special exceptions from the terms of 27-703(6)(A) and 27-703(6)(A), and variances from the terms of Sections 27-2002, 27-1207(B) and 27-1207(C), seeking permission to expand the existing one-story building by adding a second floor, which will increase the square footage of the building from 960 square feet to 3,200 square feet, in addition to only providing 8 off-street parking spaces and limiting the size and landscaping of the required buffer strips is hereby GRANTED.

**CONSHOHOCKEN ZONING HEARING BOARD**

*Richard D. Barton*

Richard D. Barton, Chairman

*Russell Cardamone, Jr.*

Russell Cardamone, Jr.

*Mark S. Danek*

Mark S. Danek

*Janis B. Vacca*

Janis B. Vacca

*Gregory F. Scharff*

Gregory Scharff



KAY LIGHTING

KAY LIGHTING

DWKS

Artist's Depiction



D.W.K.C.

Artist's Depiction



D.W.G.

Artist's Depiction



# BOROUGH OF CONSHOHOCKEN

*Office of the Borough Manager*

**MAYOR**  
Yaniv Aronson

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

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Stephanie Cecco  
Borough Manager

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## ZONING NOTICE

JUNE 15<sup>TH</sup>, 2020 ZONING HEARING BOARD MEETING TO OCCUR VIA REMOTE MEANS

### ZONING HEARING Z-2018-17

NOTICE IS HEREBY given that the Conshohocken Zoning Hearing Board will conduct a public hearing on June 15th, 2020 at 7:00 p.m. prevailing time via remote means. The public is encouraged to participate as set forth below.

In response to the Governor's Stay at Home Order due to COVID-19, this meeting will be held using a Go-To-Meeting Platform. To the extent possible, members of Conshohocken Zoning Hearing Board members, and Borough staff/professionals will participate via both video and audio. (INSTRUCTIONS ON SECOND PAGE)

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

PETITIONER: Craft Custom Homes, LLC  
541 East Hector St., Conshohocken, PA 19428

PREMISES INVOLVED: 541 East Hector St., Conshohocken, PA 19428  
Limited Industry/Residential Overlay Districts

OWNER OF RECORD: Same as Petitioner

The Petitioner is requesting an extension of relief originally granted in 2018 from the following sections of the Conshohocken Zoning Ordinance: 27-703.E(6) - to expand a non-conforming use; 27-1903(B)(2) - to allow a greater density than 33 units per acre; 27-1903(B)(9) - to permit parking under rather than to the rear of the building; and 27-1903(B)(12) - to permit a minimum tract area of 12,000 square feet rather than 1 acre.

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

Thank you,  
Zoning Hearing Board

## ZONING HEARING REMOTE SESSION ACCESS INSTRUCTIONS

The public is encouraged to participate as follows:

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

**You can also dial in using your phone.**

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

Access Code: 633-884-013

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

**Video Feed Participation:** The public may access the video feed by using the link provided below.

Please join my meeting from your computer, tablet or smartphone. (Link is also the Borough of Conshohocken website: [www.conshohockenpa.gov](http://www.conshohockenpa.gov))

<https://global.gotomeeting.com/join/633884013>

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

<https://global.gotomeeting.com/install/633884013>

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

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

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

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

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

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

I/We \_\_\_\_\_

Request to be granted party status in Application Z \_\_\_\_\_.

Applicant: \_\_\_\_\_

Please print name and address below:

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Please Sign Below:

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Please return form via mail or e-mail to the below:  
*(Entry must be received no later than Wednesday June 10th, 2020)*

MAIL:  
Borough of Conshohocken  
Attn: Bobbi Jo Myrsiades  
400 Fayette St.  
Conshohocken, PA 19428

E-MAIL:  
[zoning@conshohockenpa.gov](mailto:zoning@conshohockenpa.gov)



## BOROUGH OF CONSHOHOCKEN

*Office of the Borough Manager*

MAYOR  
Yaniv Aronson

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

### MEMORANDUM

Stephanie Cecco  
Borough Manager

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Date: June 5, 2020  
To: Stephanie Cecco, Brittany Rogers  
From: Eric P. Johnson, P.E.  
Re: Z-2018-17 - 541 East Hector Street Extension Request

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**History of the Site:** 541 East Hector Street is a 12,000 square-foot lot with frontage on both East Hector Street and East Elm Street, in the Limited Industry and Residential Overlay Districts. The property is currently improved with an existing one-story warehouse/office and parking lot. The property is considered a legal non-conforming building.

In September, 2018 a zoning hearing was held to consider a petition to convert the site to a residential use, adding 3 additional stories to the building. The redeveloped property would consist of a 4-story building containing 12 residential units with 24 under building parking spaces. Zoning relief was granted from the following sections of the Zoning Ordinance with the condition the 12 proposed units will have no more than 2 bedrooms each:

- §27-703.E.6: A Special Exception to expand the use of a non-conforming building
- §27-1903(B)(2): A Variance to allow a greater density than 33 units per acre
- §27-1903(B)(9): A Variance to permit parking under, rather than to the rear of the building
- §27-1903(B)(12): A variance to permit a tract area of 12,000 square feet rather than 1 acre

Per §27-613 of the Zoning Ordinance, the zoning relief granted expires if the applicant does not obtain any and all required permits within the specified timeframe. In August, 2019 a zoning hearing was held to consider a petition to extend the granted zoning relief for an additional year. The requested extension was granted and expires on August 19, 2020.

**Current Request:** The property owner, Craft Custom Homes, LLC, is requesting an extension of zoning relief originally granted in 2018 for an additional six (6) months until February 20, 2021.

**Zoning Determination:** The proposed development constitutes a land development under the Pennsylvania Municipalities Planning Code, requiring the applicant to complete the Borough's established land development process. The application requires review by the Borough and County Planning Commissions, and approval by Conshohocken Borough Council; and the applicant cannot apply for permits until the project is approved. While the applicant did not proceed immediately with the land development process after receiving zoning approval, the land development process is currently underway; however, do in part to COVID-19 related delays, it may not be completed by the time the zoning approval for the project expires. Therefore, an extension of the relief granted in 2018 is required.

**HUGHES, KALKBRENNER & OZOROWSKI, LLP**

ATTORNEYS AT LAW

SUITE 205

1250 COMMONS

1250 GERMANTOWN PIKE

PLYMOUTH MEETING, PENNSYLVANIA 19462

EDWARD J. HUGHES  
GEORGE J. OZOROWSKI

TELEPHONE (610) 279-6800  
TELECOPIER (610) 279-9390  
E-MAIL: ehughes@hkolaw.com

March 17, 2020

**(VIA EMAIL AND REGULAR MAIL)**

Zoning Hearing Board  
Borough of Conshohocken  
400 Fayette Street, Suite 200  
Conshohocken, PA 19428

**Re: *Craft Custom Homes, LLC - 541 E. Hector Street*  
*Z-2018-17***

Dear Board Members:

Please accept this letter as a request to extend the zoning relief granted in September of 2018 which relief was extended until August 19, 2020 pursuant to the Board's letter dated August 20, 2019. The Applicant is in the process of obtaining land development approval for the project and due to the COVID-19 disruptions, processing of the Land Development Plan has been delayed. Applicant requests a six (6) month extension from August 20, 2020 until February 20, 2021.

Very truly yours,  
HUGHES, KALKBRENNER & OZOROWSKI, LLP

*/s/ Edward J. Hughes*

By: \_\_\_\_\_  
Edward J. Hughes, Esquire

EJH:drc

cc: Craft Custom Homes, LLC (via email)  
Nicholas L. Vastardis, P.E. (via email)



## BOROUGH OF CONSHOHOCKEN

MAYOR  
Yaniv Aronson

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

---

Stephanie Cecco  
Borough Manager

August 20, 2019

Craft Custom Homes  
231 Redwood Road  
King of Prussia, PA 19406

Re: Z-2018-17  
541 East Hector Street, Conshohocken, PA

Gentlepeople:

The Conshohocken Zoning Hearing Board at its August 19, 2019 meeting, approved a one (1) year extension of zoning relief originally granted in October, 2018.

Approval is granted in accordance with your request, and permits for the project must be secured by August 19, 2020. You are required to be in compliance with all federal, state, and local ordinances and regulations, and all conditions of your original zoning approval remain in effect.

Do not hesitate to contact me at 610-828-1092, if you have questions regarding this matter.

Sincerely,

Christine M. Stetler  
Community Development and Zoning Officer

Cc: E. Hughes, Esq.

**HUGHES, KALKBRENNER & OZOROWSKI, LLP**

ATTORNEYS AT LAW

SUITE 205

1250 COMMONS

1250 GERMANTOWN PIKE

PLYMOUTH MEETING, PENNSYLVANIA 19462

A-4

EDWARD J. HUGHES  
GEORGE J. OZOROWSKI

TELEPHONE (610) 279-6800  
TELECOPIER (610) 279-9390  
E-MAIL: ehughes@hkolaw.com

July 11, 2019

**(VIA EMAIL AND REGULAR MAIL)**

Zoning Hearing Board  
Borough of Conshohocken  
400 Fayette Street, Suite 200  
Conshohocken, PA 19428

**Re: *Craft Custom Homes, LLC - 541 E. Hector Street***  
***Z-2018-17***

Dear Board Members:

Please accept this letter as a request to extend the zoning relief granted in September of 2018 until December 1, 2019. The Applicant is in the process of obtaining land development approval for the project and additional time is required in order to obtain the necessary approvals to commence the project. Please advise if this extension is granted.

Very truly yours,  
**HUGHES, KALKBRENNER & OZOROWSKI, LLP**

By:   
Edward J. Hughes, Esquire

EJH:drc

cc: Craft Custom Homes, LLC (via email)  
Nicholas L. Vastardis, P.E. (via email)



# BOROUGH OF CONSHOHOCKEN

*Office of the Borough Manager*

MAYOR  
Yaniv Aronson

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Robert Stokley, Senior Member  
Anita Barton, Member  
James Griffin, Member  
Tina Sokolowski, Member  
Karen Tutino, Member

## MEMORANDUM

Stephanie Cecco  
Borough Manager

P-1

Date: July 15, 2019

To: Conshohocken Zoning Hearing Board, Stephanie Cecco, Alex Glassman, Esq., Mike Peters, Esq., Brittany Rogers

From: Chris Stetler

Re: 541 East Hector Street Request for Extension of Zoning Relief Granted in 2018

**History of the Project:** 541 East Hector Street is located in the Limited Industry Zoning District and subject to the Residential Overlay District. The property is 12,000 square feet (60' x 200'). Currently, the property is used for an office/warehouse. The Developer proposes to construct a twelve (12) unit multi-family, condominium building on the lot. In October 2018, a zoning hearing was held to consider a Special Exception and variances in order to construct the project.

There has been no activity at the site since that time. Zoning relief expires six (6) months following approval. The project has not yet received land development approval.

### **Zoning Relief Granted:**

Section 27-703 (E) (6): A Special Exception was granted to expand a non-conforming structure.

Section 27-1903 (B) (2): A Variance was granted to allow a residential density greater than 33 units per acre.

Section 27-1903 (B) (2): A Variance was granted to permit parking under the building rather than to the rear of the building.

Section 27-1903 (B) (12): A Variance was granted to permit a 12,000 square foot lot, rather than a one (1) acre lot.

All relief granted was conditioned on only two-bedroom units being constructed.

**Current Request:** Zoning relief expired in April, 2019. The Developer is requesting an extension of the relief approved through December 1, 2019.



# BOROUGH OF CONSHOHOCKEN

MAYOR  
Yaniv Aronson

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James Griffin, Member  
Tina Sokolowski, Member  
Karen Tutino, Member

---

Stephanie Cecco  
Borough Manager

P-2

## ZONING NOTICE

### ZONING HEARING Z-2018-17

NOTICE IS HEREBY given that the Conshohocken Zoning Hearing Board will conduct a public hearing on Monday, August 19, 2019 at 7:00 p.m. prevailing time at the Conshohocken Borough Hall, 400 Fayette Street, Conshohocken, PA. At this time, the Zoning Hearing Board will consider the request for an extension of zoning relief granted in October, 2018.

PETITIONER: Craft Custom Homes, LLC  
231 Redwood Rd., King of Prussia, PA 19406

PREMISES INVOLVED: 541 East Hector St., Conshohocken, PA 19428  
Limited Industry/Residential Overlay Districts

OWNER OF RECORD: Philadelphia Business Services Realty Co., Inc.  
2 Fairhill Circle, Radnor, PA 19087

The Petitioner is requesting an extension of zoning relief granted in 2018 through December 1, 2019 for development of 12-unit, multi-family building, and associated parking.

The Petitioner was granted relief from Section 27-703 E. (6) to expand a non-conforming use; 27-1903 (B) (2) to allow a greater density than 33 units per acre; 27-1903 (B) (9) to permit parking under rather than to the rear of the building; and 27-1903 (B) (12) to permit a minimum tract area of 12, 000 square feet rather than 1 acre.

Interested parties are invited to attend the hearing. Anyone requiring special accommodations to attend this hearing should contact Conshohocken Borough Administration Office at 610-828-1092 as soon as possible to make arrangements.

Borough of Conshohocken  
Zoning Hearing Board

**BEFORE THE ZONING HEARING BOARD OF CONSHOHOCKEN**

**IN RE: APPLICATION OF CRAFT CUSTOM HOMES, LLC**

**REGARDING**

**541 EAST HECTOR STREET**

**2018-17**

**DECISION OF THE BOARD**

P-3

**I. HISTORY**

On or about September 10, 2018, Craft Custom Homes, LLC (hereinafter "Applicant") filed the within Application seeking both a special exception from the terms of 27-703(E)(6) and three variances from the terms of Sections 27-1903(B)(2), 27-1903(B)(9), and 27-1903(B)(12), of the Conshohocken Borough Zoning Ordinance of 2001 (together with all amendments thereto, the "Zoning Ordinance"), seeking permission to convert the site to residential use, add three additional stories to the building thereby expanding the non-conforming building, and provide 12 units where 9 would be permitted if the other relief was granted, for a property located at 541 East Hector Street, Conshohocken, Pennsylvania (hereinafter called "Subject Property"). In addition to the requested relief mentioned above, the Applicant would provide parking under the building rather than behind it. It is also noted that the lot size is 12,000 square feet rather than the 1 acre required by the Residential Overlay District.

After notice was duly given and advertised for each application, a hearing was held on said Appeal at Borough Hall on October 15, 2018 at 7:00 p.m.

At the hearing, the following Exhibits were introduced and admitted:

P-1 – Zoning Notice.

P-2 – Zoning Application.

P-3 – Addendum.

P-4 –Aerial Map.

P-5 – Existing Conditions Plan.

P-6 – Zoning Hearing Exhibit.

P-7- First Floor Parking Plan.

P-8 – Second, Third and Fourth Floor Plans.

P-9 – Architect’s Renderings.

P-10 – Agreement of Sale.

P-11 –Memo from Chris Stetler.

P-12– Letter from Michael Peters.

A-1 – Deed.

A-2 – Agreement of sale.

A-3 – Board of Assessment Records.

A-4 –Aerial Map.

A-5 – Photograph.

A-6 – Existing Features Plan.

A-7- Parking Plan.

A-8 – Parking Plan.

A-9 – Second, Third and Fourth Floor Plans.

A-10 – Photographs.

A-11 –Petition.

A-12–Nicholas Vastardis C.V.

## FINDINGS OF FACT

1. The Subject Property is located at 541 East Hector Street, Conshohocken, Pennsylvania in the Borough Limited Industry with Residential Overlay Zoning District.

2. The Subject Property is owned by Philadelphia Business Service Realty Co., Inc.

3. The Applicant was represented by Edward J. Hughes, Esquire.

4. The Applicant is requesting a special exception, to expand the use of a non-conforming building, along with three variances as the lot size is 12,000 square feet rather than one acre, and the applicant proposed to construct 12 units where 9 would be permitted if the other relief was also granted.

5. Specifically, the Applicant seeks a special exception from Section 27- 703(E)(6) and three variances from the terms of Sections 27-1903(B)(2), 27-1903(B)(9), and 27-1903(B)(12).

6. The Applicant proposes to change the use of the site from a warehouse/ office to a residential use.

7. The Applicant proposed to utilize the existing building's foundation and first floor and construct a four story residential dwelling with 12 condominium units and 24 on-site surface parking spaces on the first level of the building.

8. The Applicant has an agreement of sale for the property pending zoning relief.

9. Mr. Hughes called both Mr. Ryan Alexaki and Nicholas L. Vastardis to testify.

After being sworn in, Mr. Alexaki testified to the following:

a. He is a real estate developer and builder.

b. He is the sole member of Craft Custom Homes, LLC.

- c. The property is roughly 60 feet by 200 feet and is approximately 12,000 square feet.
- d. The neighborhood is a mix of residential, commercial businesses and restaurants.
- e. The property, as it stands today, is a one-story structure with cinder block walls and is divided into a variety of offices with an open space in the center that was previously used for manufacturing. The structure is in need of repair.
- f. The property has numerous non-conformities including front yard setback, rear yard setback, building coverage, impervious coverage, and having two road frontages.
- g. He proposes to have parking on the first story of the structure with an entrance on East Elm and an exit on East Hector Street. This may change during land development.
- h. The parking proposal includes 24 spaces, two per unit, along with enough room for elevators, airways and trash.
- i. He is retaining the existing walls of the property.
- j. The property does not have a rear yard.
- k. He is proposing to construct 12 units, but based on the dimensions would require a variance as only 9.3 units are allowed based on the size of the property.
- l. The living units would be on floors two, three and four. The second and third floor would be the main living space and bedrooms and bathrooms while the fourth floor would have a rooftop deck area.

- m. The Borough has agreed to support the application on the condition that each unit only have two bedrooms per unit.
  - n. He believes the proposal would be an improvement to the neighborhood and would not be detrimental to the community.
  - o. Each of the two bedroom units would be at least 900 square feet.
  - p. Around 20 neighbors signed a petition in support of the proposal.
10. One member of the public asked Mr. Alexaki questions regarding the walls of the existing structure.
11. Mr. Vastardis was admitted as an expert engineer and testified to the following:
- a. He is a civil engineer and prepared the zoning plan and land development plan.
  - b. He agrees with the testimony that Mr. Alexaki presented with regard to the relief that is being requested.
  - c. The project will not add any additional building coverage or impervious coverage to the property.
  - d. He does not perceive any adverse impact on the neighborhood if this project moves forward.

## II. DISCUSSION

Section 27-703 states:

“ The following regulations shall govern all properties to which nonconforming status is applied:

A. Nonconforming status shall continue, and a property may continue to be used as nonconforming until it complies with the requirements of this Chapter.

B. Change of Use.

(1) A nonconforming use may be changed to another nonconforming use which is equally appropriate or more appropriate to the district in which the property is located, and is no more detrimental than the existing nonconforming use, as a special exception by the Zoning Hearing Board in accordance with the provisions of Part 6 of this Chapter.

(2) A nonconforming use shall not be changed to another nonconforming use that is less appropriate to the district in which the property is located, and/or is more detrimental than the existing nonconforming use.

(3) If a nonconforming use is changed to a conforming use, then the previous nonconforming status shall become null and void in accordance with § 27-703(C) below.

C. Discontinuance. A nonconforming use, when discontinued, may be resumed any time within one year from such discontinuance, but not thereafter, unless a variance is granted by the Zoning Hearing Board in accordance with Part 6 of this Chapter. The resumption may be of the same use, or another nonconforming use which is equally appropriate or more appropriate to the district in which it is located, but shall not be less appropriate or more detrimental than the previous nonconforming use.

D. Physical Expansion. Physical expansion of a nonconforming building or building housing a nonconforming use shall be permitted only one time and shall be limited to 25% of the gross floor area of the existing building.

E. Extension or Expansion. A nonconforming use, building, or structure, not including signs, may be extended or expanded in compliance with all of the following:

(1) The parcel on which extension or expansion occurs shall include only that lot, held in single and separate ownership, on which the use, building, or structure existed at the time it became nonconforming. Expansion onto adjoining lots is prohibited.

(2) Nonconforming use of a building may be extended throughout the building only in compliance with § 27-703(D) of this Chapter.

(3) A building, which houses a nonconforming use, may be expanded only in compliance with § 27-703(D) of this Chapter.

(4) A nonconforming use may not be extended to a new building.

(5) A nonconforming building may be expanded only in compliance with § 27-703(E)(6) of this Chapter.

(6) In addition to § 27-703(A), (B), (C), (D), and (E) above, nonconforming uses must comply with the following:

(a) Extension and/or expansion as permitted in § 27-703(E)(1) through (5) above, shall be permitted only by special exception in accordance with Part 6 of this Chapter, only to the extent that all new construction shall comply with the dimensional standards of the district in which the use is located or the district in which the use is permitted, whichever is more restrictive.

(b) In addition, when a nonconforming use is expanded, the applicant must comply with all performance standards of the district in which the use is permitted or the district in which the use is located, whichever is more restrictive. The performance standards include, but are not limited to, the following: parking, signage lighting, landscaping, noise, and building and impervious coverage.

(c) In cases where a building is nonconforming as to front, side, or rear yard setback, an addition may be built on a line with the existing building, as long as it does not create an additional encroachment into a required yard. Any further encroachment with regard to required setbacks will require a variance.

1) Expansion shall not be permitted to extend closer to the road legal right-of-way than the front wall of the existing dwelling closest to the road.

2) Expansion shall not be permitted to create a new violation of the minimum side yard setback. An existing dwelling that violates the side yard may be expanded to the rear along the side yard building setback established by the wall of the existing building.

3) An existing dwelling that violates the rear yard may be expanded to the sides along the rear yard building setback established by the rear wall of the existing building.

F. Additional Building Regulations. The following regulations apply to buildings:

(1) When new ordinance provisions are adopted and affect planned construction, which has not been completed:

(a) Buildings under construction as of the date of adoption of new ordinance provisions, to the extent of completion of footings, may be completed as nonconforming buildings provided that valid building permits have been issued for those buildings.

(b) The use or uses of buildings governed by subsection (F)(1)(a) above shall comply with the permitted uses for the district in which they are located.

(2) Nonconforming primary structures damaged or destroyed by fire, explosion, accident, or calamity (as contrasted to deterioration due to time or neglect) may be reconstructed and used as before, provided that:

(a) If repairs constitute substantial improvement, as herein defined, the structure may be reconstructed only within strict conformity with all applicable regulations of this Chapter. If the repairs constitute less than substantial improvement, as herein defined, the structure may be reconstructed so as to match the dimensions and location of the damaged building, including height, width, depth and volume.

(b) Building reconstruction shall be started within one year from the date the building was damaged or destroyed, and shall be carried out without interruption.

(c) The building will pose no hazards to safety by virtue of its location.

(3) Legally condemned nonconforming buildings shall not be rebuilt or used except in conformance with this Chapter.

G. Contiguous Undeveloped Lots. Where two or more contiguous undeveloped lots are held in single ownership, within a subdivision which has been duly recorded prior to the effective date of this Chapter, which lots are individually not of the required minimum area or width for the district in which they are situated, such lots may be developed only in groups thereof in order to provide the minimum lot area and width required. When all lots in single ownership are combined and still do not meet area and/or width requirements, they may be considered a single nonconforming lot in accordance with § 27-703(G) of this Chapter.

H. Nonconforming Signs. If and when a nonconforming sign is replaced, the new sign shall comply with the requirements of this Chapter. "Replacement" shall not include simply revising the text or color of the sign, but shall refer to structural replacement and/or relocation of the sign.

I. Conforming Uses in Nonconforming Buildings or Lots. The conversion of one conforming use to another conforming use on a lot or in a building that is nonconforming shall be permitted by special exception from the Zoning Hearing Board in accordance with the provisions of Part 6 of this Chapter."

Section 27-1903(B) is titled "Performance Standards" within the Residential Overlay District and states:

1. Any buildings constructed as part of the Residential Overlay District shall reflect the scale, rhythm, materials, height, and massing of the buildings adjacent to the proposed development

site. Considerations should be given to the buildings surrounding the parcel for development, as well as to the buildings and structures that form the streetscape.

2. Maximum density: 33 dwellings per acre.
3. Yards.
  - A. Front yard: 30 feet to be measured from the property line.
  - B. Side yard: two required; 10 feet for each side measured from the property line.
  - C. Rear yard: 30 feet to be measured from the property line.
4. Maximum building coverage: 40% of total lot area.
5. Maximum impervious coverage: 80% of total lot area subject to the approval of the Borough Engineer.
6. Parking area setbacks. From property line: 10 feet.
7. Internal driveway setback. From property line: 10 feet.
8. Parking requirements. A minimum of two parking spaces per unit shall be provided on-site. These spaces shall be adequately identified and designated for each unit.
9. Parking Lot Location: Parking shall be to the rear of the building.
10. Minimum Building Separation.
  - A. Between ends of buildings, or end of one building and side (longer dimension) of another: 40 feet.
  - B. Between parallel sides of buildings: 40 feet.
11. Height limit: 35 feet, unless otherwise permitted by Conshohocken Borough Council as a condition use.
12. Minimum tract area: The minimum tract area shall be one acre.
13. Minimum Unit Size:

<b>Unit Size</b>	<b>Minimum Square Footage (square feet)</b>
0- to 1-bedroom unit	700

2-bedroom unit  
3-bedroom unit

900  
1,100

In a request for a variance, the Board is guided by Section 27-611 of the Ordinance and Section 910.2 of the Pennsylvania Municipalities Planning Code (hereinafter called "MPC"). An applicant for a variance has the burden of establishing that a literal enforcement of the provisions of the Ordinance will result in an unnecessary hardship as that term is defined by law, including court decisions, and that the allowance of the variance will not be contrary to the public interest. Section 27-611 of the Zoning Ordinance and Section 910.2 of the MPC permit the Board to grant a variance where it is alleged that the provisions of the Ordinance inflict unnecessary hardship upon the Applicant and when the Board can make certain prescribed findings where relevant in a given case.

As the testimony and evidence presented to the Board in this case have shown, the Project appears to attempt to accommodate both a positive use of the Property with minimal relief being requested.

As a result of all the above, the Application meets the requirements of "unnecessary hardship" required under the MPC. See id. The Board, upon thorough and deliberate review of the materials submitted and testimony offered, has determined that the proposed variances are appropriate in consideration of the unique characteristics of the Property. Additionally, the requested variance will not adversely affect the public interest.

Additionally, in a request for a special exception, the Board is guided by both the Ordinance and the Pennsylvania Municipalities Planning Code. An applicant for a special exception has the burden of showing that the request adheres to the express standards and criteria of the special exceptions delineated by the governing body. The Zoning Board must decide requests for special exceptions in accordance with such standards and criteria and how the special exception would

impact the public welfare. The Zoning Hearing Board has determined that the granting of the requested special exception would not negatively impact the public welfare.

### **III. CONCLUSIONS OF LAW**

From the facts presented, it is the judgment of the Board that Applicant shall be granted the requested variances and special exception. The Applicant has proven an unnecessary hardship unique or peculiar to the property and that the variance are not contrary to the public interest. Accordingly, the Board is able to make the following relevant findings under Section 910.2 of the MPC:

1. That there are unique physical circumstances or conditions, including irregularity, narrowness or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the property, and that the unnecessary hardship is due to such condition, and not the circumstances or conditions generally created by the provisions of the Ordinance in the neighborhood or district in which the property is located;

2. That because of such physical circumstances or conditions there is no possibility that the property can be developed in strict conformity with the provisions of the Ordinance and that the authorization for a variance is therefore necessary to enable the reasonable use of the Subject Property;

3. That the variance will not alter the essential character of the neighborhood or district in which the Subject property is located, nor substantially or permanently impair the appropriate use or development of the adjacent property, or be detrimental to the public welfare;

4. That the unnecessary hardship has not been created by the Appellant; and,

5. That the variance will represent the minimum variance that will afford relief and will represent the least modification possible under Section 27-611.

**ORDER**

AND NOW, this 14<sup>th</sup> day of November, 2018, the Application of Craft Custom Homes, LLC, seeking both a special exception from the terms of 27- 703(E)(6) and three variances from the terms of Sections 27-1903(B)(2), (9), and (12) is hereby GRANTED subject to the following condition:

1. The 12 proposed units will have no more than two bedrooms each.

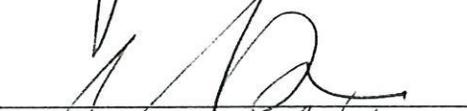
**CONSHOHOCKEN ZONING HEARING BOARD**



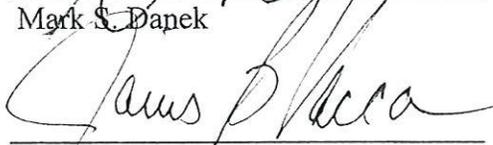
Richard D. Barton, Chairman – was not present for the hearing



Russell Cardamone, Jr.



Mark S. Dapiek



Janis B. Vacca



Gregory Scharff



## BOROUGH OF CONSHOHOCKEN

MAYOR  
Yaniv Aronson

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

Stephanie Cecco  
Borough Manager

P-1

### ZONING NOTICE

#### ZONING HEARING Z-2018-17

NOTICE IS HEREBY given that the Conshohocken Zoning Hearing Board will conduct a public hearing on Monday, October 15, 2018 at 7:00 p.m. prevailing time at the Conshohocken Borough Hall, 400 Fayette Street, Conshohocken, PA. At this time, the Conshohocken Zoning Hearing Board will hear testimony and accept evidence on the following petition:

PETITIONER: Craft Custom Homes, LLC  
231 Redwood Rd., King of Prussia, PA 19406

PREMISES INVOLVED: 541 East Hector St., Conshohocken, PA 19428  
Limited Industry/Residential Overlay Districts

OWNER OF RECORD: Philadelphia Business Service Realty Co., Inc.  
2 Fairhill Circle, Radnor, PA 19087

The Petitioner is requesting a Special Exception under §27-703E(6), and Variances from §27-1903B(2), 27-1903B(9) and 27-1903B(12) of the Conshohocken Zoning Ordinance. The Petitioner proposes to convert the site to residential use, adding 3 additional stories to the building thereby expanding a non-conforming building. Twelve (12) units are proposed where 9 would be permitted. Parking would be provided under the building rather than behind it. The lot size is 12,000 square feet rather than the 1 acre required by the Residential Overlay district.

Interested parties are invited to participate in the hearing. Anyone requiring special accommodations to attend this hearing should contact Conshohocken Borough Administration Office at 610-828-1092 as soon as possible to make arrangements.

Borough of Conshohocken  
Zoning Hearing Board

P-2

BOROUGH OF CONSHOHOCKEN  
SEP 10 '18 AM 10:56  
RECEIVED



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

## Zoning Application

Application: 2-2018-17  
Date Submitted: 9/7/18  
Date Received: 9/10/18  
*gms*

1. Application is hereby made for:

Special Exception       Variance

Appeal of the decision of the zoning officer

Conditional Use approval       Interpretation of the Zoning Ordinance

Other \_\_\_\_\_

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

Section 27-703E(6) (Extension/Expansion of a Non-Conforming Building); Section 27-1903B(2) (Maximum Density) ;  
Section 27-1903B(9) (Parking to Rear of Building); and 27-1903B(12) (Minimum Tract Size), see attached Addendum

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

541 E. Hector Street, Conshohocken, PA 19428, Parcel No. 05-00-05916-00-1

4. Applicant's Name: Craft Custom Homes, LLC

Address: 231 Redwood Road, King of Prussia, PA 19406

Phone Number (daytime): (610) 337-2435

E-mail Address: ryan.andrew@chariotsservices.com

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

6. Property Owner: Philadelphia Business Service Realty Co., Inc.

Address: 2 Fairhill Circle, Radnor, PA 19087

Phone Number: \_\_\_\_\_

E-mail Address: \_\_\_\_\_

7. Lot Dimensions: 60 x 200 Zoning District: LI with Residential Overlay

8. Has there been previous zoning relief requested in connection with this Property?  
Yes  No  If yes, please describe.

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

**One (1) story warehouse manufacturing building and accessory uses in a 8641 SF building.**

10. Please describe the proposed use of the property.

**Warehouse/manufacturing/office (see attached Existing Conditions Plan).**

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

**Utilize existing building foundation and first floor and construct a four (4) story residential building with twelve (12) condominium units and twenty-four (24) on-site surface parking spaces on the first level of the building (see attached Zoning Hearing Plan and Architect's Renderings of the proposed building); see attached Addendum.**

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

Development of the property as proposed will advance the goals of the Residential Overlay District and be an improvement to the community.

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

a. The unique characteristics of the property: The property is long and narrow with numerous nonconformities.

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

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

d. Why the requested relief is the minimum required to reasonably use the property; and why the proposal could not be less than what is proposed. The number of units requested is required in order to justify the expense of converting the property to a more appropriate use.

14. The following section should be completed if the applicant is contesting the determination of the zoning officer.
- a. Please indicate the section of the zoning ordinance that is the subject of the zoning officer's decision (attach any written correspondence relating to the determination).

N/A.

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

N/A.

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

N/A.

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

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

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

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

a. Attorney's Name: Edward J. Hughes, Esquire

b. Address: 1250 Germantown Pike, Suite 205, Plymouth Meeting, PA 19462

c. Phone Number: (610) 279-6800

d. E-mail Address: ehughes@hkolaw.com

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

Craft Custom Homes, LLC

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

Applicant Ryan Alexaki, Member  
Philadelphia Business Services Realty Co., Inc.

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

Legal Owner

9-5-18

Date

COMMONWEALTH OF PENNSYLVANIA

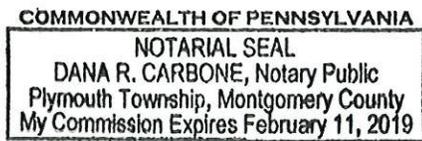
COUNTY OF MONTGOMERY

As subscribed and sworn to before me this 5th day of  
September, 2018 as to Equitable Owner.

*Dana R. Carbone*

Notary Public

(Seal)





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

**Decision**

(For Borough Use Only)

Application Granted  Application Denied

MOTION: To Approve 22018-17 relief from  
 27 A subject to testimony  
 and representations made tonight and Council rep to Council that there  
 Danek/ Cardamone will only be 3 unit  
 dwellings

CONDITIONS: units be limited  
 2 2 1 3 bedrooms

BY ORDER OF THE ZONING HEARING BOARD

	Yes	No
<u>Vacca</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<u>Scharff</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<u>Cardamone</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<u>Danek</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<u>Barton (absent)</u>	<input type="checkbox"/>	<input type="checkbox"/>

DATE OF ORDER: 10/15/18

**Addendum to Zoning Application to the Borough of Conshohocken  
Zoning Board - 541 E. Hector Street, Conshohocken, PA (LI  
District with Residential Overlay):**

Applicant, Craft Custom Homes, LLC, is the equitable owner of 541 E. Hector Street. The Applicant proposes to utilize the existing one (1) story building on the property as the first floor of a four (4) story building (first floor is parking; second and third floor are condominium units; and the fourth floor is lofts and a roof deck). The building will contain twelve (12) condominium units with twenty-four (24) parking spaces located at ground level under the building.

The existing building is nonconforming as to setbacks, impervious coverage and building coverage. Since the Applicant is utilizing the first floor of the existing building, those setbacks and impervious and building coverages are nonconforming and the building can be expanded upwards utilizing existing footprint and setbacks pursuant to §27-703E(6) by special exception.

Applicant seeks a variance from the maximum density in the Residential Overlay District to allow the twelve (12) proposed units. Density in the Residential Overlay District is thirty-three (33) units per acre. The property contains 12,000 SF which permits a total of nine (9) dwelling units by right (§27-1903B(2)).

Applicant seeks a variance to allow parking under the building. §27-1903B(9) indicates that parking should be to the rear of the building. The property has frontage on two (2) streets and has no rear yard. Parking under the building is preferable to parking in the yards. There is not adequate space in the yards for parking based on the existing building being preserved.

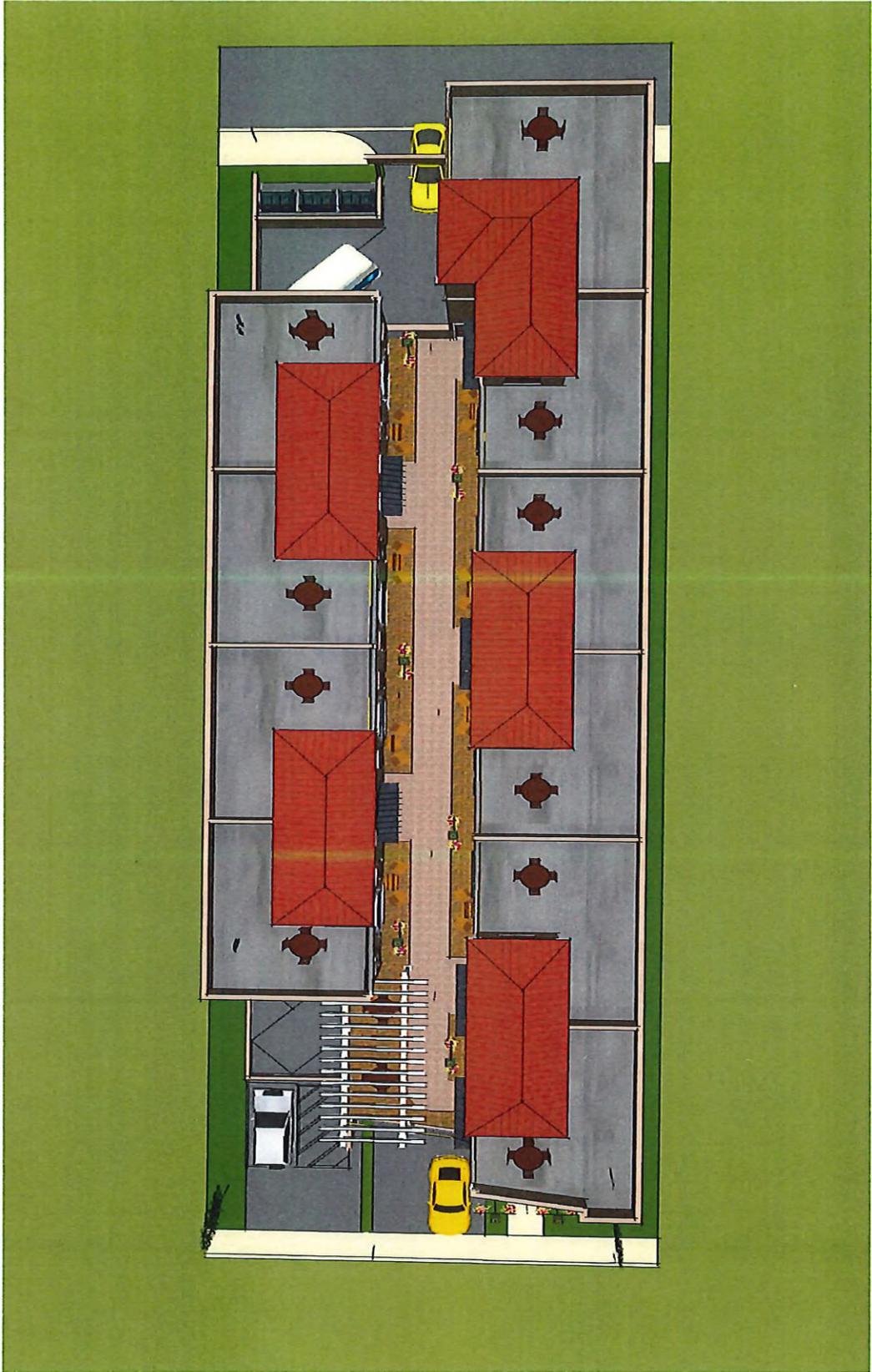
Applicant seeks a variance from the minimum tract size in the Residential Overlay District of one (1) acre (§27-1903B(12)); the property contains .275 acres (12,000 SF).

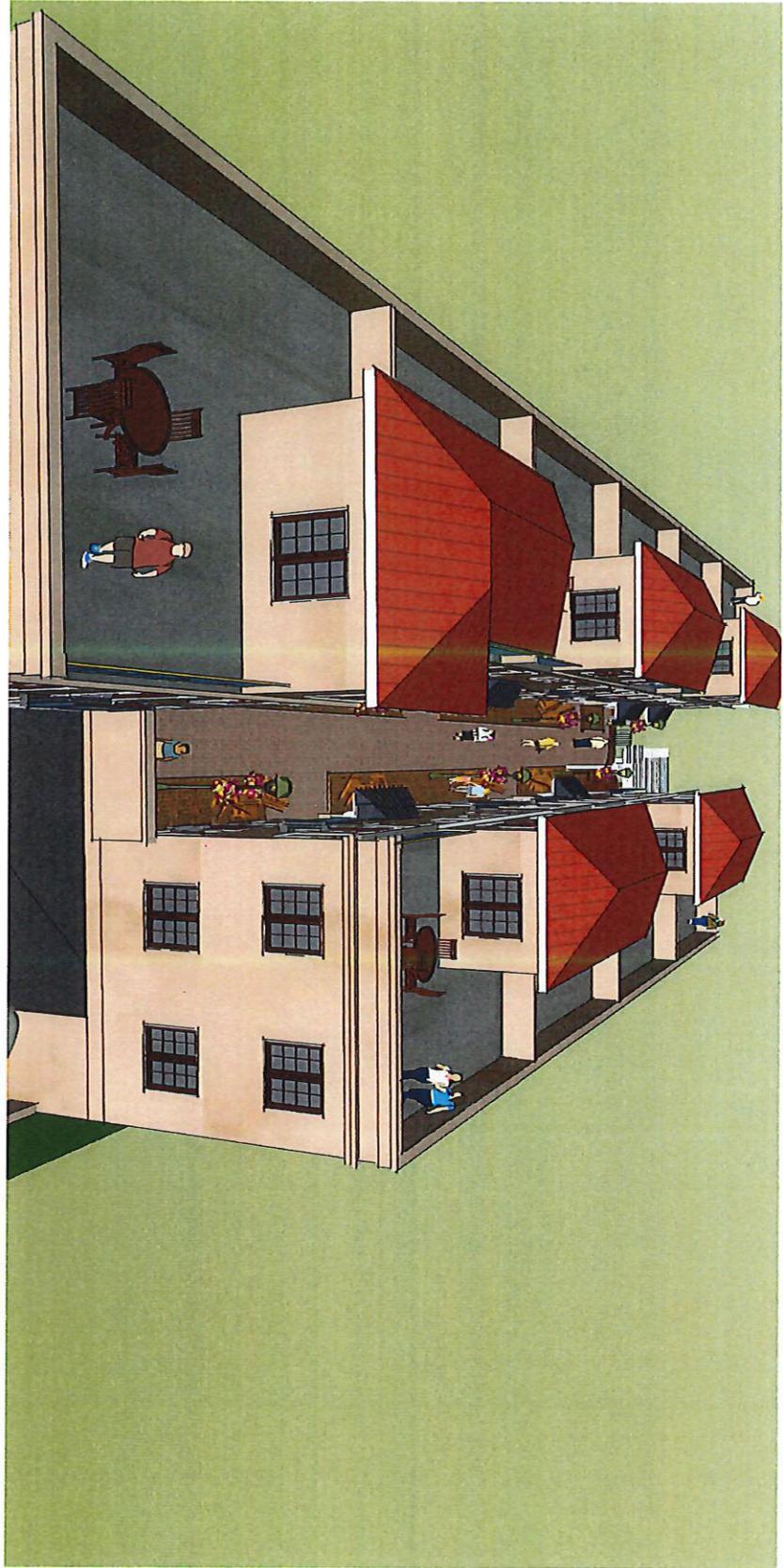
The twelve (12) units will be marketed and sold as condominium units. The proposed development is an upgrade to the neighborhood and achieves the goals of the Residential Overlay

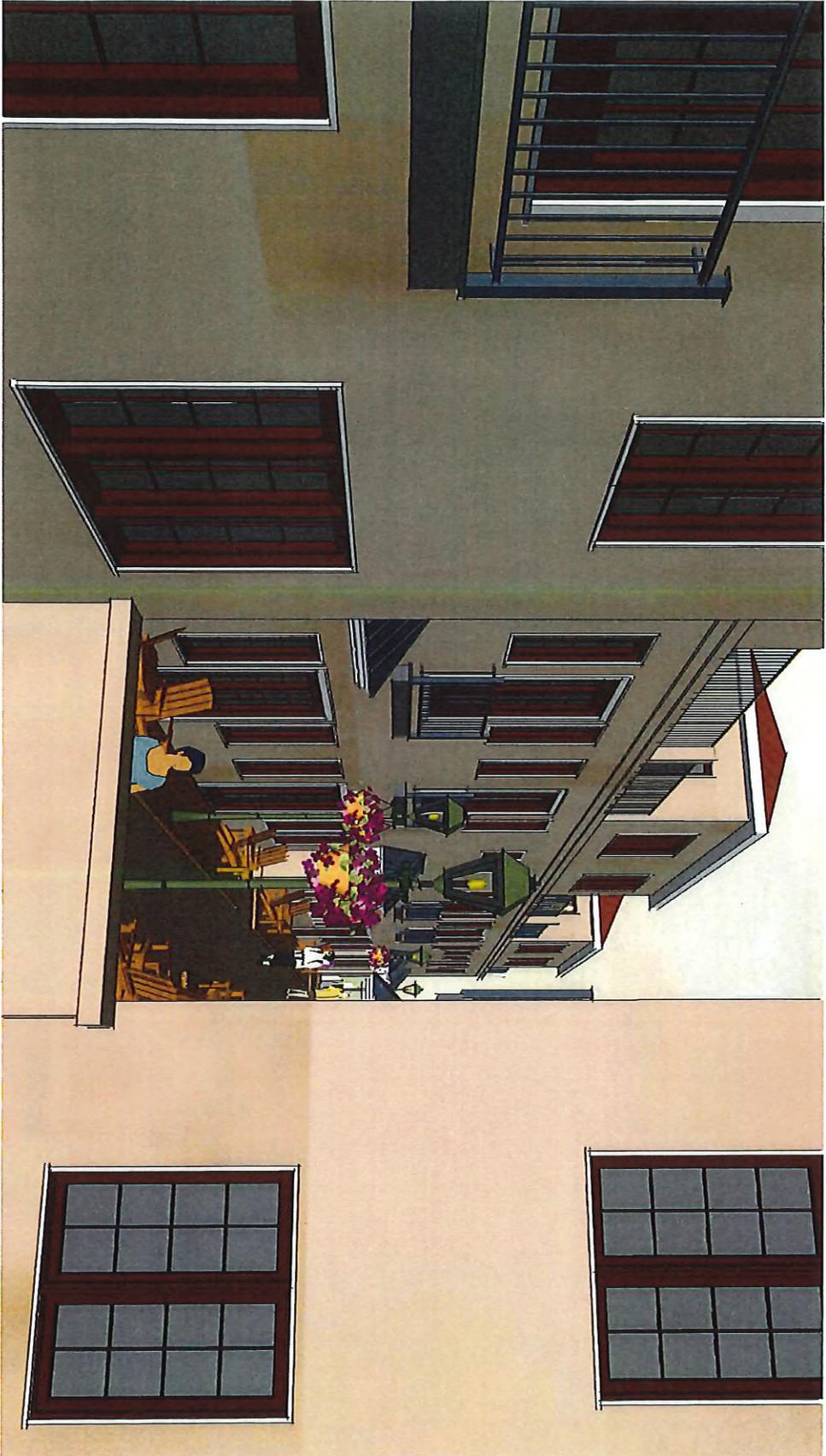
District and will not have an adverse impact on the health, safety and welfare of the community.

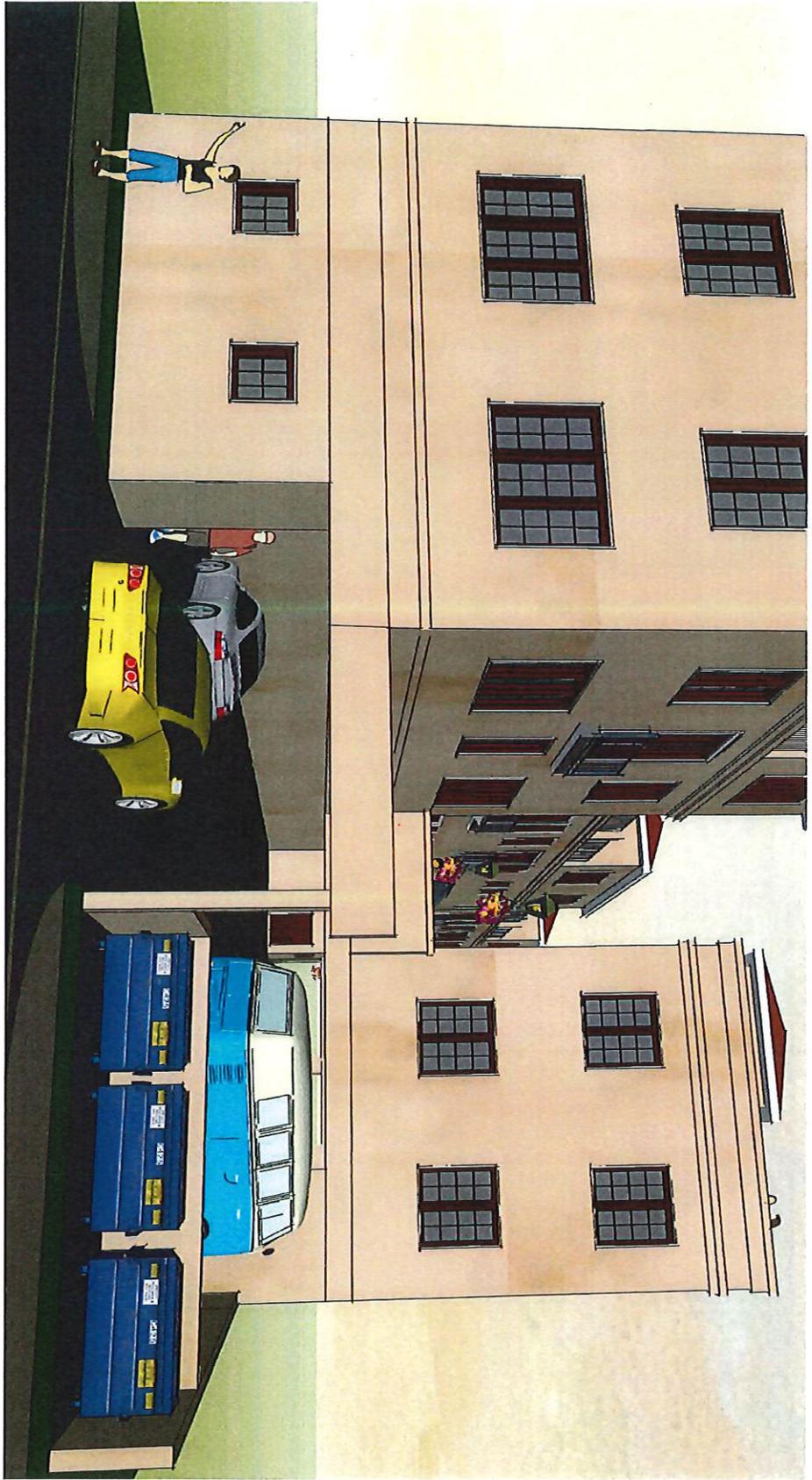
Attached to the Application are the following:

1. Aerial Map of the neighborhood
2. Existing Conditions Plan
3. Zoning Hearing Exhibit
4. First Floor (Parking) Plan
5. Floor Plans for Second, Third and Fourth Floor
6. Architect's Renderings
7. Agreement of Sale (redacted)







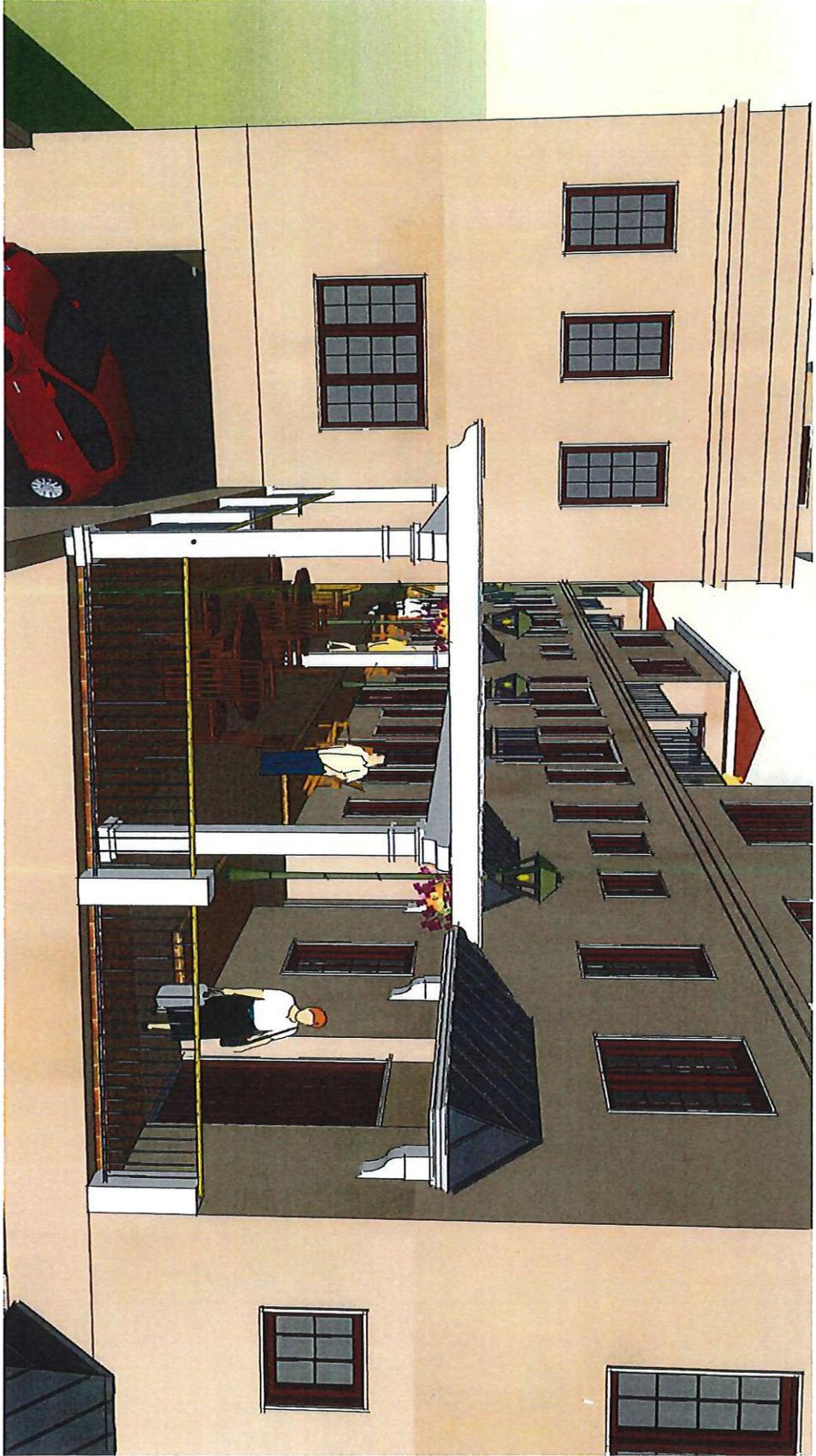


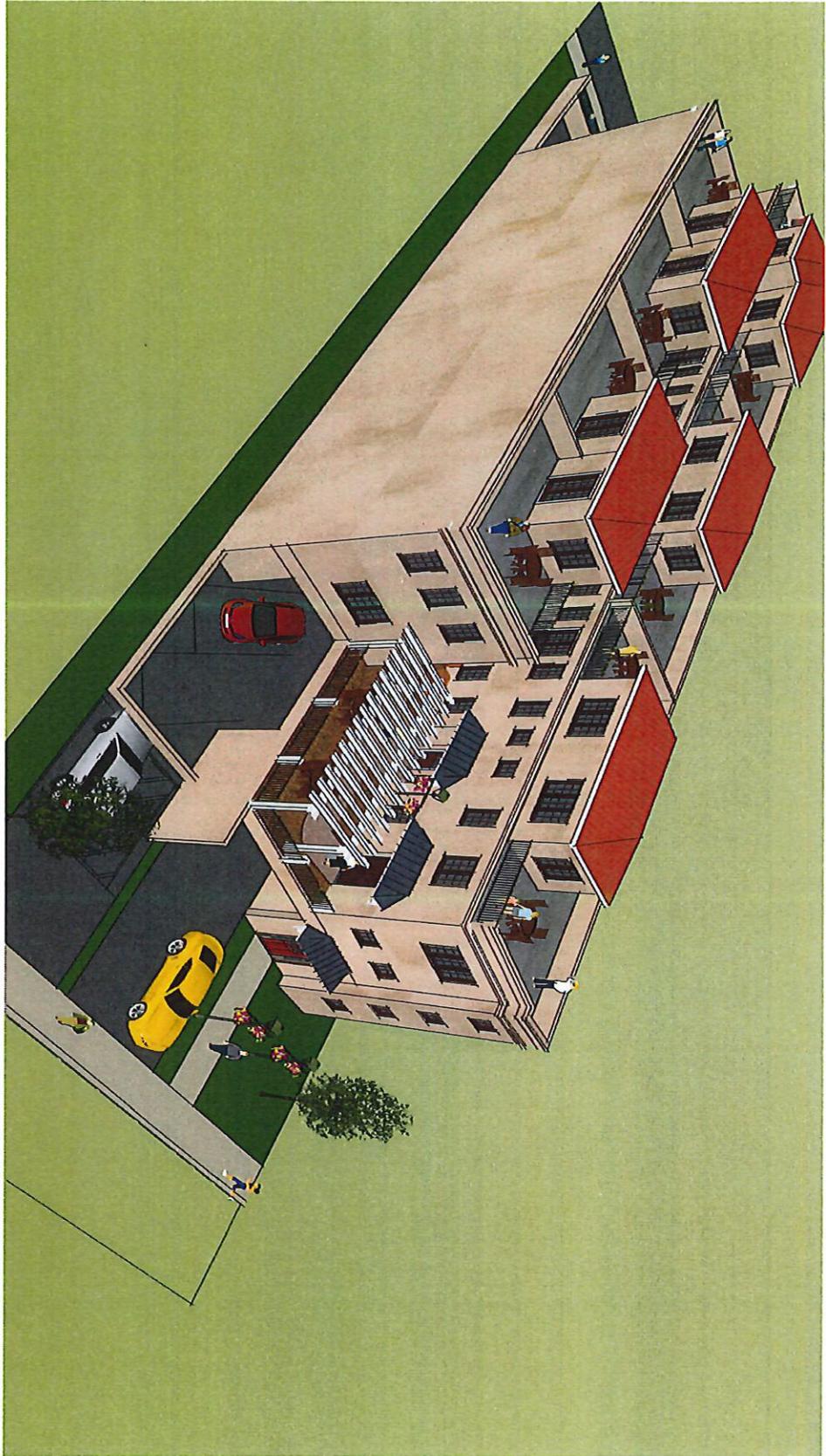














1 1. By this Agreement, dated June 11, 2018, Seller hereby agrees to sell and convey to  
2 Buyer, who agrees to purchase, the identified Property.

3 2. PURCHASE PRICE AND DEPOSITS (3-15)

4 (A) Purchase Price \$ \_\_\_\_\_  
5 \_\_\_\_\_  
6 \_\_\_\_\_ U.S. Dollars), to be paid by Buyer as follows:

- 7 1. Initial Deposit, within \_\_\_\_\_ days (5 if not specified) of Execution Date,  
8 if not included with this Agreement: \$ \_\_\_\_\_
- 9 2. Additional Deposit within 60 days of the Execution Date: \$ \_\_\_\_\_
- 10 3. \_\_\_\_\_ \$ \_\_\_\_\_

11 Remaining balance will be paid at settlement.

12 (B) All funds paid by Buyer, including deposits, will be paid by check, cashier's check or wired funds. All funds paid by Buyer  
13 within 30 DAYS of settlement, including funds paid at settlement, will be by cashier's check or wired funds, but not by per-  
14 sonal check.

15 (C) Deposits, regardless of the form of payment and the person designated as payee, will be paid in U.S. Dollars to Broker for Seller  
16 (unless otherwise stated here: \_\_\_\_\_),  
17 who will retain deposits in an escrow account in conformity with all applicable laws and regulations until consummation or ter-  
18 mination of this Agreement. Only real estate brokers are required to hold deposits in accordance with the rules and regulations of  
19 the State Real Estate Commission. Checks tendered as deposit monies may be held uncashed pending the execution of this  
20 Agreement.

21 3. SETTLEMENT AND POSSESSION (6-13)

22 (A) Settlement Date is December 31, 2018, or before if Buyer and Seller agree.

23 (B) Settlement will occur in the county where the Property is located or in an adjacent county, during normal business hours, unless  
24 Buyer and Seller agree otherwise.

25 (C) At time of settlement, the following will be pro-rated on a daily basis between Buyer and Seller, reimbursing where applicable:  
26 current taxes; rents; interest on mortgage assumptions; condominium fees and homeowner association fees; water and/or sewer  
27 fees, together with any other lienable municipal service fees. All charges will be pro-rated for the period(s) covered. Seller will  
28 pay up to and including the date of settlement and Buyer will pay for all days following settlement, unless otherwise stated here:  
29 \_\_\_\_\_

30 (D) For purposes of prorating real estate taxes, the "periods covered" are as follows:

- 31 1. Municipal tax bills for all counties and municipalities in Pennsylvania are for the period from January 1 to December 31.
- 32 2. School tax bills for the Philadelphia, Pittsburgh and Scranton School Districts are for the period from January 1 to December
- 33 31. School tax bills for all other school districts are for the period from July 1 to June 30.

34 (E) Conveyance from Seller will be by fee simple deed of special warranty unless otherwise stated here: \_\_\_\_\_

35 (F) Payment of transfer taxes will be divided equally between Buyer and Seller unless otherwise stated here: \_\_\_\_\_

36 (G) Possession is to be delivered by deed, existing keys and physical possession to a vacant Property free of debris, with all structures  
37 broom-clean, at day and time of settlement, unless Seller, before signing this Agreement, has identified in writing that the Property  
38 is subject to a lease.

39 (H) If Seller has identified in writing that the Property is subject to a lease, possession is to be delivered by deed, existing keys and  
40 assignment of existing leases for the Property, together with security deposits and interest, if any, at day and time of settlement. Seller  
41 will not enter into any new leases, nor extend existing leases, for the Property without the written consent of Buyer. Buyer will  
42 acknowledge existing lease(s) by initialing the lease(s) at the execution of this Agreement, unless otherwise stated in this Agreement.  
43  
44  Tenant-Occupied Property Addendum (PAR Form TOP) is attached and made part of this Agreement.

45 4. DATES/TIME IS OF THE ESSENCE (3-15)

46 (A) Written acceptance of all parties will be on or before: June 13, 2018

47 (B) The Settlement Date and all other dates and times identified for the performance of any obligations of this Agreement are of the  
48 essence and are binding.

49 (C) The Execution Date of this Agreement is the date when Buyer and Seller have indicated full acceptance of this Agreement by sign-  
50 ing and/or initialing it. For purposes of this Agreement, the number of days will be counted from the Execution Date, excluding  
51 the day this Agreement was executed and including the last day of the time period. All changes to this Agreement should be ini-  
52 tialled and dated.

53 (D) The Settlement Date is not extended by any other provision of this Agreement and may only be extended by mutual written agree-  
54 ment of the parties.

55 (E) Certain terms and time periods are pre-printed in this Agreement as a convenience to the Buyer and Seller. All pre-printed terms  
56 and time periods are negotiable and may be changed by striking out the pre-printed text and inserting different terms acceptable  
57 to all parties, except where restricted by law.

58 5. FIXTURES AND PERSONAL PROPERTY (4-14)

59 (A) INCLUDED in this sale are all existing items permanently installed in the Property, free of liens, including plumbing; heating; HVAC  
60 equipment; lighting fixtures (including chandeliers and ceiling fans); and water treatment systems, unless otherwise stated below; any  
61 remaining heating, cooking and other fuels stored on the Property at the time of settlement. Also included: \_\_\_\_\_  
62  
63 \_\_\_\_\_  
64 \_\_\_\_\_  
65 \_\_\_\_\_

66 Buyer Initials: DS

Seller Initials: RSB

67 (B) The following items are LEASED (not owned by Seller): \_\_\_\_\_  
68

69 (C) EXCLUDED fixtures and items: \_\_\_\_\_  
70

71 6. ZONING (4-14)

72 Failure of this Agreement to contain the zoning classification (except in cases where the property (and each parcel thereof, if subdividable) is zoned solely or primarily to permit single-family dwellings) will render this Agreement voidable at Buyer's option, and, if voided, any deposits tendered by the Buyer will be returned to the Buyer without any requirement for court action.

74 Zoning Classification, as set forth in the local zoning ordinance: LI WITH A RESIDENTIAL OVERLAY

75 7. FINANCING CONTINGENCY (4-14)

76  WAIVED. This sale is NOT contingent on financing, although Buyer may obtain financing and/or the parties may include an appraisal contingency.

77  ELECTED.

78 (A) This sale is contingent upon Buyer obtaining financing according to the following terms:  
79

First Loan on the Property	Second Loan on the Property
Loan Amount \$ _____	Loan Amount \$ _____
Minimum Term _____ years	Minimum Term _____ years
Type of Loan _____	Type of Loan _____
Interest rate _____ %; however, Buyer agrees to accept the interest rate as may be committed by the lender, not to exceed a maximum interest rate of _____ %.	Interest rate _____ %; however, Buyer agrees to accept the interest rate as may be committed by the lender, not to exceed a maximum interest rate of _____ %.

80 (B) Financing Commitment Date \_\_\_\_\_

81 (C) Within \_\_\_\_\_ days (10 if not specified) from the Execution Date of this Agreement, Buyer will make a completed, written application for the financing terms stated above to a responsible lender(s) of Buyer's choice. Broker for Buyer, if any, otherwise Broker for Seller, is authorized to communicate with the lender(s) to assist in the financing process.

82 (D) Should Buyer furnish false or incomplete information to Seller, Broker(s), or the lender(s) concerning Buyer's legal or financial status, or fail to cooperate in good faith in processing the financing application, which results in the lender(s) refusing to approve a financing commitment, Buyer will be in default of this Agreement.

83 (E) Upon receipt of a financing commitment, Buyer will promptly deliver a copy of the commitment to Seller. Unless otherwise agreed to in writing by Buyer and Seller, if a written commitment is not received by Seller by the above date, this Agreement may be terminated by Buyer or Seller, with all deposit monies returned to Buyer according to the terms of Paragraph 24. Buyer will be responsible for any premiums for mechanics' lien insurance and/or title search, or fee for cancellation of same, if any; AND/OR any premiums for flood insurance and/or fire insurance with extended coverage, insurance binder charges or cancellation fee, if any; AND/OR any appraisal fees and charges paid in advance to lender.

84 8. CHANGE IN BUYER'S FINANCIAL STATUS (4-14)

85 In the event of a change in Buyer's financial status affecting Buyer's ability to purchase, Buyer shall, within \_\_\_\_\_ days (5 if not specified) of said change notify Seller and lender(s) to whom the Buyer submitted loan application, if any, in writing. A change in financial status includes, but is not limited to, loss or a change in income; Buyer's having incurred a new financial obligation; entry of a judgment against Buyer. Buyer understands that applying for and/or incurring an additional financial obligation may affect Buyer's ability to purchase.

86 9. SELLER REPRESENTATIONS (6-13)

87 (A) Status of Water

88 Seller represents that the Property is served by:

89  Public Water  Community Water  On-site Water  None  \_\_\_\_\_

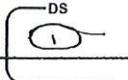
90 (B) Status of Sewer

91 1. Seller represents that the Property is served by:

92  Public Sewer  Community Sewage Disposal System  Ten-Acre Permit Exemption (see Sewage Notice 2)  
93  Individual On-lot Sewage Disposal System (see Sewage Notice 1)  Holding Tank (see Sewage Notice 3)  
94  Individual On-lot Sewage Disposal System in Proximity to Well (see Sewage Notice 1; see Sewage Notice 4, if applicable)  
95  None (see Sewage Notice 1)  None Available/Permit Limitations in Effect (see Sewage Notice 5)  
96 \_\_\_\_\_

97 2. Notices Pursuant to the Pennsylvania Sewage Facilities Act

98 Notice 1: There is no currently existing community sewage system available for the subject property. Section 7 of the Pennsylvania Sewage Facilities Act provides that no person shall install, construct, request bid proposals for construction, alter, repair or occupy any building or structure for which an individual sewage system is to be installed, without first obtaining a permit. Buyer is advised by this notice that, before signing this Agreement, Buyer should contact the local agency charged with administering the Act to determine the procedure and requirements for obtaining a permit for an individual sewage system. The local agency charged with administering the Act will be the municipality where the Property is located or that municipality working cooperatively with others.

126 Buyer Initials: 

Seller Initials: 

127 Notice 2: This Property is serviced by an individual sewage system installed under the ten-acre permit exemption provisions  
128 of Section 7 of the Pennsylvania Sewage Facilities Act. (Section 7 provides that a permit may not be required before installing,  
129 constructing, awarding a contract for construction, altering, repairing or connecting to an individual sewage system where a ten-acre  
130 parcel or lot is subdivided from a parent tract after January 10, 1987). Buyer is advised that soils and site testing were not conducted  
131 and that, should the system malfunction, the owner of the Property or properties serviced by the system at the time of a malfunction  
132 may be held liable for any contamination, pollution, public health hazard or nuisance which occurs as a result.

133 Notice 3: This Property is serviced by a holding tank (permanent or temporary) to which sewage is conveyed by a water  
134 carrying system and which is designed and constructed to facilitate ultimate disposal of the sewage at another site.  
135 Pursuant to the Pennsylvania Sewage Facilities Act, Seller must provide a history of the annual cost of maintaining the tank  
136 from the date of its installation or December 14, 1995, whichever is later.

137 Notice 4: An individual sewage system has been installed at an isolation distance from a well that is less than the dis-  
138 tance specified by regulation. The regulations at 25 Pa. Code §73.13 pertaining to minimum horizontal isolation distances  
139 provide guidance. Subsection (b) of §73.13 states that the minimum horizontal isolation distance between an individual water  
140 supply or water supply system suction line and treatment tanks shall be 50 feet. Subsection (c) of §73.13 states that the hori-  
141 zontal isolation distance between the individual water supply or water supply system suction line and the perimeter of the  
142 absorption area shall be 100 feet.

143 Notice 5: This lot is within an area in which permit limitations are in effect and is subject to those limitations. Sewage facilities  
144 are not available for this lot and construction of a structure to be served by sewage facilities may not begin until the municipality com-  
145 pletes a major planning requirement pursuant to the Pennsylvania Sewage Facilities Act and regulations promulgated thereunder.

146 (C) Seller represents and warrants that Seller has no knowledge except as noted in this Agreement that: (1) The premises have been  
147 contaminated by any substance in any manner which requires remediation; (2) The Property contains wetlands, flood plains, or  
148 any other environmentally sensitive areas, development of which is limited or precluded by law; (3) The Property contains  
149 asbestos, polychlorinated biphenyls, lead-based paint or any other substance, the removal or disposal of which is subject to any law  
150 or regulation; and (4) Any law has been violated in the handling or disposing of any material or waste or the discharge of any mate-  
151 rial into the soil, air, surface water, or ground water.

152 (D) Seller agrees to indemnify and to hold Broker harmless from and against all claims, demands, or liabilities, including attorneys fees  
153 and court costs, which arise from or are related to the environmental condition or suitability of the Property prior to, during, or  
154 after Seller's occupation of the Property including without limitation any condition listed in Paragraph 9(C).

155 (E) Seller is not aware of historic preservation restrictions regarding the Property unless otherwise stated here: \_\_\_\_\_  
156 \_\_\_\_\_

157  
158 (F) Seller represents that, as of the date Seller signed this Agreement, no public improvement, condominium or homeowner association  
159 assessments have been made against the Property which remain unpaid, and that no notice by any government or public authority  
160 has been served upon Seller or anyone on Seller's behalf, including notices relating to violations of zoning, housing, building, safe-  
161 ty or fire ordinances that remain uncorrected, and that Seller knows of no condition that would constitute a violation of any such  
162 ordinances that remain uncorrected, unless otherwise specified here: \_\_\_\_\_  
163 \_\_\_\_\_

164 (G) Seller knows of no other potential notices (including violations) and/or assessments except as follows: \_\_\_\_\_  
165 \_\_\_\_\_

166 (H) Access to a public road may require issuance of a highway occupancy permit from the Department of Transportation.

167 10. WAIVER OF CONTINGENCIES (9-05)

168 If this Agreement is contingent on Buyer's right to inspect and/or repair the Property, or to verify insurability, environmental  
169 conditions, boundaries, certifications, zoning classification or use, or any other information regarding the Property, Buyer's  
170 failure to exercise any of Buyer's options within the times set forth in this Agreement is a WAIVER of that contingency and  
171 Buyer accepts the Property and agrees to the RELEASE in Paragraph 26 of this Agreement.

172 11. BUYER'S DUE DILIGENCE (3-15)

173  WAIVED. This sale is NOT contingent upon the results of any inspection(s), although Buyer may inspect the Property (including  
174 fixtures and any personal property specifically listed herein). Buyer agrees to purchase the Property IN ITS PRESENT CONDI-  
175 TION, regardless of the results of any inspection(s) or findings that Buyer may learn of after the Execution Date of this Agreement.

176  ELECTED. This sale IS contingent upon the the results of inspection(s). It is Buyer's responsibility to determine that the condi-  
177 tion and permitted use of the property is satisfactory. Buyer may, within 60 days (30 if not specified) from the Execution  
178 Date of this Agreement, conduct due diligence (Due Diligence Period), which includes, but is not limited to, verifying that the  
179 condition, permitted use, insurability, environmental conditions, boundaries, certifications, deed restrictions, zoning classifica-  
180 tions and any other features of the Property are satisfactory. Buyer may request that the property be inspected, at Buyer's  
181 expense, by qualified professionals to determine the physical, structural, mechanical and environmental condition of the land,  
182 improvements or their components, or for the suitability of the property for Buyer's needs. If, as the result of Buyer's due dili-  
183 gence, Buyer determines that the Property is not suitable for Buyer's needs, Buyer may, prior to the expiration of the Due  
184 Diligence Period, terminate this Agreement by written notice to Seller, with all deposit monies returned to Buyer according to  
185 the terms of Paragraph 24 of this Agreement. In the event that Buyer has not provided Seller with written notice of Buyer's  
186 intent to terminate this Agreement prior to the end of the Due Diligence Period, this Agreement shall remain in full force and  
187 effect in accordance with the terms and conditions as more fully set forth in this Agreement.

188 (A) Buyer has been given the opportunity to inspect the Property (including fixtures and any personal property specifically listed  
189 herein) and, subject to the Due Diligence contingency if elected, agrees to purchase the Property IN ITS PRESENT CON-  
190 DITION unless the parties agree otherwise in writing. Buyer's decision to purchase the Property is a result of Buyer's own  
191 inspections and determinations and not because of or in reliance on any representations made by Seller or any other party.

192 Buyer Initials: \_\_\_\_\_

Seller Initials: \_\_\_\_\_

193 Buyer acknowledges that Brokers, their licensees, employees, officers or partners have not made an independent examination or  
194 determination of the structural soundness of the Property, the age or condition of the components, environmental conditions, the  
195 permitted uses, nor of conditions existing in the locale where the Property is situated; nor have they made a mechanical inspection  
196 of any of the systems contained therein.

197 (B) Any repairs required by this Agreement will be completed in a workmanlike manner.

198 (C) Revised flood maps and changes to Federal law may substantially increase future flood insurance premiums or require insurance  
199 for formerly exempt properties. Buyer should consult with one or more insurance agents regarding the need for flood insurance  
200 and possible premium increases.

201 12. NOTICES, ASSESSMENTS AND MUNICIPAL REQUIREMENTS (4-14)

202 (A) In Pennsylvania, taxing authorities (school districts and municipalities) and property owners may appeal the assessed value of a  
203 property at the time of sale, or at any time thereafter. A successful appeal by a taxing authority may result in a higher assessed  
204 value for the property and an increase in property taxes. Also, periodic county-wide property reassessments may change the  
205 assessed value of the property and result in a change in property tax.

206 (B) With the exception of county-wide reassessments, assessment appeal notices, notices of change in millage rates or increases in  
207 rates, in the event any other notices, including violations, and/or assessments are received after Seller has signed this Agreement  
208 and before settlement, Seller will within 5 days (10 if not specified) of receiving the notices and/or assessments provide a  
209 copy of the notices and/or assessments to Buyer and will notify Buyer in writing that Seller will:

- 210 1. Fully comply with the notices and/or assessments, at Seller's expense, before settlement. If Seller fully complies with the  
211 notices and/or assessments, Buyer accepts the Property and agrees to the RELEASE in Paragraph 26 of this Agreement, OR
- 212 2. Not comply with the notices and/or assessments. If Seller chooses not to comply with the notices and/or assessments, or fails  
213 within the stated time to notify Buyer whether Seller will comply, Buyer will notify Seller in writing within 5 days  
214 (10 if not specified) that Buyer will:

215 a. Comply with the notices and/or assessments at Buyer's expense, accept the Property, and agree to the RELEASE in  
216 Paragraph 26 of this Agreement, OR

217 b. Terminate this Agreement by written notice to Seller, with all deposit monies returned to Buyer according to the terms of  
218 Paragraph 24 of this Agreement.

219 If Buyer fails to respond within the time stated in Paragraph 12(B)(2) or fails to terminate this Agreement by written notice to  
220 Seller within that time, Buyer will accept the Property and agree to the RELEASE in Paragraph 26 of this Agreement.

221 (C) If required by law, within 30 DAYS from the Execution Date of this Agreement, but in no case later than 15 DAYS prior to  
222 Settlement Date, Seller will order at Seller's expense a certification from the appropriate municipal department(s) disclosing notice  
223 of any uncorrected violations of zoning, housing, building, safety or fire ordinances and/or a certificate permitting occupancy of the  
224 Property. If Buyer receives a notice of any required repairs/improvements, Buyer will promptly deliver a copy of the notice to Seller.

225 (D) Seller has no knowledge of any current or pending condemnation or eminent domain proceedings that would affect the Property.  
226 If any portion of the Property should be subject to condemnation or eminent domain proceedings after the signing of this  
227 Agreement, Seller shall immediately advise Buyer, in writing, of such proceedings. Buyer will have the option to terminate this  
228 Agreement by written notice to Seller within \_\_\_\_\_ days (15 days if not specified) after Buyer learns of the filing of such  
229 proceedings, with all deposit monies returned to Buyer according to the terms of Paragraph 24 of this Agreement. Buyer's failure  
230 to provide notice of termination within the time stated will constitute a WAIVER of this contingency and all other terms  
231 of this Agreement remain in full force and effect.

232 13. TAX DEFERRED EXCHANGE (4-14)

233 (A) If Seller notifies Buyer that it wishes to enter into a tax deferred exchange for the Property pursuant to the Internal Revenue Code,  
234 Buyer agrees to cooperate with Seller in connection with such exchange, including the execution of such documents as may be  
235 reasonably necessary to conduct the exchange, provided that there shall be no delay in the agreed-to settlement date, and that any  
236 additional costs associated with the exchange are paid solely by Seller. Buyer is aware that Seller anticipates assigning Seller's  
237 interest in this Agreement to a third party under an Exchange Agreement and consents to such assignment. Buyer shall not be  
238 required to execute any note, contract, deed or other document providing any liability which would survive the exchange, nor shall  
239 Buyer be obligated to take title to any property other than the Property described in this Agreement. Seller shall indemnify and  
240 hold harmless Buyer against any liability which arises or is claimed to have arisen from any aspect of the exchange transaction

241 (B) If Buyer notifies Seller that it wishes to enter into a tax deferred exchange for the Property pursuant to the Internal Revenue Code,  
242 Seller agrees to cooperate with Buyer in connection with such exchange, including the execution of such documents as may be  
243 reasonably necessary to conduct the exchange, provided that there shall be no delay in the agreed-to settlement date, and that any  
244 additional costs associated with the exchange are paid solely by Buyer. Seller is aware that Buyer has assigned Buyer's interest  
245 in this Agreement to a third party under an Exchange Agreement and consents to such assignment. Seller shall not be required to  
246 execute any note, contract, deed or other document providing any liability which would survive the exchange. Buyer shall indem-  
247 nify and hold harmless Seller against any liability which arises or is claimed to have arisen from any aspect of the exchange trans-  
248 action.

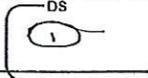
249 14. COMMERCIAL CONDOMINIUM (10-01)

250  NOT APPLICABLE.

251  APPLICABLE. Buyer acknowledges that the condominium unit to be transferred by this Agreement is intended for nonresiden-  
252 tial use, and that Buyer may agree to modify or waive the applicability of certain provisions of the Uniform Condominium Act of  
253 Pennsylvania (68 Pa.C.S. §3101 et seq.).

254 15. TITLES, SURVEYS AND COSTS (4-14)

255 (A) The Property will be conveyed with good and marketable title that is insurable by a reputable title insurance company at the reg-  
256 ular rates, free and clear of all liens, encumbrances, and easements, excepting however the following: existing deed restrictions;

257 Buyer Initials: 

Seller Initials: 

- 258 historic preservation restrictions or ordinances; building restrictions; ordinances; easements of roads; easements visible upon the
- 259 ground; easements of record; and privileges or rights of public service companies, if any.
- 260 (B) Buyer will pay for the following: (1) Title search, title insurance and/or mechanics' lien insurance, or any fee for cancellation;
- 261 (2) Flood insurance, fire insurance, hazard insurance, mine subsidence insurance, or any fee for cancellation; (3) Appraisal fees
- 262 and charges paid in advance to mortgage lender; (4) Buyer's customary settlement costs and accruals.
- 263 (C) Any survey or surveys required by the title insurance company or the abstracting company for preparing an adequate legal
- 264 description of the Property (or the correction thereof) will be obtained and paid for by Seller. Any survey or surveys desired by
- 265 Buyer or required by the mortgage lender will be obtained and paid for by Buyer.
- 266 (D) In the event of a change in Seller's financial status affecting Seller's ability to convey title to the Property as set forth in this
- 267 Agreement on or before the Settlement Date, or any extension thereof, Seller shall, within 5 days (5 if not specified) notify
- 268 Buyer, in writing. A change in financial status includes, but is not limited to, Seller filing bankruptcy; filing of a foreclosure law
- 269 suit against the Property; entry of a monetary judgment against Seller; notice of public tax sale affecting the Property; and Seller
- 270 learning that the sale price of the Property is no longer sufficient to satisfy all liens and encumbrances against the Property. In the
- 271 event of the death of Seller, the representative of the estate, or a surviving Seller shall immediately notify Buyer.
- 272 (E) If Seller is unable to give good and marketable title that is insurable by a reputable title insurance company at the regular rates, as
- 273 specified in Paragraph 15(A), Buyer may terminate this Agreement by written notice to Seller, with all deposit monies returned to
- 274 Buyer according to the terms of Paragraph 24 of this Agreement. Upon termination, Seller will reimburse Buyer for any costs
- 275 incurred by Buyer for any inspections or certifications obtained according to the terms of this Agreement, and for those items spec-
- 276 ified in Paragraph 15(B) items (1), (2), (3) and in Paragraph 15(C).
- 277 (F) Oil, gas, mineral, or other rights of this Property may have been previously conveyed or leased, and Sellers make no representa-
- 278 tion about the status of those rights unless indicated elsewhere in this Agreement
- 279  Oil, Gas and Mineral Rights Addendum (PAR Form OGM) is attached and made part of this Agreement.
- 280 (G) COAL NOTICE (Where Applicable)

281 THIS DOCUMENT MAY NOT SELL, CONVEY, TRANSFER, INCLUDE OR INSURE THE TITLE TO THE COAL AND RIGHTS OF SUPPORT UNDERNEATH  
 282 THE SURFACE LAND DESCRIBED OR REFERRED TO HEREIN, AND THE OWNER OR OWNERS OF SUCH COAL MAY HAVE THE COMPLETE LEGAL  
 283 RIGHT TO REMOVE ALL SUCH COAL AND IN THAT CONNECTION, DAMAGE MAY RESULT TO THE SURFACE OF THE LAND AND ANY HOUSE,  
 284 BUILDING OR OTHER STRUCTURE ON OR IN SUCH LAND. (This notice is set forth in the manner provided in Section 1 of the Act of  
 285 July 17, 1957, P.L. 984.) "Buyer acknowledges that he may not be obtaining the right of protection against subsidence resulting  
 286 from coal mining operations, and that the property described herein may be protected from damage due to mine subsidence by a  
 287 private contract with the owners of the economic interests in the coal. This acknowledgement is made for the purpose of com-  
 288 plying with the provisions of Section 14 of the Bituminous Mine Subsidence and the Land Conservation Act of April 27, 1966."  
 289 Buyer agrees to sign the deed from Seller which deed will contain the aforesaid provision.

- 290 (H) The Property is not a "recreational cabin" as defined in the Pennsylvania Construction Code Act unless otherwise stated here: \_\_\_\_\_
- 291
- 292 (I) 1. This property is not subject to a Private Transfer Fee Obligation unless otherwise stated here: \_\_\_\_\_
- 293

294  Private Transfer Fee Addendum (PAR Form PTF) is attached and made part of this Agreement.

295 2. Notice Regarding Private Transfer Fees: In Pennsylvania, Private Transfer Fees are defined and regulated in the Private  
 296 Transfer Fee Obligation Act (Act 1 of 2011; 68 Pa.C.S. §§ 8101, et. seq.), which defines a Private Transfer Fee as "a fee that  
 297 is payable upon the transfer of an interest in real property, or payable for the right to make or accept the transfer, if the obliga-  
 298 tion to pay the fee or charge runs with title to the property or otherwise binds subsequent owners of property, regardless of  
 299 whether the fee or charge is a fixed amount or is determined as a percentage of the value of the property, the purchase price or  
 300 other consideration given for the transfer." A Private Transfer Fee must be properly recorded to be binding, and sellers must  
 301 disclose the existence of the fees to prospective buyers. Where a Private Transfer Fee is not properly recorded or disclosed,  
 302 the Act gives certain rights and protections to buyers.

303 **16. MAINTENANCE AND RISK OF LOSS (10-06)**

- 304 (A) Seller will maintain the Property, grounds, fixtures and personal property specifically listed in this Agreement in its present con-
- 305 dition, normal wear and tear excepted.
- 306 (B) Seller will promptly notify the Buyer if, at any time prior to the time of settlement, all or any portion of the Property is destroyed,
- 307 or damaged as a result of any cause whatsoever.
- 308 (C) Seller bears the risk of loss from fire or other casualties until settlement. If any property included in this sale is destroyed and not
- 309 replaced, Buyer will:
- 310 1. Accept the Property in its then current condition together with the proceeds of any insurance recovery obtainable by Seller, OR
- 311 2. Terminate this Agreement by written notice to Seller, with all deposit monies returned to Buyer according to the terms of
- 312 Paragraph 24 of this Agreement.

313 **17. RECORDING (9-05)**

314 This Agreement will not be recorded in the Office of the Recorder of Deeds or in any other office or place of public record. If Buyer  
 315 causes or permits this Agreement to be recorded, Seller may elect to treat such act as a default of this Agreement.

316 **18. ASSIGNMENT (1-10)**

317 This Agreement is binding upon the parties, their heirs, personal representatives, guardians and successors, and to the extent assigna-  
 318 ble, on the assigns of the parties hereto. Buyer will not transfer or assign this Agreement without the written consent of Seller unless  
 319 otherwise stated in this Agreement. Assignment of this Agreement may result in additional transfer taxes.

320 **19. GOVERNING LAW, VENUE AND PERSONAL JURISDICTION (9-05)**

- 321 (A) The validity and construction of this Agreement, and the rights and duties of the parties, will be governed in accordance with the
- 322 laws of the Commonwealth of Pennsylvania.

323 Buyer Initials:                     

Seller Initials:

324 (B) The parties agree that any dispute, controversy or claim arising under or in connection with this Agreement or its performance by either  
325 party submitted to a court shall be filed exclusively by and in the state or federal courts sitting in the Commonwealth of Pennsylvania.  
326 Seller understands that any documentation provided under this provision may be disclosed to the Internal Revenue Service by  
327 Buyer, and that any false statements contained therein could result in punishment by fine, imprisonment, or both.

328 20. NOTICE REGARDING CONVICTED SEX OFFENDERS (MEGAN'S LAW) (6-13)

329 The Pennsylvania General Assembly has passed legislation (often referred to as "Megan's Law," 42 Pa.C.S. § 9791 et seq.) providing  
330 for community notification of the presence of certain convicted sex offenders. Buyers are encouraged to contact the municipal  
331 police department or the Pennsylvania State Police for information relating to the presence of sex offenders near a particular prop-  
332 erty, or to check the information on the Pennsylvania State Police Web site at www.pameganslaw.state.pa.us.

333 21. CERTIFICATION OF NON-FOREIGN INTEREST (10-01)

334  Seller IS a foreign person, foreign corporation, foreign partnership, foreign trust, or foreign estate subject to Section 1445 of the  
335 Internal Revenue Code, which provides that a transferee (Buyer) of a U.S. real property interest must withhold tax if the transferor  
336 (Seller) is a foreign person.

337  Seller is NOT a foreign person, foreign corporation, foreign partnership, foreign trust, or a foreign estate as defined by the Internal  
338 Revenue Code, or is otherwise not subject to the tax withholding requirements of Section 1445 of the Internal Revenue Code. To  
339 inform Buyer that the withholding of tax is not required upon the sale/disposition of the Property by Seller, Seller hereby agrees  
340 to furnish Buyer, at or before closing, with the following:

341  An affidavit stating, under penalty of perjury, the Seller's U.S. taxpayer identification number and that the Seller is not a for-  
342 eign person.

343  A "qualifying statement," as defined by statute, that tax withholding is not required by Buyer.

344  Other: \_\_\_\_\_

345 22. REPRESENTATIONS (1-10)

346 (A) All representations, claims, advertising, promotional activities, brochures or plans of any kind made by Seller, Brokers, their  
347 licensees, employees, officers or partners are not a part of this Agreement unless expressly incorporated or stated in this  
348 Agreement. This Agreement contains the whole agreement between Seller and Buyer, and there are no other terms, obligations,  
349 covenants, representations, statements or conditions, oral or otherwise, of any kind whatsoever concerning this sale. This  
350 Agreement will not be altered, amended, changed or modified except in writing executed by the parties.

351 (B) Broker(s) have provided or may provide services to assist unrepresented parties in complying with this Agreement.

352 23. BROKER INDEMNIFICATION (6-13)

353 (A) Buyer and Seller represent that the only Brokers involved in this transaction are: LONG AND FOSTER

354 \_\_\_\_\_,  
355 and that the transaction has not been brought about through the efforts of anyone other than said Brokers. It is agreed that if any  
356 claims for brokerage commissions or fees are ever made against Buyer or Seller in connection with this transaction, each party  
357 shall pay its own legal fees and costs in connection with such claims. It is further agreed that Buyer and Seller agree to indemnify  
358 and hold harmless each other and the above-listed Brokers from and against the non-performance of this Agreement by either  
359 party, and from any claim of loss or claim for brokerage commissions, including all legal fees and costs, that may be made by any  
360 person or entity. This paragraph shall survive settlement.

361 (B) Seller and Buyer acknowledge that any Broker identified in this Agreement: (1) Is a licensed real estate broker; (2) Is not an  
362 expert in construction, engineering, code or regulatory compliance or environmental matters and was not engaged to provide  
363 advice or guidance in such matters, unless otherwise stated in writing; and (3) Has not made and will not make any representa-  
364 tions or warranties nor conduct investigations of the environmental condition or suitability of the Property or any adjacent prop-  
365 erty, including but not limited to those conditions listed in Paragraph 9(C).

366 24. DEFAULT, TERMINATION AND RETURN OF DEPOSITS (1-10)

367 (A) Where Buyer terminates this Agreement pursuant to any right granted by this Agreement, Buyer will be entitled to a return of all  
368 deposit monies paid on account of Purchase Price pursuant to the terms of Paragraph 24(B), and this Agreement will be VOID.  
369 Termination of this Agreement may occur for other reasons giving rise to claims by Buyer and/or Seller for the deposit monies.

370 (B) Regardless of the apparent entitlement to deposit monies, Pennsylvania law does not allow a Broker holding deposit monies to  
371 determine who is entitled to the deposit monies when settlement does not occur. Broker can only release the deposit monies:

372 1. If this Agreement is terminated prior to settlement and there is no dispute over entitlement to the deposit monies. A written  
373 agreement signed by both parties is evidence that there is no dispute regarding deposit monies.

374 2. If, after Broker has received deposit monies, Broker receives a written agreement that is signed by Buyer and Seller, directing  
375 Broker how to distribute some or all of the deposit monies.

376 3. According to the terms of a final order of court.

377 4. According to the terms of a prior written agreement between Buyer and Seller that directs the Broker how to distribute the  
378 deposit monies if there is a dispute between the parties that is not resolved. (See Paragraph 24(C))

379 (C) Buyer and Seller agree that if there is a dispute over the entitlement to deposit monies that is unresolved \_\_\_\_\_ 60 \_\_\_\_\_ days (180 if not  
380 specified) days after the Settlement Date stated in Paragraph 3(A) (or any written extensions thereof) or following date of termina-  
381 tion of the Agreement, whichever is earlier, then the Broker holding the deposit monies will, within 30 days of receipt of Buyer's  
382 written request, distribute the deposit monies to Buyer unless the Broker is in receipt of verifiable written notice that the dispute is  
383 the subject of litigation or mediation. If Broker has received verifiable written notice of litigation or mediation prior to the receipt  
384 of Buyer's request for distribution, Broker will continue to hold the deposit monies until receipt of a written distribution agreement  
385 between Buyer and Seller or a final court order. Buyer and Seller are advised to initiate litigation or mediation for any portion of the  
386 deposit monies prior to any distribution made by Broker pursuant to this paragraph. Buyer and Seller agree that the distribution of  
387 deposit monies based upon the passage of time does not legally determine entitlement to deposit monies, and that the parties main-  
388 tain their legal rights to pursue litigation even after a distribution is made.

389 Buyer Initials: \_\_\_\_\_

Seller Initials: \_\_\_\_\_

390 (D) Buyer and Seller agree that Broker who holds or distributes deposit monies pursuant to the terms of Paragraph 24 or Pennsylvania  
391 law will not be liable. Buyer and Seller agree that if any Broker or affiliated licensee is named in litigation regarding deposit  
392 monies, the attorneys' fees and costs of the Broker(s) and licensee(s) will be paid by the party naming them in litigation.

393 (E) Seller has the option of retaining all sums paid by Buyer, including the deposit monies, should Buyer:  
394 1. Fail to make any additional payments as specified in Paragraph 2, OR  
395 2. Furnish false or incomplete information to Seller, Broker(s), or any other party identified in this Agreement concerning Buyer's  
396 legal or financial status, OR  
397 3. Violate or fail to fulfill and perform any other terms or conditions of this Agreement.

398 (F) Unless otherwise checked in Paragraph 24(G), Seller may elect to retain those sums paid by Buyer, including deposit monies:  
399 1. On account of purchase price, OR  
400 2. As monies to be applied to Seller's damages, OR  
401 3. As liquidated damages for such default.

402 (G)  SELLER IS LIMITED TO RETAINING SUMS PAID BY BUYER, INCLUDING DEPOSIT MONIES, AS LIQUIDATED  
403 DAMAGES.

404 (H) If Seller retains all sums paid by Buyer, including deposit monies, as liquidated damages pursuant to Paragraph 24(F) or (G), Buyer  
405 and Seller are released from further liability or obligation and this Agreement is VOID.

406 (I) Brokers and licensees are not responsible for unpaid deposits.

407 25. ARBITRATION OF DISPUTES (1-18)

408 Buyer and Seller agree to arbitrate any dispute between them that cannot be amicably resolved. After written demand for arbitration  
409 by either Buyer or Seller, each party will select a competent and disinterested arbitrator. The two so selected will select a third. If selection  
410 of the third arbitrator cannot be agreed upon within 30 days, either party may request that selection be made by a judge of a court  
411 of record in the county in which arbitration is pending. Each party will pay its chosen arbitrator, and bear equally expenses for the  
412 third and all other expenses of arbitration. Arbitration will be conducted in accordance with the provisions of Pennsylvania Common  
413 Law Arbitration 42 Pa. C.S.A. §7341 et seq. This agreement to arbitrate disputes arising from this Agreement will survive settlement.

414 26. RELEASE (9-05)

415 Buyer releases, quit claims and forever discharges SELLER, ALL BROKERS, their LICENSEES, EMPLOYEES and any OFFI-  
416 CER or PARTNER of any one of them and any other PERSON, FIRM or CORPORATION who may be liable by or through  
417 them, from any and all claims, losses or demands, including, but not limited to, personal injury and property damage and all of the  
418 consequences thereof, whether known or not, which may arise from the presence of termites or other wood-boring insects, radon, lead-  
419 based paint hazards, mold, fungi or indoor air quality, environmental hazards, any defects in the individual on-lot sewage disposal system  
420 or deficiencies in the on-site water service system, or any defects or conditions on the Property. Should Seller be in default under the  
421 terms of this Agreement or in violation of any Seller disclosure law or regulation, this release does not deprive Buyer of any right to pur-  
422 sue any remedies that may be available under law or equity. This release will survive settlement.

423 27. REAL ESTATE RECOVERY FUND (9-05)

424 A Real Estate Recovery Fund exists to reimburse any persons who have obtained a final civil judgment against a Pennsylvania real  
425 estate licensee (or a licensee's affiliates) owing to fraud, misrepresentation, or deceit in a real estate transaction and who have been  
426 unable to collect the judgment after exhausting all legal and equitable remedies. For complete details about the Fund, call: (717) 783-  
427 3658.

428 28. COMMUNICATIONS WITH BUYER AND/OR SELLER (6-13)

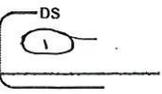
429 Wherever this Agreement contains a provision that requires or allows communication/delivery to a Buyer, that provision shall be satis-  
430 fied by communication/delivery to the Broker for Buyer; if any, except where required by law. If there is no Broker for Buyer, those  
431 provisions may be satisfied only by communication/delivery being made directly to the Buyer, unless otherwise agreed to by the parties.  
432 Wherever this Agreement contains a provision that requires or allows communication/delivery to a Seller, that provision shall be satis-  
433 fied by communication/delivery to the Broker for Seller, if any. If there is no Broker for Seller, those provisions may be satisfied only  
434 by communication/delivery being made directly to the Seller, unless otherwise agreed to by the parties.

435 29. NOTICE BEFORE SIGNING (4-14)

436 Unless otherwise stated in writing, Buyer and Seller acknowledge that Brokers are not experts in legal or tax matters and that Brokers  
437 have not made, nor will they make, any representations or warranties nor conduct research of the legal or tax ramifications of this  
438 Agreement. Buyer and Seller acknowledge that Brokers have advised them to consult and retain experts concerning the legal and tax  
439 effects of this Agreement and the completion of the sale, as well as the condition and/or legality of the Property, including, but not  
440 limited to, the Property's improvements, equipment, soil, tenancies, title and environmental aspects. Buyer and Seller acknowledge  
441 receipt of a copy of this Agreement at the time of signing. This Agreement may be executed in one or more counterparts, each of  
442 which shall be deemed to be an original and which counterparts together shall constitute one and the same Agreement of the Parties.  
443 WHEN SIGNED, THIS AGREEMENT IS A BINDING CONTRACT. Return of this Agreement, and any addenda and amend-  
444 ments, including return by electronic transmission, bearing the signatures of all parties, constitutes acceptance by the parties.

445 30. SPECIAL CLAUSES (4-14)

- 446 (A) The following are part of this Agreement if checked:  
447  Appraisal Contingency Addendum to Agreement of Sale (PAR Form ACA)  
448  Short Sale Addendum to Agreement of Sale (PAR Form SHS)  
449  Zoning Change Addendum to Agreement of Sale (PAR Form ZCA)  
450  \_\_\_\_\_  
451  \_\_\_\_\_  
452  \_\_\_\_\_

453 Buyer Initials: 

Seller Initials: 

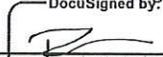
454 (B) Additional Terms: SALE IS CONTINGENT UPON ZONING APPROVAL FOR "CONDITIONAL USE" OF PROPERTY. IN THE  
455 EVENT USE IS NOT PERMITTED BUYER MAY TERMINATE AND ALL DEPOSIT MONEY RETURNED WITHIN 7 DAYS.  
456  
457  
458

459 Once the 60 Day due diligence time period has concluded, Buyer will be responsible for all  
460 utility and taxes payments until the time of settlement. The amount due for these payments will  
461 be Nonrefundable from the deposit money held in escrow.  
462  
463  
464  
465  
466  
467  
468  
469

470 \_\_\_\_\_ Buyer has received the Consumer Notice, where applicable, as adopted by the State Real Estate Commission at 49 Pa.  
471 Code §35.336.

472 \_\_\_\_\_ Buyer has received a statement of Buyer's estimated closing costs before signing this Agreement.

473 \_\_\_\_\_ Buyer has received the Deposit Money Notice (for cooperative sales when Broker for Seller is holding deposit money)  
474 before signing this Agreement.

475 BUYER  DATE 6/12/2018 | 1:39 PM PDT

CRAFT CUSTOM HOMES

F317915810B64A6...

476 Mailing Address \_\_\_\_\_  
477 Phone(s) \_\_\_\_\_ Fax \_\_\_\_\_ Email craftcustomhomes@gmail.com

478 BUYER \_\_\_\_\_ DATE \_\_\_\_\_

479 Mailing Address \_\_\_\_\_  
480 Phone(s) \_\_\_\_\_ Fax \_\_\_\_\_ Email \_\_\_\_\_

481 BUYER \_\_\_\_\_ DATE \_\_\_\_\_

482 Mailing Address \_\_\_\_\_  
483 Phone(s) \_\_\_\_\_ Fax \_\_\_\_\_ Email \_\_\_\_\_

484 AUTHORIZED REPRESENTATIVE \_\_\_\_\_

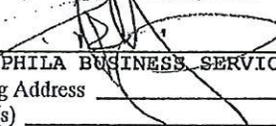
485 Title \_\_\_\_\_

486 COMPANY \_\_\_\_\_

487 Seller has received the Consumer Notice, where applicable, as adopted by the State Real Estate Commission at 49 Pa. Code § 35.336.

488 Seller has received a statement of Seller's estimated closing costs before signing this Agreement.

489 VOLUNTARY TRANSFER OF CORPORATE ASSETS (if applicable): The undersigned acknowledges that he/she is authorized by  
490 the Board of Directors to sign this Agreement on behalf of the Seller corporation and that this sale does not constitute a sale, lease, or  
491 exchange of all or substantially all the property and assets of the corporation, such as would require the authorization or consent of the  
492 shareholders pursuant to 15 P.S. §1311.

493 SELLER  DATE 6/12/18

PHILA BUSINESS SERVICE REALTY

494 Mailing Address \_\_\_\_\_  
495 Phone(s) \_\_\_\_\_ Fax \_\_\_\_\_ Email \_\_\_\_\_

496 SELLER \_\_\_\_\_ DATE \_\_\_\_\_

497 Mailing Address \_\_\_\_\_  
498 Phone(s) \_\_\_\_\_ Fax \_\_\_\_\_ Email \_\_\_\_\_

499 SELLER \_\_\_\_\_ DATE \_\_\_\_\_

500 Mailing Address \_\_\_\_\_  
501 Phone(s) \_\_\_\_\_ Fax \_\_\_\_\_ Email \_\_\_\_\_

502 AUTHORIZED REPRESENTATIVE \_\_\_\_\_

503 Title \_\_\_\_\_

504 COMPANY \_\_\_\_\_



# BOROUGH OF CONSHOHOCKEN

## MEMORANDUM

MAYOR  
Yaniv Aronson

P-11

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

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Stephanie Cecco  
Borough Manager

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Date: September 14, 2018

To: Stephanie Cecco, Brittany Rogers

From: Chris Stetler

Re: 541 East Hector Street Zoning Determination

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**History of the Site:** 541 East Hector Street is a 12,000 square foot lot in the Limited Industry Zoning District (LI). The property consists of an office/warehouse structure, which is a permitted use in the LI District. Structures on the site are non-conforming with regard to the dimensional requirements. Residential uses are permitted in LI under the Residential Overlay District of the Zoning Ordinance. There have been no zoning applications or decisions regarding this property in recent years.

**Current Application:** The property is under agreement to a Developer who proposes to convert the office/warehouse use to twelve (12) residential condominium units. The building would retain the foundation and first floor, and add three (3) additional stories to accommodate the residential units. Twenty-four (24) parking spaces would be located on the first level under the building. Vehicular access is proposed to be one (1) way into the site from East Hector Street; and one (1) way out of the site onto East Elm Street. The Developer proposes to maintain the existing non-conformities of the building, in order to develop the residential use.

**Zoning Determination:** The building is non-conforming with respect to dimensional requirements: front, side and rear yard setback; built area and impervious coverage. The Developer proposes to maintain the existing non-conformities in developing the residential use, and expand the building under Part 700 of the Zoning Ordinance: Non-Conforming Uses. Expansion of a non-conforming building is permitted by special exception one (1) time for not more than twenty-five percent (25%) of the gross square footage of the building. The proposed expansion would be more than twenty-five percent (25%), and would require a variance for the size of the expansion in addition to the special exception to expand the building.

If a substantial portion of the first floor is not maintained, variances to a majority of dimensional requirements of the Residential Overlay District would be required, as the building would be considered to be demolished.

If the dimensional non-conformities are maintained, variances for tract size of less than one (1) acre, parking under rather than behind the building; and for a density of twelve (12) units rather than nine (9) units (33 units per acre are permitted, which would reduce to 9 units for a .275 acre site.).

The full extent of relief needed is under review with the Borough Solicitor with respect to the expansion of the non-conforming building, and maintenance of the existing dimensional non-conformities.



Michael E. Peters, Esquire  
60 East Court Street  
P.O. Box 1389  
Doylestown, PA 18901  
(215) 345-7000  
[mpeters@eastburngray.com](mailto:mpeters@eastburngray.com)

October 15, 2018

**VIA E-MAIL**

Michael P. Clarke, Esquire  
Rudolph Clarke, LLC  
350 Sentry Parkway East  
Building 630, Suite 110-A  
Blue Bell, PA 19422  
[mclarke@rudolphclarke.com](mailto:mclarke@rudolphclarke.com)

**RE: Conshohocken Zoning Hearing Board  
541 East Hector Street**

Dear Mike:

Please be advised that on October 3, 2018, the Borough Council of the Borough of Conshohocken reviewed the Zoning Application of Craft Custom Homes, LLC for the above-referenced property, requesting a special exception from Zoning Ordinance § 27-703.E(6), and variances from Zoning Ordinance §§ 27-1903-B.2, 27-1903-B.9, and 27-1903-B.12 to permit twelve residential units on the property and parking under the building rather than behind.

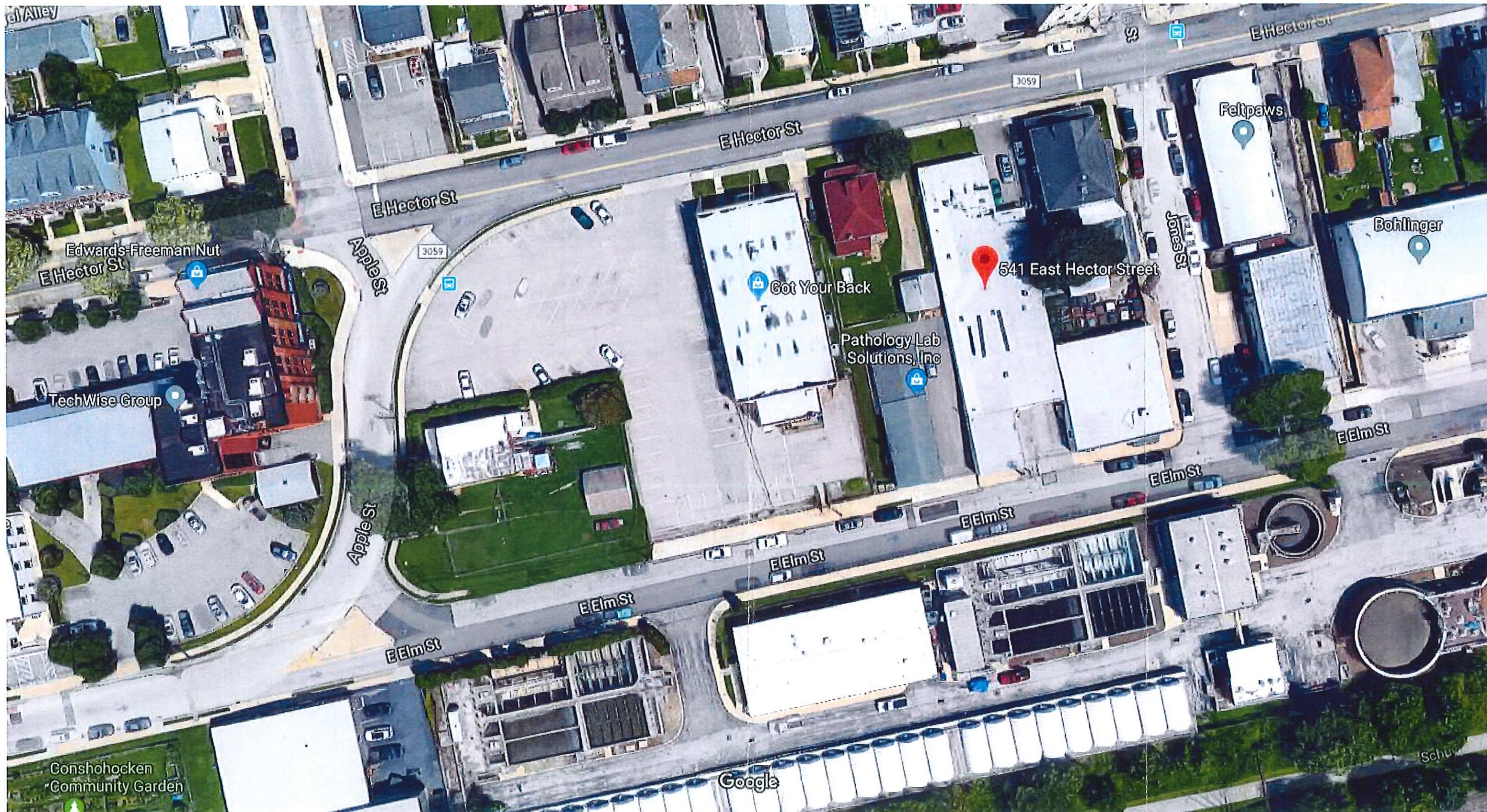
After review of the application, Council determined that the applicant's proposal was acceptable to Borough Council, subject to a condition and restriction that the residential units contain no more than 2-bedrooms. As a result, Council voted to support the Applicant's request for the above relief, subject to imposition of the foregoing condition.

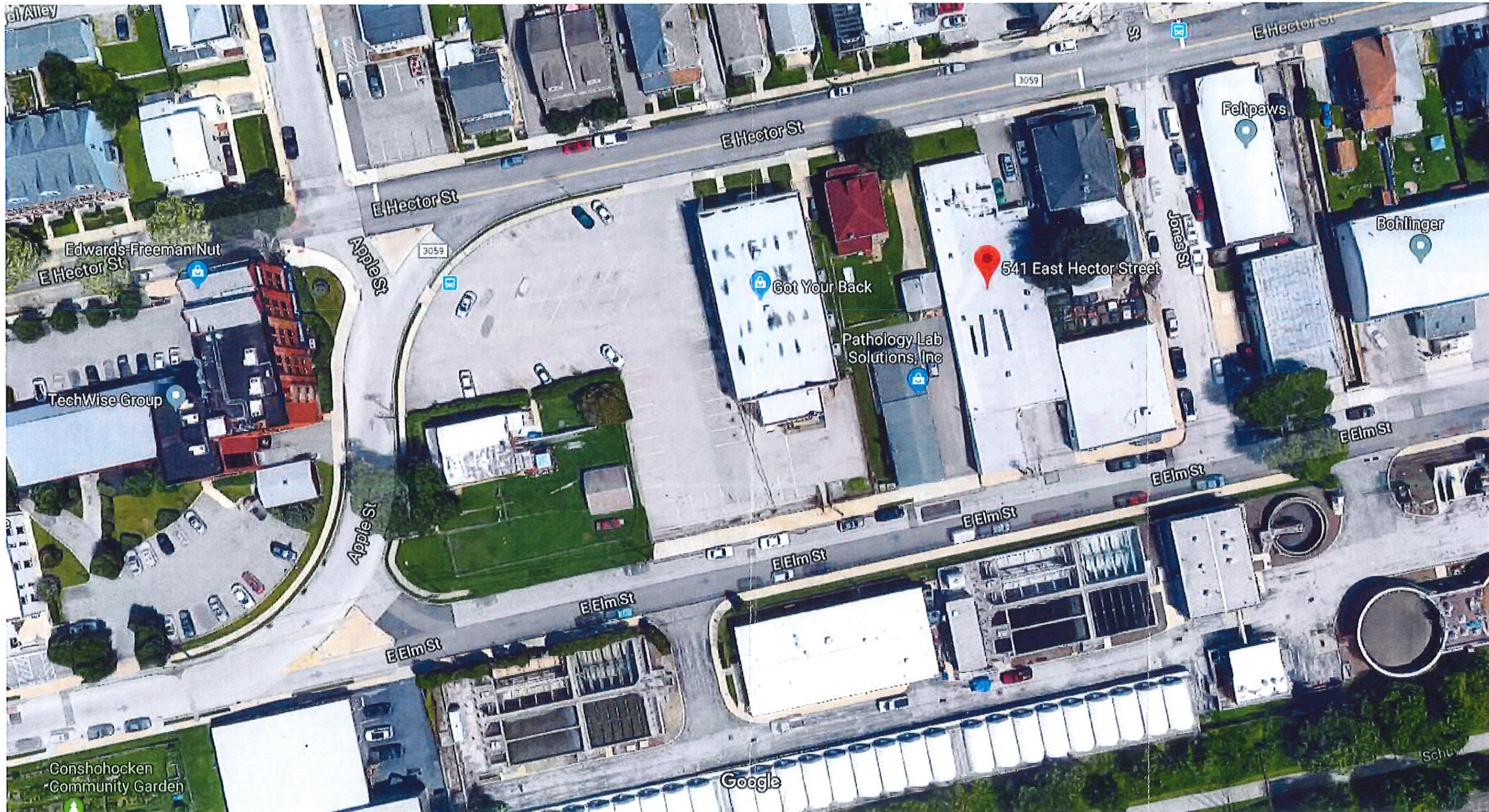
Thank you.

Very truly yours,

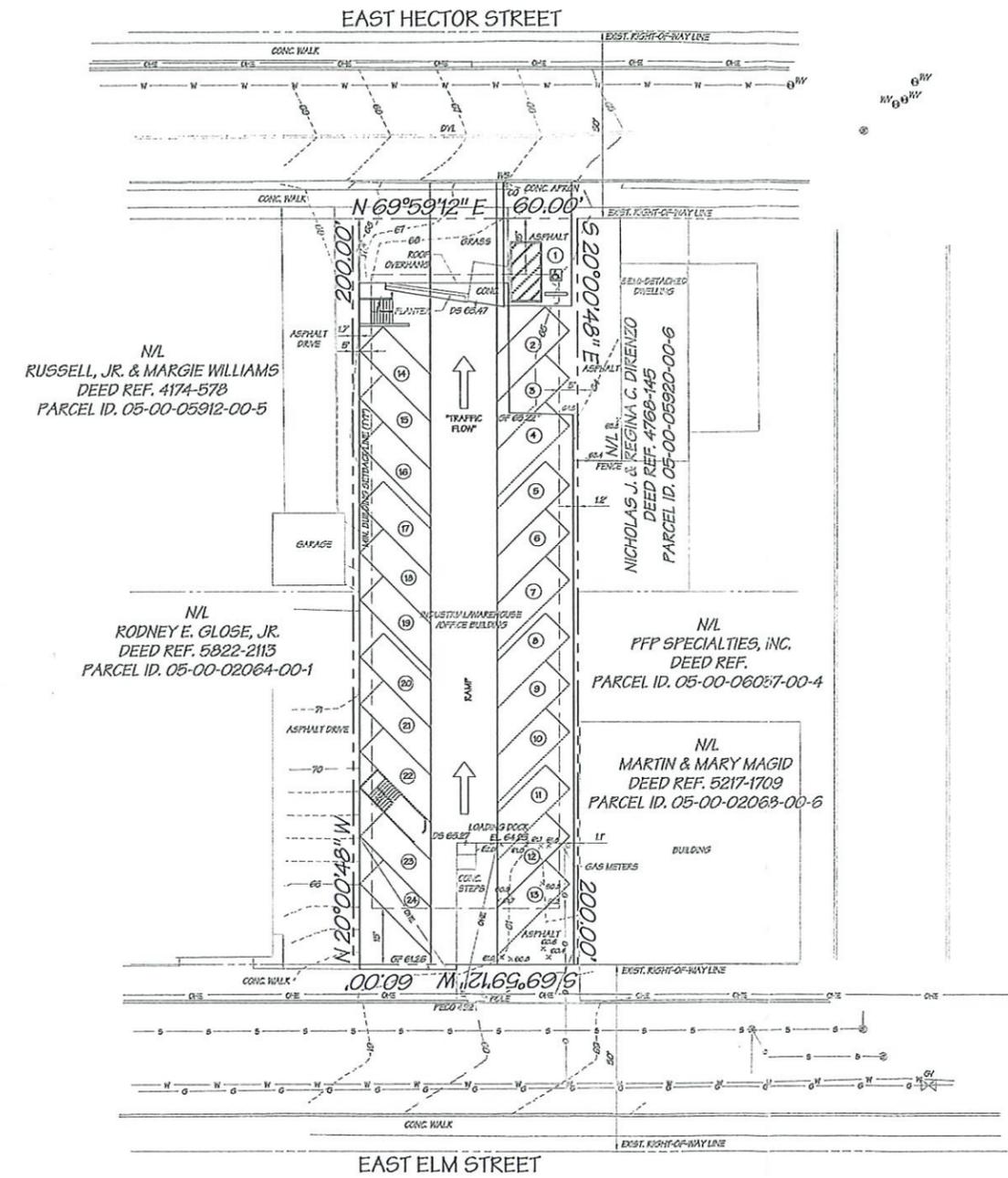
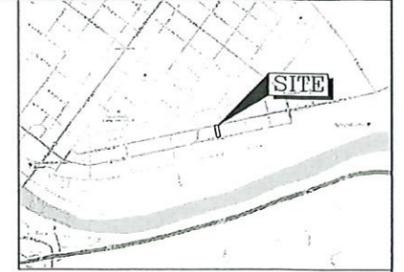
Michael E. Peters, Esquire  
Borough Solicitor

cc: Chris Stetler, Zoning Officer  
Ed Hughes, Esquire









- GENERAL NOTES**
1. PHYSICAL FEATURES SHOWN HEREON OBTAINED BY A FIELD SURVEY COMPLETED ON AUGUST 8, 2016.
  2. HORIZONTAL BEARINGS ARE ASSUMED FROM AZIMUTH READINGS. VERTICAL DATUM IS REFERENCED TO NAVD83.
  3. THIS PLAN WAS PREPARED WITHOUT THE BENEFIT OF A TITLE REPORT.
  4. THIS PLAN IS REPRESENTATIVE OF EXISTING CONDITIONS FOR WHICH VASTARDIS CONSULTING ENGINEERS, LLC (VCELL) WAS CONTRACTED TO PERFORM, EXCEPT ANY RECORDED OR UNRECORDED EASEMENTS WHICH MAY NOT BE VISIBLE OR SUPPLIED TO VASTARDIS CONSULTING ENGINEERS, LLC (VCELL).
  5. THE LOCATIONS OF UNDERGROUND UTILITIES HAVE BEEN SHOWN BASED ON FIELD SURVEY AND SURFACE OBSERVATION. VASTARDIS CONSULTING ENGINEERS, LLC (VCELL) MAKES NO GUARANTEES THAT THE UNDERGROUND UTILITIES SHOWN COMPRISE ALL SUCH UTILITIES IN THE AREA EITHER IN SERVICE OR AS ABANDONED. VCELL DOES NOT WARRANT THAT THE UNDERGROUND UTILITIES SHOWN ARE IN THE EXACT LOCATION. THEREFORE, VCELL SHALL NOT BE RESPONSIBLE OR HELD LIABLE FOR ANY UTILITY NOT SHOWN OR SHOWN ON THE DRAWINGS IN A LOCATION OTHER THAN WHERE IT IS ACTUALLY DISCOVERED UPON EXCAVATION. VCELL HAS NOT PHYSICALLY EXCAVATED AND LOCATED ANY UNDERGROUND LINES.

**ZONING REQUIREMENT LIMITED INDUSTRIAL DISTRICT**

	REQUIRED	EXISTING	PROPOSED
MIN. FRONT YARD SETBACK*	25 FT.	112 FT. 7.0 FT. (EXISTING NON-CONFORMING)	112 FT. 7.0 FT.
MIN. REAR YARD SETBACK	15 FT.	N/A	N/A
MIN. SIDE YARD SETBACK**	15 FT.	11 FT. 1.7 FT. (EXISTING NON-CONFORMING)	11 FT. 1.7 FT.
MAX. BUILDING COVERAGE	50%	72.5% (EXISTING NON-CONFORMING)	72.5%
MAX. IMPERVIOUS SURFACES	75%	80.5% (EXISTING NON-CONFORMING)	80.5%
MAX. BUILDING HEIGHT	40 FT.	<30 FT.	40 FT.

\* EXCEPT WHERE A BUILDING LINE HAS BEEN ESTABLISHED, THEN THE BUILDING LINE OF THE MAJORITY OF THE BUILDINGS ON THAT SIDE OF THE BLOCK SHALL BE USED.  
 \*\* EXCEPT WHERE THE PROPERTY ADJACENT A RESIDENTIAL USE OR DISTRICT, THEN THE SETBACK SHALL BE INCREASED TO 10'.

**PARKING REQUIREMENTS**  
 REQUIRED OFF-STREET PARKING  
 REQUIREMENT IS 2 SPACES PER DWELLING UNIT.  
 12 DWELLING UNITS PLANNED.  
 THEREFORE 24 SPACES ARE REQUIRED AND PROVIDED.

REFER TO THE BOROUGH OF CONSHOHOCKEN ZONING ORDINANCE FOR COMPLETE TEXT OF ALL REGULATIONS.

**PROPERTY OWNER**  
 PHILADELPHIA BUSINESS SERVICE REALTY  
 2 FAIRHILL CIRCLE  
 RADNOR, PA 19087

**EQUITABLE OWNER**  
 CRAFT CUSTOM HOMES, LLC  
 201 REDWOOD ROAD  
 KING OF PRUSSIA, 19306

**PROPERTY INFORMATION**  
 DEED REF. 0506-2540  
 PARCEL ID. 05-00-05916-00-1

**IMPERVIOUS COVERAGE**

	EXISTING
BUILDING	6,701 S.F.
ASPHALT	1,854 S.F.
CONCRETE	155 S.F.
TOTAL	8,710 S.F.

- LEGEND**
- 2' --- EXIST. 2' CONTOURS
  - 1' --- EXIST. 1' CONTOURS
  - --- EXIST. BOUNDARY LINE
  - --- EXIST. RIGHT-OF-WAY
  - --- EXIST. BUILDING SETBACK LINE
  - W --- EXIST. WATER LINE
  - G --- EXIST. UNDERGROUND GAS LINE
  - S --- EXIST. SANITARY SEWER LINE
  - E --- EXIST. OVERHEAD ELECTRIC LINE
  - X 62.0 EXIST. SPOT ELEVATION
  - X 62.27 EXIST. DOOR SILL ELEVATION
  - WS EXIST. WATER SERVICE
  - RV EXIST. WATER VALVE
  - S EXIST. SANITARY MANHOLE
  - CO EXIST. CLEANOUT
  - U EXIST. UTILITY POLE



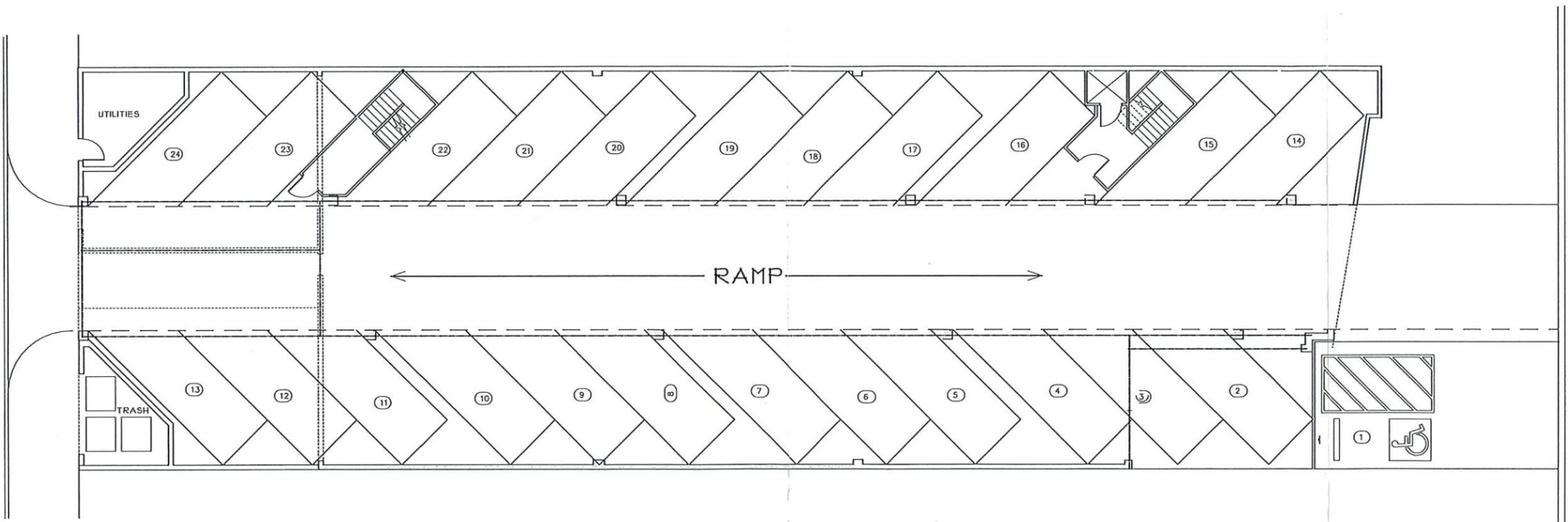
BEFORE YOU SIGN ANY HERE IN PENNSYLVANIA CALL 1-800-242-9776 FOR A LIST OF REGISTERED PROFESSIONAL ENGINEERS. PA ACT 07 (2004) PROVIDES THESE PROVISIONS AND YOU MUST BE REGISTERED BEFORE YOU SIGN. YOU WILL BE SUBJECT TO PENALTIES.  
 CIVIL WORKERS SHOULD EXAMINE ALL REQUIREMENTS.  
 THIS IS A PROFESSIONAL SEAL. IT IS NOT TO BE REPRODUCED OR COPIED IN ANY MANNER WITHOUT THE WRITTEN PERMISSION OF THE ENGINEER. THE ENGINEER'S SIGNATURE AND SEAL MUST BE PLACED ON ALL DRAWINGS AND SPECIFICATIONS. THE ENGINEER'S SIGNATURE AND SEAL MUST BE PLACED ON ALL DRAWINGS AND SPECIFICATIONS.  
 OUTSIDE PENNA. OR IN THE DISTRICT OF COLUMBIA, PENNSYLVANIA, THE SEAL AND SIGNATURE OF THE ENGINEER MUST BE PLACED ON ALL DRAWINGS AND SPECIFICATIONS.  
 PA ONE CALL SERIAL NO. XXXXXXXXXXXX TAX PARCEL ID. 05-00-05916-00-1



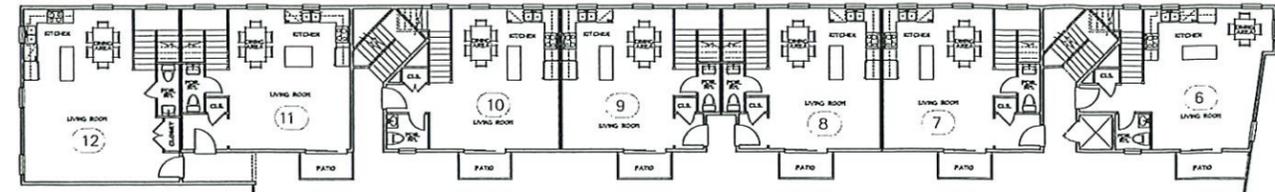
NO.	DATE	REVISION

**VASTARDIS**  
CONSULTING ENGINEERS, LLC  
29 Harvey Lane | Malvern, PA 19355 | Ph: 610.644.5563 | Fax: 610.644.3782 | Email: info@vastardis.com

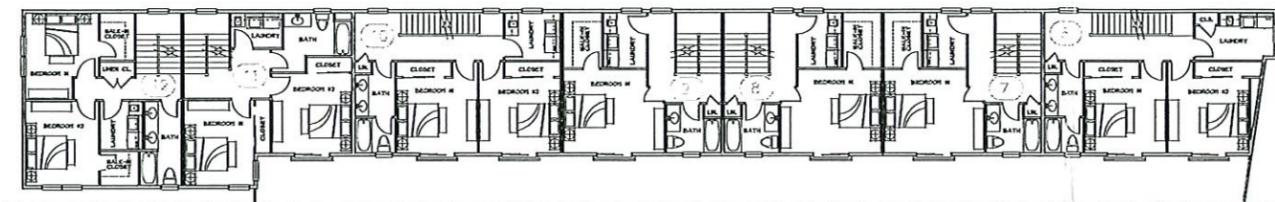
PHILADELPHIA BUSINESS SERVICE REALTY 541 E. HECTOR STREET		DRAWN BY SCJ
BOROUGH OF CONSHOHOCKEN CHESTER COUNTY PENNSYLVANIA		CHECKED BY NY
ZONING HEARING EXHIBIT		DATE 05-15-16
SHEET 1 OF 1		SCALE 1"=20'



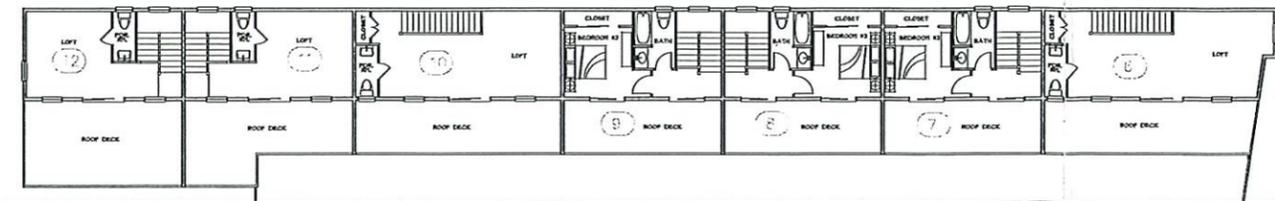
FIRST FLOOR PLAN:  
SCALE: 1/8" = 1'-0"



SECOND FLOOR PLAN:  
SCALE 1/4" = 1'-0"



THIRD FLOOR PLAN:  
SCALE 1/4" = 1'-0"



FOURTH FLOOR PLAN:  
SCALE 1/4" = 1'-0"



## BOROUGH OF CONSHOHOCKEN

*Office of the Borough Manager*

MAYOR  
Yaniv Aronson

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

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Stephanie Cecco  
Borough Manager

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### ZONING NOTICE

**JUNE 15<sup>TH</sup>, 2020 ZONING HEARING BOARD MEETING TO OCCUR VIA REMOTE MEANS**

**ZONING HEARING PZ-2014-04 and 2015-04**

NOTICE IS HEREBY given that the Conshohocken Zoning Hearing Board will conduct a public hearing on June 15th, 2020 at 7:00 p.m. prevailing time via remote means. The public is encouraged to participate as set forth below.

In response to the Governor's Stay at Home Order due to COVID-19, this meeting will be held using a Go-To-Meeting Platform. To the extent possible, members of Conshohocken Zoning Hearing Board and Borough staff/professionals will participate via both video and audio. (INSTRUCTIONS ON SECOND PAGE)

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

PETITIONER: Millennium Waterfront Associates, LP  
c/o O'Neill Property Group  
2701 Renaissance Blvd., 4th Floor, King of Prussia, PA 19406

PREMISES INVOLVED: 200 Block of Washington Street, Conshohocken, PA 19428  
Behind 225 and 227 Washington Street  
Specially Planned 2 Zoning District

OWNER OF RECORD: Same as Petitioner

The Petitioner is requesting an extension of variances originally granted in 2014 and 2015 from the following sections of the Conshohocken Zoning Ordinance: 27-1509.B - building bulk; 27-1504.D.5 - orientation of a garage; 27-1705 - flood proofing of amenities in the floodway; 27-1503 - height; 27-1505.B.2 - minimum building setback from a private or internal driveway; and 27-1504.F.2 - impervious coverage.

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

Thank you,  
Zoning Hearing Board

## ZONING HEARING REMOTE SESSION ACCESS INSTRUCTIONS

The public is encouraged to participate as follows:

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

**You can also dial in using your phone.**

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

Access Code: 633-884-013

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

**Video Feed Participation:** The public may access the video feed by using the link provided below.

Please join my meeting from your computer, tablet or smartphone. (Link is also on the Borough of Conshohocken website: [www.conshohockenpa.gov](http://www.conshohockenpa.gov))

<https://global.gotomeeting.com/join/633884013>

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

<https://global.gotomeeting.com/install/633884013>

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

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

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

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

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

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

I/We \_\_\_\_\_

Request to be granted party status in Application Z \_\_\_\_\_.

Applicant: \_\_\_\_\_

Please print name and address below:

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Please Sign Below:

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Please return form via mail or e-mail to the below:  
*(Entry must be received no later than Wednesday June 10th, 2020)*

MAIL:  
Borough of Conshohocken  
Attn: Bobbi Jo Myrsiades  
400 Fayette St.  
Conshohocken, PA 19428

E-MAIL:  
[zoning@conshohockenpa.gov](mailto:zoning@conshohockenpa.gov)



## BOROUGH OF CONSHOHOCKEN

MAYOR  
Yaniv Aronson

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

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Stephanie Cecco  
Borough Manager

December 17, 2019

Edmund J. Campbell, Jr., Esq.  
Campbell Rocco Law, LLC  
2701 Renaissance Blvd., 4<sup>th</sup> Floor  
King of Prussia, PA 19406

Re: Millennium Waterfront Associates, LP  
200 Block of Washington Street

Dear Mr. Campbell,

Pursuant to your request to continue the hearing for the extension of zoning relief granted in 2014 and 2015 for the above referenced project; the Conshohocken Zoning Hearing Board granted a 120-day continuance of the hearing. The new hearing date will be April 20, 2020 at 7:00 p.m. at Conshohocken Borough Hall, 400 Fayette Street, Conshohocken PA.

Prior to the hearing, you are required to submit at minimum a sketch plan for the new project; and a narrative describing the differences between the relief previously granted and the relief required by the new plan.

Do not hesitate to contact Conshohocken's Zoning Officer, if you have questions prior to the hearing.

Sincerely,

Christine M. Stetler  
Community Development and Zoning Officer

Cc: S. Cecco  
M. Peters, Esq.  
M. McHugh, Esq.  
A. Glassman, Esq.  
Conshohocken Zoning Hearing Board



# BOROUGH OF CONSHOHOCKEN

*Office of the Borough Manager*

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Yaniv Aronson

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

---

Stephanie Cecco  
Borough Manager

## ZONING NOTICE

### ZONING EXTENSION HEARING PZ-2014-04; Z-2015-04

NOTICE IS HEREBY given that the Conshohocken Zoning Hearing Board will conduct a public hearing on Thursday, January 17, 2019 at 7:00 p.m. prevailing time at the Conshohocken Borough Hall, 400 Fayette Street, Conshohocken, PA. At this time, the Conshohocken Zoning Hearing Board will hear testimony and accept evidence on the following request for an extension of zoning relief:

PETITIONER: Millennium Waterfront Associates, LP  
c/o O'Neill Property Group  
2701 Renaissance Blvd., 4<sup>th</sup> Floor  
King of Prussia, PA 19406

PREMISES INVOLVED: 200 Block of Washington Street, Behind  
225 and 227 Washington Street  
Specially Planned 2 Zoning District

OWNER OF RECORD: Same as Petitioner

The Petitioner is requesting an extension of variances granted in 2014 and 2015 from the following sections of the Conshohocken Zoning Ordinance: 27-1509 B – Building Bulk, 27-1504 D. 5 – Orientation of a Garage, 27-1705 – Flood Proofing of Amenities in the Flood Way, 27-1503 – Height, 27-1505 B. 2 – Minimum Building Setback from a Private or Internal Driveway, and 27-1504 F. 2 – Impervious Coverage.

The Petitioner proposes to construct an office building, a parking garage, and public amenities along the Schuylkill River.

Interested parties are invited to participate in the hearing. Anyone requiring special accommodations to attend this hearing should contact Conshohocken Borough Administration Office at 610-828-1092 as soon as possible to make arrangements.

Borough of Conshohocken  
Zoning Hearing Board

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CAMPBELL **CR** ROCCO  
L A W L L C

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Edmund J. Campbell  
Direct Dial: (610) 992-5885  
Email: [ecampbell@campbellroccolaw.com](mailto:ecampbell@campbellroccolaw.com)

November 26, 2018

**VIA ELECTRONIC AND FIRST CLASS MAIL**

Christine Stetler  
1 West First Avenue  
Suite 200  
Conshohocken, PA 19428

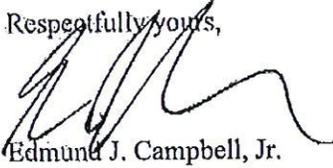
RE: Millennium Waterfront Associates, L.P.  
Z-2014-04  
Z-2015-04

Dear Ms. Stetler,

Millennium Waterfront Associates, L.P. ("MWA") is the owner of certain units of the Millennium Condominium ("Millennium"), and the successor to Washington Street Associates IV, L.P. Please accept this letter as a request on behalf of MWA to extend the above referenced zoning approvals through December 31, 2019.

Thank you in advance for your time and attention to his matter.

Respectfully yours,



Edmund J. Campbell, Jr.

EJC/aw

cc: Richard Heany



## BOROUGH OF CONSHOHOCKEN

### MEMORANDUM

**MAYOR**  
Yaniv Aronson

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

Stephanie Cecco  
Borough Manager

Date: December 12, 2018

To: S. Cecco, B. Rogers, Zoning Hearing Board, Zoning Board Solicitor

From: C. Stetler

Re: 200 Block of Washington Street, Millennium Block A, Millennium IV  
Request for Extension of Zoning Relief Granted in 2014 and 2015  
Request Summary

#### History of the Site and Current Request:

Zoning relief remains in effect for six (6) months following the Zoning Hearing Board's approval. Petitioners are required to draw permits for their specific project within that time. However, complex projects such as that proposed on the 200 Block of Washington Street (Millennium IV) often take longer to go through the approval process and secure project financing. For that reason, Petitioners often request an extension of time to draw construction permits for a project.

With regard to the 200 Block of Washington Street, zoning relief was granted in 2014 and 2015. A one (1) year extension of the relief granted was approved January 30, 2018. This approval will expire in January 2019. A second extension of relief granted through December 31, 2019 has been requested.

In 2016, an amendment to the height requirement in the Specially Planned - 1 and 2 Zoning Districts was approved. The amendment permitted a height in those districts of 230 feet with Conditional Use approval by Conshohocken Borough Council. In June, 2017, the Developer of the site requested Conditional Use approval for a height of up to 230 feet. Hearings on the Conditional Use application have been continued since its submission through October, 15, 2018, at which time the application was withdrawn.

Because zoning relief for the project has not been completed, the project has not proceeded through the Land Development process. The overall project has not been approved by Borough Council, and therefore no permits have been secured.

At the present time, it is not known if the Developer will submit a new application for Conditional Use approval of a height increase for the office building and garage. It should be noted; that garages are not exempt from the height requirements of the Specially Planned - 2 Zoning District. Also, there is now indication if the size of the building will remain at 617,000 square feet, which is the remaining Floor Area Ratio allowable for Millennium Block A.

Following is a description of relief granted in 2014 and 2015 for the proposed project.

Z-2014-04: 200 Washington Street Block A. Decision May 5, 2014

Proposal: The Developer proposed a 300,000 square foot office building with a five (5) story parking garage, and public amenities including an amphitheater, public garden and improved public access. It should be noted that the design of the project was a direct result of the needs of the single tenant being sought to occupy the building.

Relief Requested and Granted:

1. §27-1509.2 Building Bulk: Relief was requested to increase the building bulk of the new proposed office building from 250 feet to 384 feet, and increasing the non-conforming building bulk of 227 Washington Street through connection to the proposed building, making the building bulk 543.8 feet. Variances were approved on condition that the connector between the existing building at 227 Washington Street and the new office building be used for the transient movement of employees only, and not for additional office space or gathering areas. Relief was approved for the building bulk of the proposed garage of 274.8 feet
2. §27-1504 D. 5: Interpretation and in the alternate a variance was requested regarding the proposed orientation of the parking garage parallel to the Schuylkill River. The Ordinance does not permit visible parking structures parallel to the river or between a principal building and the river. Despite arguments that there was intervening land between the proposed parking garage and the actual river bank, the Zoning Board granted a variance to orienting the parking garage parallel to the river, on condition that the structure be concealed in some way other than wire mesh so that it does not appear to be a parking structure when viewed from the river side of the building in the opinion of the Borough's Design Review Committee.
3. §27-1705: Utilization of the Flood Plain Conservation District: Relief was requested from conditional use requirements for development of amenities in the floodway. All proposed buildings related to the project were located in the floodway fringe, and no relief was requested from flood proofing requirements. However grading and amenities to be constructed in conjunction with the project were located in the floodway. Relief was granted for the following activities in the floodway:
  - a. An amphitheater with a plaza, walkway and paved parking areas;
  - b. Paved walkways, sidewalks, parking areas, plazas, courtyards and meeting areas; and
  - c. Grading, re-grading, disturbance of earth, removal and deposit of topsoil and construction of retaining walls.
4. §27-1503 Height: Building height is limited to eighty-five (85) feet, and may be increased to 250 feet by conditional use. The project does not meet the requirements for conditional use approval and therefore a variance was requested. Relief was granted for a building height not to exceed ninety (90) feet. The need for a variance was due to slope at the site and the fact that the elevation of the building had not been finalized at that time.

Z-2015-04: 200 Block of Washington Street Block A. Decision September 29, 2015

Proposal: The Developer proposed a 420,000 square foot office building, a garage of twelve (12) to thirteen (13) stories. Amenities to be constructed remained the same. It should be noted that the changes to the project were the result of requests from the single tenant proposed to occupy the building. Also of note was the Borough of Conshohocken's support for the relief being requested.

Relief Requested and Granted:

1. §27-1509 2 Building Bulk: The proposed building bulk was 400 lineal feet, which was sixteen (16) feet longer than the 384 lineal fee approved in 2014. There was no discussion regarding any changes in the bulk of the garage, which was granted relief in 2014. Note: Garages are not exempt from building bulk requirements.

2. §27-1503 Height: The proposed height of the building was 135 feet, which was a significant increase (45 feet) over the five (5) foot increase granted in 2014. Garage height also was increased, and was considered to be roughly the same as the proposed office building. The variance was granted.
3. §27-1504 D. 5 Interpretation of the Orientation of the Garage Parallel to the Schuykill River: The parking garage associated with the project continued to be oriented parallel to the river. There was no change in consideration of the garage's orientation or change in the prior approval or condition of approval.
4. §27-1505 B.2 Minimum Building Setback from a Private or Internal Drive: The distance of the parking garage from the drive leading to the garage is less than twenty-five (25) feet. The variance was granted.
5. §37-1504 F. 2. Impervious Coverage: The Developer proposed eighty percent (80%) impervious coverage on the lot, where seventy percent (70%) is permitted. The variance was granted.

2015 variances approved were granted without conditions.



## BOROUGH OF CONSHOHOCKEN

**MAYOR**  
Yaniv Aronson

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Stephanie Cecco  
Borough Manager

### Conshohocken Zoning Hearing Board

Tuesday, January 30, 2018 ~7:00 p.m.  
Conshohocken Borough Hall ~400 Fayette Street  
Conshohocken, PA 19428

#### Extension of 2014 and 2015 Zoning Relief Granted for the 200 Block of Washington Street – Millennium Block A.

Present: Richard Barton, Chairman – Zoning Hearing Board, Board Members: Gregory F. Scharff, Janis B. Vacca, PE, Mark S. Danek Esq., Russell Cardamone; Zoning Board Solicitors Michael P. Clarke, Esq., Alexander Glassman, Esq.; Edmund J. Campbell, Jr., Esq. – Attorney for the Applicant; Christine M. Stetler, Zoning Officer,

The meeting was called to order by Mr. Richard Barton, Chairman of the Conshohocken Zoning Hearing Board. Mr. Barton explained that there was a request to extend the zoning relief granted in 2014 and 2015 for a proposed project on the 200 Block of Washington Street known as Millennium Block A.

Mr. Edmund J. Campbell, Jr., Attorney for the property owners, described the zoning relief granted in both 2014 and 2015 which included: building bulk, building height, orientation of the proposed garage, development in the floodway fringe, development of public amenities in the floodway, and grading. Conditions related to the relief granted were that the garage be “skinned” on the exterior to reduce the appearance of a garage, that the proposed design be reviewed and approved by the Borough’s Design Review Committee; and that the connection between the proposed building and Millennium III (227 Washington Street) be used for pedestrian traffic only and not for additional office or meeting space.

Mr. Campbell explained that the Developer is seeking to attract a single tenant for the proposed project which is a Fortune 50 company. He was not at liberty to identify the tenant being sought. The proposed tenant still is evaluating its needs and has narrowed the list of potential sites for its headquarters. The selection of a site by the tenant has delayed the implementation of the project.

The public in attendance at the meeting were given the opportunity to ask questions or make statements regarding the extension request. There were no questions or statements from the public.

Russell Cardamone commented that this Developer has consistently returned to the Zoning Hearing Board requesting additional relief to accommodate the proposed project.

Question was raised by the Board as to what the garage would look like. Mr. Campbell explained that, at present, there is no final design for the garage.

Mr. Barton asked when the original relief for the project expired. Relief expired as of July 1, 2016.

An extension of relief previously grant was requested until December 31, 2018.

MOTION: THAT THE REQUEST FOR THE EXTENSION OF RELIEF GRANTED IN 2014 AND 2015 BE GRANTED THROUGH DECEMBER 31, 2018. (Vacca/Danek)

Vacca                    yes

Scharff                yes

Danek                    yes

Cardamone            no

Barton                    yes

**BEFORE THE ZONING HEARING BOARD OF CONSHOHOCKEN**

**IN RE: APPLICATION OF  
WASHINGTON STREET ASSOCIATES, IV, L.P.**

**REGARDING**

**200 BLOCK of WASHINGTON STREET- MILLENIUM BLOCK A**

**DECISION OF THE BOARD**

I. History of the Case:

By application and addendum dated February 26, 2014 and admitted as Exhibit P-2 (collectively, the "Application"), Washington Street Associates, IV, L.P. (the "Applicant") is seeking zoning relief from the Zoning Hearing Board (the "Board"), in the nature of variances (each a "Variance" and collectively, the "Variances") from the following sections of the Conshohocken Borough Zoning Ordinance of 2001 (together with all amendments thereto, the "Zoning Ordinance"): (i) the § 27-1509.2 requirement that buildings be no more than 250 feet in length or 350 feet in length, provided certain conditions are satisfied; (ii) the § 27-1504.D.5 requirement that parking structures not be fronting parallel to the Schuylkill River or be located between the primary structure and the Schuylkill River; (iii) the § 27-1705 requirement restricting the permissible uses of property located in the floodway; and (iv) the § 27-1503 requirement that buildings be no taller than 85 feet in height.<sup>1</sup> The Variances relate to the Applicant's land development plan (the "Project") for property located on the 200 block of Washington Street, Conshohocken (collectively, the "Property"). The Applicant is requesting that it be

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<sup>1</sup> The Applicant originally also requested relief under Section 27-1511.8 with respect to parking areas; however, the Borough determined that Section 27-1511.8 applies only to residential uses and would be inapplicable in this case.

permitted to construct a 300,000 square foot office building in two (2) connected structures, an associated parking structure and several outdoor amenities (collectively, the "Proposed Use").

The Zoning Ordinance permits the Board to grant a variance when failure to do so would "inflict unnecessary hardship" upon an applicant. See id. at § 27-611.1.A.

A public hearing was held before the Board on the evening of April 7, 2014, at 7:30 p.m. prevailing time at the Borough Hall in Conshohocken, Pennsylvania. The initial hearing was continued, with the continuation heard on May 5, 2014 at 7:30 p.m. prevailing time at the Borough Hall in Conshohocken, Pennsylvania. At the final conclusion of the continuation, the Board discussed the remaining issues and rendered a decision. Due notice was given for the public hearing.

After the final conclusion of the hearing, the Board found as follows:

II. Findings of Fact:

1. The Applicant is Washington Street Associates, IV, L.P., and the Applicant is also the owner of the Property. The Applicant was represented by Edmond J. Campbell, Jr., Esquire ("Campbell") at the hearing, and its principal witnesses were Brian O'Neill ("O'Neill") and Michael Engel, the engineer on the Project ("Engel").

2. The property involved is the 200 block of Washington Street Conshohocken, Pennsylvania. The Property is presently zoned Specially Planned District-2 ("SP-2").

3. At the initial hearing, the Applicant provided a computerized digital rendering of the Project and O'Neill described each of the different models to the Board. As illustrated by the computerized digital renderings and the testimony of O'Neill, the

Applicant described the Project as the next sequence in its waterfront development, and indicated that some of its design choices were based upon the needs of a targeted tenant (the "Tenant").

4. O'Neill stated that if the Tenant were to choose this location for its offices, it would bring 1,000 jobs to Conshohocken. The Tenant envisioned a space with fewer floors and more employees on each floor to encourage collaborative work. The Tenant also specifically requested a large congregational space to host speeches to all of its employees. O'Neill indicated that in response to this request, the Applicant was proposing an outdoor amphitheater that would provide seating for all employees during these speeches, and would also be open to the public in the evenings. In addition to the planned amphitheater, the Applicant also proposed to add a public garden and increased public access to the existing trail system along the riverfront.

5. O'Neill next described the proposed office buildings themselves, designated as B-1 and B-2, respectively, on the site plan admitted as Exhibit P-3 (and detailed in Findings of Fact #s 9 and 10, below), as being constructed of all glass, including an employee "life center" on the top floor which includes amenities such as an outdoor garden, gym, a coffee shop and meeting rooms. B-1 and B-2 are connected via a glass "connector" and the parking structure is also connected to the existing M-3 building, as identified on Exhibit P-3, via a second glass "connector" (each, a "Connector," and collectively, the "Connectors").

6. Campbell next asked O'Neill to confirm that the Proposed Use is suitable for the area. O'Neill indicated that the Proposed Use was the original plan submitted for the Property, dating back to 1996 or 1997. Campbell asked O'Neill whether the

Proposed Use would change or detract from the use of the neighboring property. O'Neill stated that it would not detract but safeguard the neighboring uses.

7. The Board then posed the following questions to O'Neill:

a) The Chairman of the Board, Richard Barton (the "Chairman")

asked whether the Connectors were structural parts of the buildings. O'Neill responded that the Connectors would be structural in that people could walk back and forth through the Connectors. O'Neill also indicated that the Connectors would be climate-controlled.

b) Vivian Angelucci ("Angelucci") next asked whether the

Connectors would just be used as walkways. O'Neill indicated that they were meant to be winter gardens, such that they may have tables and chairs, but that a tenant could use the space for seating or a conference room.

c) Russ Cardamone ("Cardamone") next asked whether the gray area

depicted on Exhibit P-3, would be part of the proposed buildings. Campbell indicated that Engel would testify as to the specific dimensions of the buildings.

8. The Chairman than asked for questions from the audience. There were no questions.

9. At the request of Campbell, Engel, using a red pen, outlined the

dimensions of the buildings on Exhibit P-3. Engel also cross-hatched the glass Connector that connects B-1 and B-2 to indicate where it would be located. Exhibit P-3 shows B-1 and B-2 connected via the proposed glass Connector as well as a second glass Connector connecting B-2 and M-3, the existing building.

10. Engel further testified regarding the specific dimensions of M-3. He

indicated that M-3 is approximately 360 feet long, which includes 335 feet in building

bulk and a bump out, which adds twenty-five (25) additional feet. The proposed Connector would add an additional 35 feet. B-2, from the glass Connector to the Schuylkill River (the "River"), Engel indicated, is 120 feet. The Connector between B-2 and M-3 is an additional fifty (50) feet in length. Engel testified that the proposed B-1 would be 213 feet in length. Engel concluded the dimensional discussion by indicating that if the proposed B-1 and B-2 were constructed with the glass Connectors, the total length would be 520 feet. B-1 through B-2 constitutes 389.4 feet, approximately. Engel added these calculations to Exhibit P-3.

11. As a result of these calculations, Campbell indicated that the Applicant was seeking a variance from Section 1509.2 of the Code relating to building bulk. Section 1509.2 limits building bulk in the SP-2 district to 250 feet, and by meeting certain conditions, 350 feet. Both B-1 and B-2, however, would exceed 350 feet in length. The conditions required to permit 350 feet in building length include: (1) a change in elevations every fifty (50) feet, (2) five percent (5%) of open space added for every fifty (50) feet of increased building length, and (3) no visible parking structure that is fronting parallel to the River and is located between a primary structure and the River.

a) As for the first condition to exceed 250 feet in building length, Engel testified that the façade on the existing M-3 will not change as the building already exists. He did indicate, however, that all new construction from the end of M-3 to the end of B-2 would include changes in the architectural façade in excess of every fifty (50) feet, including a slight arc to the building frontage.

b) The second requirement to exceed 250 feet in building length is that five percent (5%) open space be added for each additional fifty (50) feet in building

length. Engel indicated that there would be two (2) open space components of the Proposed Use. The open space would include the 100 foot strip of open space along the River that is owned by the Borough, as well as the proposed amphitheater which would also be available to the public. When the actual land development plans are prepared, Engel indicated, he would be able to quantify the amount of additional open space, but he was confident that it exceeds the requisite five percent (5%).

c) With respect to the conditions regarding the parking structure, Engel stated that the proposed parking structure would not be located between any buildings on the Property and the River. Campbell asked Engel whether the terms "fronting," "parallel," or "visible" were defined in the Code. Engel indicated that they were not. Campbell also asked Engel to address the undulating nature of the River, and Engel indicated that the River has an arc and a structure could only be parallel to the River if the structure matched the exact arc of the River. The parking structure, Engel stated, does not front the River because an adjacent property owner has land located between the location of the proposed parking structure and the River, and the 100 foot strip of land owned by the Borough would also be between the parking structure and the River. Engel stated that in his opinion, the conditions for the extension of building length to 350 feet were met.

12. Campbell next asked Engel to testify with respect to uses in the floodway. Engel confirmed that the Property is located in the floodplain of the River. Engel defined the floodplain as the combination of the floodway and the floodway fringe. He indicated that all of the proposed buildings would be located in the floodway fringe and that some amenities would be located in the floodway. Engel stated that development of the

Property is limited in that the Property is bordered by the River and the railroad tracks. Due to the fact that the Property is located within the floodplain, all habitable space must be located at least eighteen (18) inches above the flood height, and therefore, Engel indicated, parking was the most logical use of the first floor of the structures on the site. Engel also testified that the construction in the floodplain would be consistent with the standards set by the Army Corps of Engineers.

13. Campbell indicated he had additional questions for Engel regarding parking. Campbell asked about the number of parking decks in the proposed parking structure. Engel stated there would be five (5) parking decks above the surface parking level. Engel indicated that each parking level would be about twelve (12) feet high. Engel also stated that it was too early in the planning process to indicate the exact number of parking spaces to be provided, but he anticipates about 900 parking spaces in the structure.

14. Campbell raised the point that in addition to the conditions imposed by Section 27-1509.C of the Code with respect to parking structures, the Applicant is also seeking relief from restrictions on parking structures with respect to construction in the floodway under Section 27-1705 of the Code. Section 27-1705 identifies certain uses permissible in the floodway by conditional use. However, Campbell stated that on the advice of the Borough, conditional use in the floodway required the prior approval of the Pennsylvania Department of Environmental Protection ("DEP") as well as the Borough Engineer. Engel testified, however, that DEP approval was contingent upon municipal approval because the key storm water permit needed in order to get approval from the Borough would be a permit from the DEP. Due to the conflicting requirements, the

Applicant, Campbell summarized, was requesting the Variance from the conditional use requirements of Section 27-1705. Campbell also reviewed the requested uses in the floodway with Engel, including: an amphitheater, plaza, walkway, paved parking area, trash and utility facilities, sewer facilities, storm water facilities, sidewalks, courtyards and meeting areas, grading and regarding of land, disturbance of earth, removal of topsoil, construction of retaining walls, deposit of topsoil, parking facilities and structures, utility transmission lines, fencing during construction.

15. Campbell next asked Engel to address the requested height variance. The maximum height permitted under Section 27-1503 is eighty-five (85) feet. The Applicant requested a Variance in the amount of five (5) feet because the height of B-1 and B-2 had not yet been determined due to the slope on the site.

16. Campbell concluded Engel's testimony by posing questions similar to those posed to O'Neill. Engel indicated that the Property was suitable for the Proposed Use and that it was a permissible use. Engel also confirmed that public facilities such as water and sewer are available to the site. Engel also stated that the Applicant had agreed to finance a portion of the Borough's global traffic study, a summary of which was admitted as Exhibit P-6. The global traffic study anticipates additional office space on the Property of about 225,000 square feet, and indicates that the proposed Project was consistent with the global traffic study.

17. The Chairman then asked Zoning Officer Christine Stetler ("Stetler") when the Project would be before the Planning Commission. Stetler indicated that there has been no submission to the Planning Commission, so May or June would be earliest possible timing before the Planning Commission. The Chairman also posed a technical

question to Engel asking Engel to delineate the floodway boundary on Exhibit P-3, and Engel confirmed that none of the proposed buildings would be constructed in the floodway. The Chairman then opened the hearing up to questions from the remainder of the Board:

a) Cardamone asked whether any structure could be built between the proposed parking structure and the River. Engel responded that an existing parking lot was located along the River on the adjacent property owner's land and that there were woods between the two properties. He indicated that buildings would not be built in the floodway. Cardamone also asked Engel to confirm that the Applicant's position was that the proposed parking structure was not parallel to the River. Engel confirmed and indicated that it was separated from the River by a mature stand of trees, which served as a natural buffer. Engel also confirmed that parking on the first level of B1 and B2 would permit flood waters to flow through the area. Cardamone also asked about parking for M2 and M3. Engel indicated that some existing parking for these buildings would be removed, but that exact numbers had not been finalized.

b) Angelucci asked about the height of the buildings. O'Neill indicated that they would be less than ninety-five (95) feet. The Chairman indicated that the request in Exhibit P-2 was for the Variance to permit height to ninety (90) feet. O'Neill indicated that 90 feet would be sufficient to accommodate the Proposed Use.

c) Gregory Scharff ("Scharff") asked about the scale of the proposed buildings, with respect to the existing neighboring Londonbury complex. O'Neill confirmed that the projected height of B-1 and B-2 would be equal to the height of

Londonbury. Scharff also asked about the height of the proposed parking structure, which Engel stated would be sixty (60) feet.

d) Janis Vacca ("Vacca") asked to confirm the cumulative length of B-1, B-2 and the Connector, which Campbell indicated would be 520 feet and that the distance from B-1 Connector to B-2 would be 384 feet. Campbell also confirmed that the request for relief is with respect to the length of both buildings on both sides, stating that the Applicant recognized that if it were to connect B-2 and the Connector to M-3, there would be a single building going the length of 520 feet and that the proposed B-1 to B-2 Connector would be 34 feet in excess of the permissible building bulk. Vacca also raised a procedural question as to whether the Applicant was asking the Board to grant a variance from the Code's requirement that the Applicant obtain conditional use approval for the planned construction in the floodway. Campbell indicated that it was the Applicant's position that it met the standards of Section 27-1509 for the expansion of building bulk, but that the Applicant was requesting the Variance due to the hardship associated with the Property. Campbell reminded the Board that the Code does not define "visible," "fronting" or "parallel." O'Neill added that the proposed parking structure could not be considered fronting because of the neighboring landowner's property, as illustrated by an additional plan of the property, which was marked as Exhibit P-7. The Applicant also used a Google aerial photo, which was admitted as Exhibit P-8, to illustrate the location of the property line. Stetler confirmed that the wooded area between the neighbor's property and the Property was a remnant of the Schuylkill Canal and that it constituted preserved open space. Vacca stated that in her opinion, the intent of the Code was to avoid having a parking structure visible along the

River. O'Neill stated that the Applicant was not trying to split hairs, but to adequately address the requests of the Tenant for the space. O'Neill also commented on the proposed length of the buildings with reference to the historic factory structures in Conshohocken that were interconnected via walkways and connectors, which the Project was designed to imitate. Vacca asked whether it would be possible to rotate the parking structure ninety degrees (90°). Campbell indicated that the rotation would place the parking structure closer to Washington Street. Vacca also suggested an L-shape, but O'Neill indicated an L-shape would prevent the grid design of the Project.

e) The Chairman next commented that the B-1 and B-2 Connector structure would result in 384 feet in building length. He stated the issue becomes that these buildings, unlike M-2 and M-3 are closer to the River. M-2 and M-3 are 360 feet in length, but Stetler stated that these buildings were constructed in 2000, prior to the current building bulk requirements. Stetler confirmed, however, that building bulk relief would be necessary in the present case because the request was to expand on what was originally permitted. The Chairman continued this discussion with reference to the requested relief from conditional use. The Chairman expressed concern regarding floodplain issues and overstepping the role of Borough Council. He also stated the Board would need expert review by the Borough Engineer on technical information. Specifically, the Chairman cited page 3 of the Applicant's addendum to the Application, including items 1 through 10. Campbell indicated that items 1 through 10 include buildings and reiterated that the Applicant's plans do not include buildings in the floodway. The Chairman suggested items in the floodway that require conditional use approval should have conditional use approval with the benefit of review by the Borough

Engineer. Engel responded indicating the contradiction that the DEP is requiring zoning approval. O'Neill indicated that this issue has caused a dispute. Nasatir stated that he was not aware of this issue and offered to discuss the issue with the Borough Solicitor. The Chairman indicated that at a minimum, he would like the Borough Engineer to weigh in on the improvements in the floodway.

f) Stetler asked whether the public access ways to the River would be recorded so that the Borough is protected in terms of access to the River. Campbell indicated that the Applicant was agreeable.

18. The Chairman opened the hearing up to questions from the audience. No questions were asked. Stetler commented that the floor area ratio and impervious coverage would need to be evaluated with respect to other buildings situated on Millennium Block A. Campbell indicated that the Applicant had obtained preliminary review on that topic. The Chairman also asked for statements from the audience. There were no public statements.

19. The Chairman indicated his preference to continue the hearing to allow the Borough Engineer to weigh in on the technicalities of the proposal. Cardamone also requested that the Applicant provide a plan with the building dimensions at the next hearing as well as a Google map photo showing the trees separating the Property and the River. O'Neill agreed to provide both. The Chairman also requested that the Borough Engineer be available at the next hearing. The Board voted to continue the hearing.

20. The hearing was continued on May 5, 2014. The Applicant submitted correspondence from both Remington, Vernick and Beach Engineers ("RVB"), the Borough Engineer, and Engel's engineering firm, Right Angle Engineering ("RAE"),

with respect to the floodway issue. Plans for review by the Borough Engineer were submitted to RVB under cover letter dated April 23, 2014, the plans being admitted as Continuation Exhibit P-7 and the accompanying cover letter as Continuation Exhibit P-8. A response letter from RVB regarding the floodplain use review dated April 29, 2014 was admitted as Continuation Exhibit P-8A. The RAE response letter dated May 3, 2014 accompanying revised plans from RAE was admitted as Continuation Exhibit P-9. The revised plans submitted with the May 3, 2014 letter, which include the building dimensions, were separately admitted as Continuation Exhibit P-12. An additional review letter dated as of May 5, 2014 from RVB was admitted as Continuation Exhibit P-10. Campbell also submitted a Google map image of the site, with the proposed development superimposed, which was admitted as Continuation Exhibit P-11. Per the request of the Board, James Watson ("Watson") of RVB was also present to respond to questioning.

21. Campbell opened the Applicant's presentation by reviewing Continuation Exhibit P-11. Campbell indicated that the Google image showed that the parking structure was not clearly visible from the other side of the Schuylkill River through the foliage. O'Neill also commented that his team had developed a "skin," including colors and LED lighting, for the parking structure so that it does not have to look like a parking structure. The Chairman asked about the landscaped area between the development and the River visible on Continuation Exhibit P-11. O'Neill indicated that the landscaped property is not part of the Property and may actually have been dedicated to the Borough by the neighboring property owner. Campbell added that the fact that the landscaped

area is between the Property and the River means that the parking structure does not front the River.

22. In support of this notion, Campbell cited the language of Section 1504.D.5 with respect to "No lot shall be developed with a parking structure fronting parallel to the Schuylkill River, nor shall a parking structure be located on any lot area between the primary structure and the Schuylkill River." The Chairman asked the Applicant to clarify with respect to the "primary structure." O'Neill indicated that the primary structure in this case was the proposed office buildings. Campbell also cited Section 1509.2.C, reciting "The lot shall not be developed with a visible parking structure fronting parallel to the Schuylkill River, nor shall a stand-alone parking structure be located in any lot area between the primary structure and the Schuylkill River." Campbell indicated that the Applicant believed the Project complied with Section 1509.2.C because the lot is separated from the River by the neighboring property and the structure would be camouflaged. Stetler commented that the camouflage should be a condition to any relief granted with respect to the parking structure. Cardamone commented his belief that the parking structure would still be fronting and parallel to the River. Angelucci voiced agreement with Cardamone's comments. O'Neill responded by comparing the Property to a beach house in that a beach house located a block from the beach would not be considered beach front. Vacca asked how many stories were intended for the parking structure. O'Neill indicated there would be five (5) stories, and that the structure would be camouflaged with wire mesh and LED lighting. Vacca voiced her concern that the LED lighting would make the structure more visible. O'Neill indicated that the lights highlight the screen, not the garage and result in a luminescent glow on the screen.

Vacca asked whether the LED screen would be on at all times. O'Neill indicated that during the day, light would reflect from the screen disguising the parking structure and then at night, the lights would help disguise the interior lights of the parking structure.

23. The Chairman requested questions from the public on the parking structure, and there were no questions. O'Neill provided an image of the LED lighting from the internet. The image was admitted as Continuation Exhibit P-13. Vacca asked if the planned wire mesh system would be similar to the Murano parking structure in downtown Philadelphia. O'Neill indicated the proposed would be similar, but that technology had improved and described it as a metal wall with holes in it which is lit up at night so that the parking structure profile does not show from the parking structure lights. O'Neill also provided a picture of the utility building at the University of Pennsylvania, which was admitted as Continuation Exhibit P-14, to show the metal screening which is similarly lit up at night. O'Neill indicated his intention to use more color than used in the University of Pennsylvania project.

24. Campbell stated that the Applicant was also seeking relief from the building bulk requirements. Referring to Continuation Exhibit P-12, Campbell indicated that the distance from the Washington Street side of M-3 all the way to the front of B-2 would be approximately 520 feet. M-3, itself, is 334.3 feet and the Connector between M-3 and B-2 would result in 62.1 feet, while the Connector to the front of B-2 would be 138.4 feet, for a total of 543.8 feet. The Chairman asked specifically about the function of the 62.1 feet Connector between M-3 and B-2. O'Neill described the area as a connection between the two (2) office buildings in similar style to the historic factories in Conshohocken. Campbell added that the ground floors of B-1, B-2 and M-3 would be

parking, so there would be connectivity there. O'Neill confirmed that the Connector would be a true structural element and would permit someone to walk the full 543.8 feet, and that it would be designed as a winter garden with a glass exterior. Campbell also referenced Continuation Exhibit P-12 to highlight the subtle arc on the front façade of the building, which had been designed to echo the proposed amphitheater.

25. The Chairman opened the discussion up to questions from the Board and Stetler:

a) Cardamone asked whether a pedestrian bridge had been considered, rather than the Connector which would include meeting and office space. O'Neill indicated that the reason a bridge would not work is that the Tenant needs the ability to collaborate, but that the Applicant would be willing to narrow the Connector so that it was more like a bridge than additional meeting space.

b) Vacca asked whether the existing Londonbury complex would block the building bulk view of the Property from the Schuylkill Expressway. O'Neill indicated that only Londonbury would be visible from the Expressway. He added that the Applicant's intent was to replicate the historic buildings in Conshohocken. Vacca also asked about the façade of M-3. O'Neill indicated that the existing façade is red brick. O'Neill confirmed that B-1 and B-2 would not be red brick, but that there would be red brick in the courtyard of the new buildings.

c) The Chairman asked whether relief would also be necessary for building bulk with respect to the proposed parking structure. Campbell indicated that the length of the parking structure was proposed to be 274.8 feet, which would require a variance. O'Neill indicated the size of the parking structure was directly related to the

Proposed Use, and that the parking structure includes thirty to fifty (30-50) spaces for the public trail system on the Property.

d) Stetler asked whether the public parking would accommodate the parking being eliminated between the two Millennium buildings. Campbell indicated that some parking would be lost with the Project, but that parking would still conform to the Code. O'Neill indicated that the Tenant requested visitor parking at each entrance. Stetler also asked about the existing public access to the River between the Millennium buildings. Campbell indicated that the public access between M-2 and M-3 is somewhat limited due to the slope there. Campbell stated public access points exist from Washington Street along Millennium 2 to a sidewalk that goes down to the River, as well as a sidewalk along Ash Street and a sidewalk along Poplar. O'Neill added that there would be a bridge and an archway between the parking garage and the buildings that would be visible from Washington Street.

26. The Chairman requested questions from the public with respect to the requested building bulk relief. There were no questions.

27. Next, Campbell highlighted the boundary lines of the floodplain and the floodway on Continuation Exhibit P-12. Campbell stated that since the original hearing, the relief requested for construction in the floodway had narrowed from ten (10) categories of use to two (2). Pointing to the comments on Continuation Exhibit P-10, Campbell asked if Watson could testify with respect to his review. Watson stated that the Borough Engineer's comments were adequately addressed in the revised plans received in response to its letter dated April 29, 2014 (Continuation Exhibit P-8A). Watson stated that some requested items would be available at the time of the National Pollutant

Discharge Elimination System (NPDES) application. Campbell clarified that some of the changes requested by the Engineer could not be completed until complete site engineering had taken place. The Board had no questions for Watson. Campbell reiterated that the original request for construction in the floodway had changed, specifically that no portion of the parking structure is proposed in the floodway, but strictly in the floodplain. Campbell confirmed that the relief being requested for construction in the floodway was limited to grading and the disturbance of earth relating to the walkway and one half of one parking space along Poplar Street. The Chairman asked and Campbell confirmed that the amphitheater, plaza, paved walkways, sidewalks and parking areas, grading and regarding of land were still being proposed in the floodway.

28. The Chairman asked for questions from the public regarding construction in the floodway:

a) Jane Garbacz ("Garbacz"), 149 Sutcliffe Lane, asked how much of the floodway would be paved. Campbell indicated that a small sidewalk is proposed in the public plaza.

b) Stetler also commented, asking whether the grading and regarding would raise the flood elevation. Campbell stated that it would not. Stetler indicated the Borough's preference to have Flood Elevation Certifications on file at the Borough, and not just with the Borough Engineer. Stetler also asked for hydrology reporting which showed the Project, as proposed, would comply with the FEMA flood insurance program. Campbell agreed.

29. Campbell briefly addressed the Applicant's requested relief with respect to height. He stated that the request for relief was due to the fact that the precise architecture of B-1 and B-2 was not yet complete, and that the slopes on the Property may impact the final height of the proposed buildings. There were no questions from the public or the Board regarding the height relief request.

30. The Chairman asked for statements from the public:

a) Garbacz voiced concerns over traffic congestion and environmental risks. She stressed the importance of the Floodplain Conservation District to the region, and the fact that the Borough does not have an emergency management plan in place to relocate flood victims. She also cited contaminated soil along the brownfield sites of the Conshohocken riverfront. Garbacz stated that the requested relief was to please an incoming Tenant, but at the expense of the residents of Conshohocken. She also referenced the capacity of the Conshohocken Waste Water Treatment Plant.

b) There were no other statements from the public and O'Neill indicated he wished to respond. O'Neill stated that the Conshohocken sewer facility is operating at fifty percent (50%) of capacity currently. Secondly, he indicated that the properties the Applicant purchased had zero access to the River and the Applicant introduced the 100 foot strip to create public access. Lastly, O'Neill stated that the Property has five (5) points of entry to the riverfront.

31. The Chairman asked for questions from the Board:

a) Cardamone asked what the elevations would look like, specifically with respect to the Connector on the rear side of the proposed buildings, and asked whether the rear Connector could be revised in conformity with the front Connector, as

more of a bridge than a meeting space. O'Neill indicated that the rear Connector would actually be smaller in size. O'Neill agreed that the Connector could be just a connection space, although he indicated it would need to be fourteen (14) feet wide.

b) Vacca asked whether the riverside of the parking structure could be opaque, not with the wire mesh, but opaque so as it is not visible as a parking structure. O'Neill indicated this could be done. Vacca indicated her preference that an opaque parking structure would be more in line with the Code in that the ordinance prohibits a parking structure parallel to the River. The Chairman suggested that the Borough Design Review Committee ("DRC") review the plans to make the parking structure opaque and that any relief granted be contingent upon DRC approval, which is ultimately subject to the approval of Borough Council. Stetler also commented that the Project will be required to go before the DRC because it is to be located on the waterfront. The Chairman asked if the parking structure could be rotated such that it would be narrower along the River. O'Neill indicated that there are tenants in buildings M-2 and M-3, and they would be blocked if the parking structure was rotated. He also added that the rotation would encroach on existing parking.

32. Stephen Forster ("Forster"), a consultant for the Applicant, presented an image showing the rear of the proposed building with the architectural center which was admitted as Continuation Exhibit P-15. A second image, admitted as Continuation Exhibit P-16, showed the same building with a view from the riverside.

33. The Board finds that the matter was properly advertised pursuant to the Zoning Ordinance and the Pennsylvania Municipal Planning Code ("MPC").

### III. Discussion

As detailed above, the Proposed Relief that the Applicant wishes to obtain is comprised of the Variances in order to permit the development of the Project, all in accordance with the plans submitted by the Applicant and the testimony offered at the hearing. The Proposed Relief would (i) permit the Project to include buildings in excess of 350 feet in length; (ii) construct a visible parking structure fronting parallel to the Schuylkill River; (iii) utilize portions of the Property in the floodway without first obtaining conditional use approval; and (iv) construct buildings in excess of the eighty-five (85) feet height limit. The Applicant believes that the requested Variances constitute the minimal relief necessary to complete the Project.

Section 27-611 of the Zoning Ordinance permits the Board to grant a variance when the "Zoning Ordinance inflicts unnecessary hardship upon the Applicant." See id. at 27-611(1)(A). Unnecessary hardship is to be determined to be present when the Board determines, as applicable, that:

- a) there are unique physical circumstances or conditions to the property;
- b) there is no possibility that the property can be developed in strict conformity with the provisions of the Zoning Ordinance and thus the Variance is necessary to enable reasonable use of the property;
- c) the unnecessary hardship has not been created by the Applicant;
- d) the granting of the Variance, if authorized, would not alter the essential character of the neighborhood; and

e) the granting of the Variance, if authorized will represent the minimum variance to afford the relief and represent the least modification possible to the regulation in issue.

Id. at § 27-611. See also MPC, at 53 P.S. §10910.2.

Some of the requested Variances, including from Section 27-1503, in particular, are of a dimensional nature. In such situations, the Supreme Court of Pennsylvania has found, “the owner is asking only for a reasonable adjustment of the zoning regulations in order to utilize the property in a manner consistent with the applicable regulations.” See Hertzberg v. Zoning Board of Adjustment of City of Pittsburgh, 721 A.2d 43, 47 (Pa. 1998). Thus, the Pennsylvania Supreme Court has stated, the level “of proof required to establish unnecessary hardship is indeed lesser.” See id. at 48.

The Board has reviewed the Proposed Relief carefully in connection with the requirements of Section 27-611 as well as the MPC standards for granting the Proposed Relief. See MPC, at 53 P.S. §10910.2.

The Board has noted the heavy volume of testimony and exhibits entered into evidence on this matter.

With respect to the Variance requested under Section 27-1509.2 in connection with building bulk, the Board considered the use of the proposed Connector space between buildings M-3 and B-2 and of the Connector between buildings B-1 and B-2. With respect to the new construction buildings, B-1 and B-2, the proposal would result in a total building bulk of 384 feet or thirty-four (34) feet in excess of the 350 permissible feet in building length. The Board considered the thirty-four (34) feet to be a de minimus variance, and unanimously agreed to grant the Variance. With respect to the larger

Connector between the existing building, M-3 and the new building, B-2, the Board expressed the intent that the Connector be as narrow as possible and used solely as a walkway. The Board unanimously agreed to grant the Variance with respect to the proposed Connector between buildings M-3 and B-2, on the condition that the area of the space in that Connector only be used for the transient movement of employees, with no office space or gathering areas (the "Building Bulk Condition").

The Applicant is also seeking relief related to building bulk with respect to the proposed parking structure. The proposed parking structure would have a length of 274.9 feet, which exceeds the 250 foot limit of Section 27-1509.2. The Board, with Cardamone opposing, agreed to grant the Variance to permit the parking structure to exceed the 250 foot maximum up to a 275 foot length.

With respect to the parking structure, the Applicant also sought a Variance under Section 1504.D.5 and Section 27-1509.2.C in connection with the prohibition on the erection of a visible parking structure that is fronting and parallel to the River. The Board agreed, with Cardamone opposing, to grant the Variance to permit the parking structure to be visible, located parallel to and fronting the Schuylkill River, on the condition that the structure be concealed by some method other than wire mesh such that the parking structure does not appear to be a parking structure when viewed from the riverside, in the opinion of the Borough Design Review Commission, which is ultimately subject to the approval of Borough Council (the "DRC Condition," and collectively, together with the Building Bulk Condition, the "Conditions").

The Board also considered the Applicant's request for relief with respect to uses in the floodway. The proposed uses in the floodway include the proposed amphitheater,

plaza, the paved parking area, paved walkways and other meeting areas, grading and regarding of land, disturbance of earth, removal or deposit of topsoil and the construction of retaining walls, as identified as items 1, 6 and 7 in Exhibit P-2. The Board unanimously agreed to grant the Variance to permit the following uses in the floodway: (1) an amphitheater, plaza, walkway, paved parking areas; (6) paved walkways, sidewalks, parking areas, plazas, courtyards, meeting areas; and (7) grading and regarding of land, disturbance of earth, removal and or deposit of topsoil, construction of retaining walls.

The Board also considered the Applicant's request for relief from the building height requirements of Section 27-1503. The Board noted that the Applicant has requested an allowance of an additional five (5) feet in building height to accommodate the slope in the Property, but that no structure would exceed ninety (90) feet in height. The majority of the Board believes that granting the requested Variance is both prudent and appropriate in relieving an undue hardship upon the Applicant, and further believes that the dimensional relief requested is a "reasonable adjustment of the zoning regulations in order to utilize the property in an manner consistent with the applicable regulations" as required under the Hertzberg decision. See Hertzberg, 721 A.2d at 47, 48. The Board, with Cardamone opposing, agreed to grant the Variance.

#### IV. Conclusions of Law

1. The matter was properly presented before the Board.
2. The matter was properly advertised and the hearings both timely and appropriately convened in accordance with the provisions of both the Zoning Ordinance and the MPC.

3. The Zoning Ordinance and the MPC both give the Board the necessary discretion to determine whether or not to grant the Proposed Relief, as well as to subject same to the Conditions.

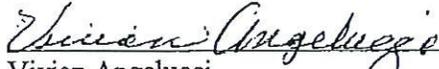
**ORDER**

The Board grants the Applicant's request for the Proposed Relief from the following Sections of the Zoning Ordinance: 27-1509.2, subject to the Building Bulk Condition; 27-1504.D subject to the DRC Condition; 27-1705 limited to Items 1, 6 and 7 of Exhibit P-2, respectively; and 27-1503. Such relief is granted subject to the Applicant maintaining the Proposed Use in conformity with the information provided to the Board as well as all other regulations of the Borough.

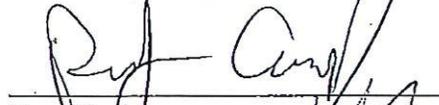
CONSHOHOCKEN ZONING HEARING BOARD<sup>2</sup>



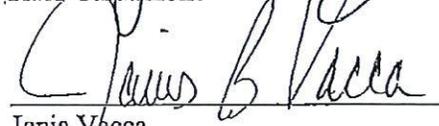
Richard D. Barton, Chairman



Vivian Angelucci



Russ Cardamone



Janis Vacca

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<sup>2</sup> Gregory Scharff did not attend the continuation hearing, and therefore, did not take part in the decision.

**BEFORE THE ZONING HEARING BOARD OF CONSHOHOCKEN**  
**IN RE: APPLICATION OF WASHINGTON STREET ASSOCIATES IV, L.P. AND**  
**MILLENNIUM WATERFRONT ASSOCIATES, L.P.**  
**REGARDING PROPERTY LOCATED AT THE**  
**200 BLOCK OF WASHINGTON STREET- MILLENNIUM BLOCK A**  
**DECISION OF THE BOARD**

**I. HISTORY**

On or about June 8, 2015, Washington Street Associates IV, L.P. and Millennium Waterfront Associates, L.P., (hereinafter called "Appellants"), filed the within Appeal for five variances and/or interpretations of the terms of Sections 27-1509.2, 27-1504(D), 27-1503, 27-1505(B)(2) and 27-1504(F) of the Conshohocken Borough Zoning Ordinance of 2001 (together with all amendments thereto, the "Zoning Ordinance"), seeking permission to construct a 420,000 square foot office building which is 400 lineal feet, 135 feet high, having impervious coverage of 80% and having internal setbacks between the building and curb of less than 25 feet at the property located at the 200 Block of Washington Street, Conshohocken, Pennsylvania (hereinafter called "Subject Property"). The applicant also further proposes orientation of a parking structure fronting parallel to the Schuylkill River.

After notice was duly given and advertised, two hearing were held on said Appeal at Borough Hall on July 6, 2015 and September 29, 2015.<sup>1</sup>

At the hearing, the following Exhibits were introduced and admitted:

P-1 – Public Notice of the Case.

P-2 – Zoning Application.

A-1 – Zoning Application and Addendum.

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<sup>1</sup> The July 6, 2015 hearing was continued until August 3, 2015. At the August 3, 2015 hearing the Appellants requested a continuance, which was granted. There was no testimony heard at this date.

- A-2- Letter of Amendment to Zoning Application.
- A-3- Resume for Dale T. Stesko R.A.
- A-4- Resume for Michael Minervini, P.E.
- A-5- Executed Deed for Units E,F,G,H and J.
- A-6- Overall Site Plan.
- A-7- Millennium Corporate Center Front Elevations.
- A-8- Millennium Corporate Center Rear Elevations.
- A-9- Prototypes of Parking Garage Exterior.

Applicants' Supplemental Exhibits

- A-1- Resume for Thomas E. Hall, AIA.
- A-2- Pixar Photo Study.
- A-3- Black and White Profiles of Proposed Building.
- A-4- Roof Top Images.
- A-5- Garage Exterior Image.

**II. FINDINGS OF FACT**

1. The Subject Property is located at the 200 Block of Washington Street and is owned by Washington Street Associates IV, L.P.
2. The Subject Property is located in the Specialty Planned Two Zoning District ("SP-2").
3. The Appellants have a business address of 2701 Renaissance Boulevard, 4<sup>th</sup> Floor, King of Prussia, PA 19406.
4. The Subject Property previously filed for variances by Application and addendum on February 26, 2014.

5. The previously requested variances were granted by the Zoning Hearing Board after hearings took place on April 7, 2014 and May 5, 2014.

6. The Appellants filed this application essentially requesting to amend the previously granted relief.

7. The Appellants were represented by Edmond J. Campbell, Jr., Esquire.

8. Mike Savona, Esquire, solicitor to the Borough of Conshohocken (hereinafter "Borough"), represented the Borough at the September 29, 2015 hearing date. At said hearing, Mr. Savona stated that Borough Council supports the proposed application.

9. Mr. Campbell stated that the Appellants have a potential tenant for the Subject Property who is requiring additional modifications of the Subject Property, which is why the Appellants filed a new application even though it was granted relief last year.

10. The Subject Property, if the proposed relief is granted, would be leased to a single tenant who is looking to consolidate their operations in a single building in Conshohocken.

11. The zoning code permits development of FAR at a ratio of 1.5. Block A is about 750,000 square feet. Pursuant to the ratio, the zoning code would allow development of 1,125,000 square feet. There is currently between 500,000 and 550,000 square feet on the site, which leaves approximately 650,000 square feet left that can be potentially built upon.

12. The Appellants cannot develop the allowable 650,000 square feet without the requested variances. Even if the variances are granted, the Appellants are only seeking to build 420,000 square feet, so the site is not being developed to the fullest as allowed by the FAR ratio.

13. Because the Subject Property is located adjacent to the river, that presents economic challenges to developing the site since it needs to be elevated out of the floodplain, which is a unique characteristic of the Subject Property.

14. The proposed plan would have about 75% to 76% impervious coverage while the Zoning Ordinance allows 70% by right.

15. The proposed plan included an internal driveway that would provide access to the proposed parking structure. Because the internal driveway would come within the setbacks within the Zoning Ordinance, the Appellants are seeking relief to allow this internal driveway.

16. At the hearing on July 6, 2015, Mr. Campbell called Mr. Dale Stesko to testify. The Board accepted Mr. Stesko as an expert in architecture. Mr. Stesko testified to the following:

- a. He is an architect who is licensed in Pennsylvania.
- b. He is primarily employed by O'Neill Properties but also does work for Valley Forge Planning.
- c. The development would be approximately five acres. To the north and south the boundaries would be Millennium II and III on the Washington Street side. The Schuylkill river is the boundary opposite Washington Street. The western boundary would be Ash Street.
- d. The site is in the flood plain.
- e. The applicant is requesting variances for building height, building bulk, impervious coverage and setbacks from internal drives. However, the Applicant is not changing the footprint of the building from what was approved by the Board last year.
- f. The office building would have eight levels plus a penthouse.
- g. If the variance for the parking garage height was granted to allow a garage which would be 135 feet high, that would equate to 12 or 13 floors and would provide approximately 1,500 cars. This would accommodate the parking need for the 420,000 square foot office building on the site.

- h. It is not possible to develop another 600,000 square feet of office or residential use on the site within the 85-foot height limitation that's provided in the code.
- i. Because of the surroundings, the only way to capture the available FAR is to go higher, which would also require more parking.
- j. The Applicant would be willing to design the parking garage in order to mask the façade that faces the river.
- k. As a professional architect, he cannot come up with any design that would allow a roadway to get vehicles into a building for the purposes of parking unless it actually meets the building. As such, the Applicant is requesting relief for the internal driveways.
- l. The Subject Property is suitable for the proposed office development.
- m. The Subject Property would be in the best interest of the public welfare and the Borough.
- n. There is adequate sewer and water to serve the property.
- o. The variances are the minimum needed to accomplish the proposed development.

17. After a few questions from the Board Members, mostly related to how this application is different from the previous application that was granted relief, and why the Applicant is asking for more relief, Mr. Campbell asked to continue the hearing. This request was granted.

18. The next hearing when testimony was heard occurred on September 29, 2015.

19. Mr. Campbell called Mr. Brian O'Neill to testify. Mr. O'Neill testified as follows:

- a. New office buildings are being designed to have a series of central spaces designed to attract collaboration amongst employees.

- b. The proposed lobby would extend all the way to the back of the building where there is a proposed amphitheater. There would also be a restaurant in the lobby as a part of the proposed active internal streetscape.
- c. The roof of the building will be about 50,000 square feet and would include spaces that would be utilized by the potential tenant.
- d. City Tap House restaurant is a potential tenant who may utilize a portion of the roof space. This would be in addition to the restaurant in the lobby.
- e. When compared to all of the building in the Borough, the proposed office building would not be the largest building in the Borough. Additionally, the proposed Equis building is taller than the Applicant's proposed building.
- f. 400 Four Falls, Five Tower Bridge and the Marriott are all taller in height than the proposed office building.
- g. This application was filed due to the specific requests of a specific tenant who would be utilizing the entire office building.
- h. The way the parking garage is designed, if needed, the proposed garage could have a floor added in very little time.
- i. He has owned and developed property in the Borough for over 30 years.
- j. The proposed building would be roughly 33% larger than the relief that was granted by the Board previously.
- k. The proposed tenant is requesting enough parking for five spaces per thousand square feet. At a maximum, the total amount of cars would be 2,100.
- l. The proposed tenant currently occupies close to 400,000 square feet at their current location.

20. Mr. Campbell then called Mr. Hall to testify. Mr. Hall testified as follows:

- a. He is an architect licensed in Pennsylvania and 11 other states.
- b. His firm particularly focuses on designing office buildings and had designed millions of square feet since 1988.
- c. He designed the exhibits which show all of the buildings heights in the Borough, and to a reasonable degree of architectural certainty, using information provided by Google Maps, the exhibits accurately reflect the building sizes in the Borough.
- d. The requirement for garages, due to ventilation reasons, is to be 50% open.

21. No members of the public spoke out against the Application.

### **III. DISCUSSION**

Section 27-1509.2 states, "In the SP-2 District, a maximum building profile, as seen from end-to-end from any side or elevation, and measured perpendicular to such side or elevation, shall not exceed 250 linear feet in total horizontal length on any floor or floors. Council may permit an increase in the maximum building profile to 350 linear feet by conditional use approval, subject to the following specific conditions:

- A. There shall be adequate architectural controls in the form of breaks in the facade, so no more than 50 feet of the building is a consistent facade;
- B. For every additional 50 feet of building length, there shall be an additional 5% of open space provided on the lot or parcel; and
- C. The lot shall not be developed with a visible parking structure fronting parallel to the Schuylkill River, nor shall a stand-alone parking structure be located on any lot area between the primary structure and the Schuylkill River."

Section 27-1504(D) states "Riverfront Access and Open Space in SP-2 District.

(1) Purpose: the intent of the riverfront access and open space provision is to provide year-round opportunities for outdoor recreation within this district, provide visual relief within the built environment and facilitate circulation for pedestrians to and throughout these districts.

(2) Area: a minimum of 15% of each lot within this district shall be provided and maintained as open space. Slopes along roadways and the riverbank may be included as part of the required open space if such areas are landscaped and designed to fulfill the intent of this Section. Open space shall be restricted from further subdivision and development by a restriction in a deed and/or by a conservation easement.

(3) So long as the landowner is immune from liability pursuant to the Recreational Use of Land and Water Act, 68 P.S. 477-1 et seq.:

(a) For every development within the SP-2 District, there shall be twenty-four-hour daily emergency (i.e., fire and police) and dawn to dusk public access between Washington Street and the riverfront trail. Required public access must be provided via an easement or public right-of-way, recorded on the land development plans.

(b) There shall also be twenty-four-hour daily public access for walking, fishing, and sitting at the riverfront area between the extension of Ash Street and the eastern boundary of the SP Districts at the riverfront via a walkable surface installed at the top of the riverbank as developed.

(c) There shall be public access Monday through Friday from 6:00 p.m. until dusk and weekends and holidays from dawn until dusk for walking, fishing, and sitting in a designated riverfront strip from Fayette Street to the eastern boundary of the SP Districts at the riverfront via a walkable surface installed at the top of the riverbank as developed.

(4) Transfer of open space between lots within the SP-2 District shall be permitted by the Borough Council with conditional use approval subject to the following specific standards:

(a) Lots for which the transfer is proposed must be contiguous.

(b) All lots must be part of a common, unified and single land development application.

(c) The aggregate of all open space area must be equal to 15% of the total aggregate lot area of those lots contained in the common, unified and single land development application.

(d) For lots with frontage on the Schuylkill River, the open space must be provided along the riverfront area.

(e) Open space must be preserved in perpetuity through a conservation easement or transferred in fee simple to the Borough, as may be required by the Borough.

(5) No lot shall be developed with a parking structure fronting parallel to the Schuylkill River, nor shall a parking structure be located on any lot area between the primary structure and the Schuylkill River.”

Section 27-1503 states, “...

1. The highest elevation of any building shall be 85 feet. For buildings with flat roofs, building height is measured from grade to the top of the building wall, excluding parapets of not more than eight feet. For buildings with pitched roofs, building height is measured from grade to the midpoint of the slope. The height excludes aeriels, communication towers, or the like, as well as elevators, machine rooms, cooling towers, and their enclosing walls.

2. Notwithstanding any other provision of this Part, building height may be increased to 250 feet by conditional use, provided that the following conditions are met:

A. The location of the proposed building is within close proximity to the Fayette Street Bridge, as depicted on the map of the Fayette Street Bridge Development Area;

- B. The maximum impervious surface coverage on the lot shall be not more than 60%;
- C. A minimum of 15% of the lot shall be devoted to green space, excluding all impervious areas;
- D. Not more than 5% of the required parking shall be permitted in surface parking areas on the lot;
- E. The design of the proposed building must be submitted to the Borough Design Review Committee for review and approval prior to conditional use approval;
- F. The plan must include riverfront access deeded to the Borough in perpetuity providing unrestricted public access to the riverfront areas in perpetuity;
- G. For properties situated on the riverfront, the plan must meet the provisions of § 27-1610; and
- H. Maximum floor area ratio of 2.5 for all uses, excluding parking garages, may be permitted.”

Section 27-1505(B)(2) states, “The minimum building setback shall be 15 feet from ultimate roadway right-of-way, and 25 feet from the curblines of any private or internal drive.”

Section 27-1504(F) states, “Impervious Coverage.

- (1) In the SP-1 District, not more than 70% of the area of any lot in the district shall be covered by impervious surface.
- (2) Notwithstanding any other provisions of this Part, in the SP-2 District, not more than 70% of the area of any lot in the district shall be covered by impervious surface.”

In a request for a variance, the Board is guided by Section 27-611 of the Ordinance and Section 910.2 of the Pennsylvania Municipalities Planning Code (hereinafter called “MPC”). An applicant for a variance has the burden of establishing that a literal enforcement of the provisions of the Ordinance will result in an unnecessary hardship as that term is defined by law, including court decisions, and that the allowance of the variance will not be contrary to the public interest.

Section 27-611 of the Ordinance and Section 910.2 of the MPC permit the Board to grant a variance where it is alleged that the provisions of the Ordinance inflict unnecessary hardship upon the Appellant and when the Board can make certain prescribed findings where relevant in a given case.

The requested variances and/or interpretations are of a dimensional nature. In such situations, the Supreme Court of Pennsylvania has found, "the owner is asking only for a reasonable adjustment of the zoning regulations in order to utilize the property in a manner consistent with the applicable regulations." See Hertzberg v. Zoning Board of Adjustment of City of Pittsburgh, 721 A.2d 43, 47 (Pa. 1998). Thus, the Pennsylvania Supreme Court has stated, the level "of proof required to establish unnecessary hardship is indeed lesser." See id. at 48.

As the testimony and evidence presented to the Board in this case has shown, the Project attempts to accommodate both a positive use of the Property with minimal relief being requested.

As a result of all the above, the Application meets the requirements of "unnecessary hardship" required under the MPC. See id. The majority of the Board, upon thorough and deliberate review of the materials submitted and testimony offered, has determined that the proposed Variances are appropriate in consideration of the unique characteristics of the Property.

The requested variance will not adversely affect the public interest.

#### IV. CONCLUSIONS OF LAW

From the facts presented, it is the judgment of the Board that Appellants have proven an unnecessary hardship unique or peculiar to the property and that the variance is not contrary to the public interest. Accordingly, the Board is able to make the following relevant findings under Section 910.2 of the MPC:

1. That there are unique physical circumstances or conditions, including irregularities, narrowness or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the property, and that the unnecessary hardship is due to such condition, and not the circumstances or conditions generally created by the provisions of the Ordinance in the neighborhood or district in which the property is located;

2. That because of such physical circumstances or conditions there is no possibility that the property can be developed in strict conformity with the provisions of the Ordinance and that the authorization for a variance is therefore necessary to enable the reasonable use of the Subject Property;

3. That the variance will not alter the essential character of the neighborhood or district in which the Subject property is located, nor substantially or permanently impair the appropriate use or development of the adjacent property, or be detrimental to the public welfare;

4. That the unnecessary hardship has not been created by the Appellants; and,

5. That the variance will represent the minimum variance that will afford relief and will represent the least modification possible under Section 27-611.

**ORDER**

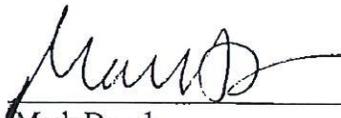
AND NOW, this 29th day of September 2015, the Appeal Washington Street Associates IV, L.P. and Millennium Waterfront Associates, L.P., seeking variances from Sections 27-1509.2, 27-1504(D), 27-1503, 27-1505(B)(2) and 27-1504(F), to construct a 420,000 square foot office building which is 400 lineal feet, 135 feet high, having impervious coverage of 80% and having internal setbacks between the building and curb of less than 25 feet in addition to the constructing a parking structure which would front parallel to the Schuylkill River is GRANTED.

The Appellants are directed to apply to the Borough Zoning Officer/Building Inspector to obtain any appropriate permits.

**CONSHOHOCKEN ZONING HEARING BOARD**



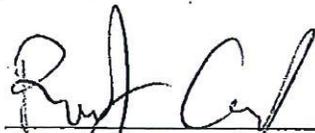
Richard Barton, Chairman



Mark Danek



Gregory Scharff



Russ Cardamone, dissenting



Janis B. Vacca





## BOROUGH OF CONSHOHOCKEN

Office of the Borough Manager

### MEMORANDUM

**MAYOR**  
Yaily Aronson

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

Stephanie Cecco  
Borough Manager

Date: April 30, 2020  
To: Stephanie Cecco, Brittany Rogers  
From: Eric P. Johnson, PE, Zoning Officer *EPJ*  
Re: 72-74 Poplar Street Zoning Determination

#### History of the Site:

The property is located on the northwest corner of Poplar Street and E. Elm Avenue in the Borough Residential 2 Zoning District and is the home of Pepperoncini Restaurant and Bar. The building occupies the majority of the property, with the balance of the lot occupied by an approximately 24 ft x 15 ft concrete pad in the northwest corner used for trash storage and landing for the fire escape staircase. In January 2020, the Borough became aware that a 6 ft x 8 ft stand-alone exterior refrigerator was recently installed on the existing concrete pad, less than 1-foot from the northern property line. A permit application was not received by the Borough prior to the installation of the refrigerator.

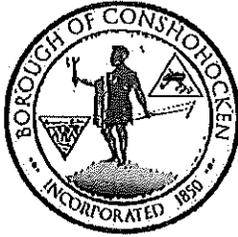
#### Current Request:

The applicant is seeking a variance from the Borough Zoning requirement that accessory structures shall be located a minimum of 3 feet from side property lines in order to keep the exterior refrigerator in the previously installed location.

#### Zoning Determination:

Section 27-811(B) states accessory structures may be erected no closer than 3 feet to the rear or side lot line unless the abutting owner or owners provide written consent to allow said structure to be built up to the side or rear lot line. The exterior refrigerator is an accessory use and the location does not comply with the property line setback requirement, and no evidence has been provided of written consent from the abutting property owner.

The applicant will also need to demonstrate to the satisfaction of the Borough compliance with the Performance Standards outlined in Section 27-817 of the Borough Code. Specifically, the applicant needs to demonstrate the refrigerator and other electrical and mechanical equipment located on the property do not collectively generate any noise, odor, or vibration above the regulatory limits.



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

## Zoning Application

Application: Z-2000-15  
Date Submitted: 3-17-2000  
Date Received: 3-17-2000

1. Application is hereby made for:

- Special Exception       Variance
- Appeal of the decision of the zoning officer
- Conditional Use approval       Interpretation of the Zoning Ordinance
- Other \_\_\_\_\_

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

Section 27-811(B)

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

72-74 Poplar Street, Conshohocken, PA 19428

4. Applicant's Name: P & J Poplar, Inc.

Address: 72-74 Poplar Street, Conshohocken, PA 19428

Phone Number (daytime): (484) 904-6331

E-mail Address: peppercinls@comcast.net

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

6. Property Owner: J & P Elm Enterprises, LLC

Address: 28 Dechert Road, Conshohocken, PA 19428

Phone Number: (610) 496-1954

E-mail Address: ragstworiches@comcast.net

7. Lot Dimensions: 2,513 SF Lot Size      Zoning District: BR-2  
35 Ft. Front

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

Yes  No  If yes, please describe.

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

Restaurant with exterior refrigerated walk-in box.

10. Please describe the proposed use of the property.

Maintain the refrigerated walk-in box within the 3 ft. accessory structure setback.

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

Maintain the existing refrigerated walk-in box in its current location within the 3 ft. accessory structure setback as shown on Exhibit \_\_\_\_.

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

Applicant requires refrigeration for its restaurant business and locating the exterior refrigerated walk-in box in the 3 ft. accessory structure setback is the only viable location for that facility.

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

a. The unique characteristics of the property: The Property is used for a restaurant and requires an exterior refrigerated walk-in box.

b. How the Zoning Ordinance unreasonably restricts development of the property:  
The Zoning Ordinance does not permit the proper location of the walk-in box.

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

The location of the walk-in box is consistent with the character of the neighborhood which has many buildings and structures along the property line.

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

The location is the minimum required in order to maintain an efficient and viable outdoor refrigerated walk-in box.

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

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

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

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

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

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

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

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

- a. Attorney's Name: Edward J. Hughes, Esquire
- b. Address: 1250 Germantown Pike, Suite 205, Plymouth Meeting, PA 19462
- c. Phone Number: (610) 279-6800
- d. E-mail Address: ehughes@hkolaw.com

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

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

Applicant  
J & P Elm Enterprises, LLC

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

Legal Owner

March 11, 2020

Date

COMMONWEALTH OF PENNSYLVANIA

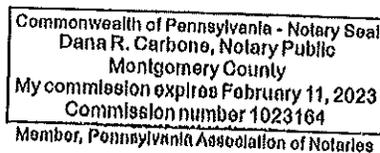
COUNTY OF MONTGOMERY

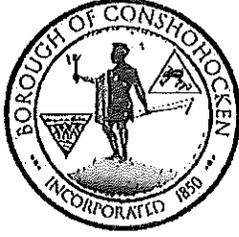
As subscribed and sworn to before me this 11<sup>th</sup> day of March, 2020.

Dana R. Carbone

Notary Public

(Seal)





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

## Decision

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(For Borough Use Only)

Application Granted

Application Denied

MOTION:

CONDITIONS:

BY ORDER OF THE ZONING HEARING BOARD

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

DATE OF ORDER: \_\_\_\_\_



File No AA-2626MJ

Parcel ID No. 05-00-07536-001

**This Indenture**, made the 3rd day of February, 2005,

Between

**BELLA-TORRE, LLC**

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

**J & P ELM ENTERPRISES, LLC**

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

Witnesseth, that the said Grantor for and in consideration of the sum of **Five Hundred Fifty Thousand And 00/100 Dollars (\$550,000.00)** lawful money of the United States of America, unto him well and truly paid by the said Grantee, at or before the sealing and delivery hereof, the receipt whereof is hereby acknowledged, has granted, bargained and sold, released and confirmed, and by these presents does grant, bargain and sell, release and confirm unto the said Grantee, as

ALL THAT CERTAIN hotel property and lot or piece of land situate in the Borough of Conshohocken, County of Montgomery and State of Pennsylvania bounded and described as follows, viz.

BEGINNING at a stake on the Northwest corner of Elm & Poplar Streets, thence extending along the Westerly side of said Poplar Street North eight degrees four minutes West twenty feet to the middle of the partition wall between this house and the house sold to May Kelly, thence Westerly through the middle of said partition wall seventy one feet to an alley four feet wide laid out for the use of the lots in common building thereon, thence by and along said alley South eight degrees four minutes East twenty feet to the Northern side of Elm Street aforesaid; thence along the same side of thereof North eighty one degrees fifty six minutes East seventy one feet to the place of beginning

AND ALSO ALL THAT CERTAIN lot or piece of land with the brick messuage thereon erected, Situate in said Borough of Conshohocken, County and State aforesaid, bounded and described as follows, viz:

BEGINNING at a stake on the Westerly side of Poplar Street at the distance of twenty feet Northerly from the Northwest corner of Elm and Poplar Streets; thence Westerly through the partition wall of this and the adjoining premises seventy one feet to an alley four feet wide laid out by Joseph Lovett for the use of the lots in common bounding thereon, and extending from now or late John S. Shaw's premises to Elm Street aforesaid, thence extending along said alley Northeastwardly and parallel with Poplar Street, fifteen feet and four tenths of a foot to a stake a corner of land conveyed to Hugh Donnelly, thence along said land Eastwardly and through the partition wall of this and the adjoining house seventy one feet to Poplar Street aforesaid and along the Westerly side thereof Southwestwardly fifteen and four tenths feet to the place of beginning

MONTGOMERY COUNTY COMMISSIONERS REGISTRY  
05-00-07536-00-1 CONSHOHOCKEN  
74 POPLAR ST  
BELLA-TORRE LLC  
B 016 U 017 L

4100 DATE 03/09/05

*J & P*

BEING the same premises which Joseph D. and Anna M. Proietto by Deed Dated 11/14/01 and Recorded 4/24/02 in the Office of the Recorder of Deeds in and for the County of Montgomery and Commonwealth of Pennsylvania, in Deed Book 5404, page 1770 granted and conveyed unto Bella-Torre, LLC, in fee.

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

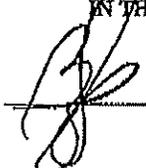
To have and to hold the said lot or piece of ground described above, with the buildings and improvements thereon erected, hereditaments and premises hereby granted, or mentioned and intended so to be, with the appurtenances, unto the said Grantee, its successors and assigns, to and for the only proper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

And the said Grantor, for herself and her heirs, executors and administrators, does, by these presents, covenant, grant and agree, to and with the said Grantee, its successors and assigns, that he, the said Grantor, and her heirs, all and singular the hereditaments and premises herein described and granted, or mentioned and intended so to be, with the appurtenances, unto the said Grantee, its successors and assigns, against him, the said Grantor, and her heirs, and against all and every other person and persons whatsoever lawfully claiming or to claim the same or any part thereof, by, from or under him, her, it, or any of them, shall and will

Warrant and Forever Defend.

In Witness Whereof, the party of the first part has hereunto set her hand and seal Dated the day and year first above written

Sealed and Delivered  
IN THE PRESENCE OF US.



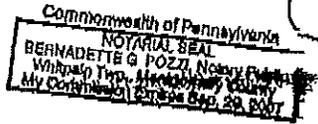
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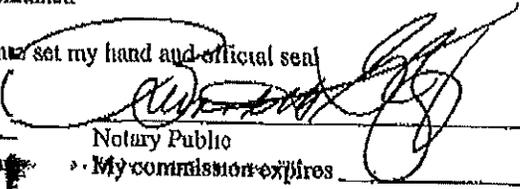
 (SEAL)  
Bella-Torre, LLC by Michael D'Etterre,  
Managing Member

Commonwealth of Pennsylvania } ss  
County of Montgomery

On this the 3rd day of February, 2005, before me, the undersigned Notary Public, personally appeared Michael D'Ettoire, Managing Member of Bella-Torre, LLC, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument, and acknowledged that she executed the same for the purposes therein contained.

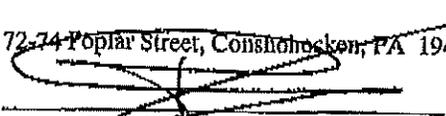
IN WITNESS WHEREOF, I hereunto set my hand and official seal



  
Notary Public  
My commission expires \_\_\_\_\_

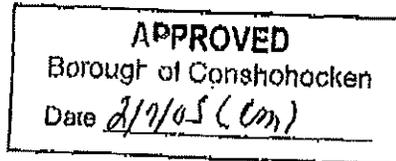
The address of the above-named Grantee is:

~~72-74 Poplar Street, Conshohocken, PA 19428~~

  
On behalf of the Grantee

File No. AA-2626MJ

Record and return to  
Aaron Abstract Company  
790 Penlynn Pike - Suite 202, Blue Bell Four  
Blue Bell, PA 19422



LEASE AGREEMENT

THIS AGREEMENT, made the SATURDAY day of FEB. 3 or 2/03 <sup>2018 (P.M.)</sup> <sup>JP</sup> by and between J & P Elm Enterprises, LLC (hereinafter called Lessor) and P & J Poplar, Inc. (hereinafter called Lessee).

**DEMISED PREMISES.** Lessor does hereby demise and let unto Lessee all that certain lot or piece of ground with buildings and improvements erected thereon known as 72-74 Poplar Street, Conshohocken, PA 19428 (the "Demised Premises").

**USE.** The demised premises shall be used and occupied as a hotel/restaurant with sales of alcoholic beverages to the public.

**TERM.** The term of this lease shall be for a term of ten (10) years.

**RENT.** Lessee agrees to pay to Lessor rent for the Demised Premises as follows:

- 2016 - monthly payments in the amount of \$5,250.00 each
- 2017 - monthly payments in the amount of \$5,407.50 each
- 2018 - monthly payments in the amount of \$5,569.75 each
- 2019 - monthly payments in the amount of \$5,736.85 each
- 2020 - monthly payments in the amount of \$5,908.95 each
- 2021 - monthly payments in the amount of \$6,086.20 each
- 2022 - monthly payments in the amount of \$6,268.80 each
- 2023 - monthly payments in the amount of \$6,456.85 each
- 2024 - monthly payments in the amount of \$6,650.55 each
- 2025 - monthly payments in the amount of \$6,850.05 each

**INABILITY TO GIVE POSSESSION.** If Lessor is unable to give Lessee possession of the Demised Premises, as herein provided, by reason of the holding over a previous occupant, or by reason of any cause beyond the control of the Lessor, the Lessor shall not be liable in damages to the Lessee therefor, and during the period that the Lessor is unable to give possession, all rights and remedies of both parties hereunder shall be suspended.

**ADDITIONAL RENT.**

(a) Lessee agrees to pay as rent in addition to the minimum rental herein reserved any and all sums which may become due by reason of the failure of Lessee to comply with all the covenants of this lease and pay any and all damages, costs and expenses which the Lessor may suffer or incur by reason of any default of the Lessee or failure on his part to comply with the covenants of this lease, and each of them, and also any and all damages of the Demised Premises caused by any act or neglect of the Lessee.

(b) Lessee further agrees to pay as rent in addition to the minimum rental herein reserved all taxes assessed or imposed upon the Demised Premises and/or the building of which the Demised Premises is a part during the term of this lease, in excess

of and over and above those assessed or imposed at the time of making this lease. The amount due hereunder on account of such taxes shall be apportioned for that part of the first and last calendar years covered by the term hereof.

(c) Lessee further agrees to pay as additional rent all insurance premiums upon the Demised Premises and/or the building of which the Demised Premises is a part.

(d) Lessee further agrees to pay as additional rent, all charges for water consumed upon the demised premises and all charges for repairs to the said meter(s) on the premises, whether such repairs are made necessary by ordinary wear and tear, freezing, hot water, accident or other causes, immediately when the same become due.

(e) Lessee further agrees to pay as additional rent, all sewer rental or charges for use of sewers, sewage system, and sewage treatment works servicing the Demised Premises immediately when the same become due.

(f) Lessee and Lessor agree that there will be separate monitoring for electric and gas and that the same shall be paid by the Lessee for those charges incurred by Lessee.

**PLACE OF PAYMENT.** All rents shall be payable without prior notice or demand at the office of Lessor at 28 Orchard Road, Conshohocken, Pa., or at such other place as Lessor may from time to time designate by notice in writing.

**AFFIRMATIVE COVENANTS OF LESSEE.** Lessee covenants and agrees that it will without demand

(a) Pay the rent and all other charges herein reserved as rent on the days and times and at the place that the same are made payable, without fail, and if Lessor shall at any time or times accept said rent or rent charges after the same shall have become due and payable, such acceptance shall not excuse delay upon subsequent occasions, or constitute or be construed as a waiver of any of Lessor's rights. Lessee agrees that any charge or payment herein reserved, included or agreed to be treated or collected as rent and/or any other charges or taxes, expenses, or costs herein agreed to be paid by the Lessee may be proceeded for and recovered by the Lessor by distraint or other process in the same manner as rent due and in arrears.

(b) Keep the Demised Premises clean and free from all ashes, dirt and other refuse matter; replace all glass windows, doors, etc., broken; keep all waste and drain pipes open; repair all damage to plumbing and to the premises in general keep the same in good order and repair as they now are, reasonable wear and tear and damage by accidental fire or other casualty not occurring through negligence of Lessee has herein agreed to deep the same during the continuance of this lease.

(c) Comply with any requirements of any of the constituted public authorities, and with the terms of any State or Federal statute or local ordinance or regulation applicable to Lessee or his use of the Demised Premises, and save Lessor harmless from penalties, fines, costs or damages resulting from failure to do so.

- (d) Use every reasonable precaution against fire.
- (e) Comply with rules and regulations of Lessor promulgated as hereinafter provided.
- (f) Peaceably deliver up surrender possession of the Demised Premises to the Lessor at the expiration or sooner termination of this lease, promptly delivering to Lessor at his office all keys for the Demised Premises.
- (g) Give to Lessor prompt written notice of any accident, fire, or damage occurring on or to the Demised Premises.
- (h) Lessee shall be responsible for the condition of the pavement, curb, cellar doors, awnings and other erections in the pavement during the term of this lease; shall keep the pavement free from snow and ice; and shall be and hereby agrees that Lessee is solely liable for any accidents, due or alleged to be due to their defective condition, or to any accumulations of snow and ice.
- (i) The Lessee agrees that if, with the permission in writing of Lessor, Lessee shall vacate or decide at any time during the term of this lease, or any renewal thereof, to vacate the herein Demised Premises prior to the expiration of this lease, or any renewal hereof, Lessee will not cause or allow any other agent to represent Lessee in any sub-letting or reletting of the premises other than an agent approved by the Lessor and that should Lessee do so or attempt to do so, the Lessor may remove any signs that may be placed on or about the Demised Premises by such other agent without any liability to Lessor or to said agent, the Lessee assuming all responsibility for such action.

**NEGATIVE COVENANTS OF LESSEE.** Lessee covenants and agrees that it will do none of the following things without the consent in writing of Lessor first had and obtained:

- (a) Occupy the Demised Premises in any other manner or for any other purpose than as above set forth.
- (b) Assign, mortgage or pledge this lease under-let or sub-lease the Demised Premises, or any part thereof, or permit any other person, firm or corporation to occupy the Demised Premises, or any part thereof; nor shall any assignee or sub-lessee assign, mortgage or pledge this lease or such sub-lease, without an additional written consent by the Lessor, and without such consent no such assignment, mortgage or pledge shall be valid. If the Lessee becomes embarrassed or insolvent, or makes an assignment for the benefit of creditors, or if a petition in bankruptcy is filed by or against the Lessee or a bill in equity or other proceeding for the appointment of a receiver for the Lessee is filed, or if the real or personal property of the Lessee shall be sold or leveled upon by any Sheriff, Marshall or Constable, the same shall be a violation of this covenant.
- (c) Place or allow to be placed any stand, booth, or show case upon the doorsteps, vestibules or outside walls or pavements of said premises, or paint, place, erect or cause to be painted, placed or erected any projection or device on or in any

part of the premises. Lessee shall remove any projection or device painted, placed or erected if permission has been granted and restore the walls, etc., to their former conditions, at or prior to the expiration of this lease. In case of the breach of this covenant (in addition to all other remedies given to Lessor in case of breach of any conditions or covenants of this lease). Lessor shall have the privilege of removing said stand, booth, show case, projection or device, and restoring said walls, etc., to their former condition, and Lessee, at Lessor's option, shall be liable to Lessor for any and all expenses so incurred by Lessor.

(d) Make any alterations, improvements, or additions to the Demised Premises. All alterations, improvements, additions or fixtures, whether installed before or after the execution of this lease, shall remain upon the premises at the expiration or sooner determination of this lease and become the property of Lessor, unless Lessor shall, prior to the determination of this lease, have given written notice to Lessee to remove the same, in which event Lessee will remove such alterations, improvements and additions and restore the premises to the same good order and condition in which they now are. Should Lessee fail so to do, Lessor may do so, collecting, at Lessor's option, the cost and expense thereof from Lessee as additional rent.

(e) Use or operate any machinery that, in Lessor's opinion, is harmful to the building or disturbing to other tenants occupying other parts thereof.

(f) Place any weights in any portion of the Demised Premises beyond the safe carrying capacity of the structure.

(g) Do or suffer to be done, any act, matter or thing objectionable to the fire insurance companies whereby the fire insurance or any other insurance now in force or hereafter to be placed on the Demised Premises, or any part thereof, or on the building of which the demised premise may be a part, shall become void or suspended, or whereby the same shall be rated as a more hazardous risk than at the date of execution of this lease, or employ any person or persons objectionable to the fire insurance companies or carry or have any benzine or explosive matter of any kind in and about the Demised Premises. In case of a breach of this covenant (in addition to all other remedies given to Lessor in case of the breach of any of the conditions or covenants of this lease) Lessee agrees to pay to Lessor as additional rent any and all increase or increases of premiums on insurance carried by Lessor on the Demised Premises, or any part thereof, or on the building of which the Demised Premises may be a part, caused in any way by the occupancy of Lessee.

(h) Remove, attempt to remove or manifest an intention to remove Lessee's goods or property from or out of the Demised Premises otherwise than in the ordinary and usual course of business, without having first paid and satisfied Lessor for all rent which may become due during the entire term of this lease.

(i) Vacate or desert said premises during the term of this lease, or permit the same to be empty and unoccupied.

## **MAINTENANCE.**

(a) The Demised Premises is delivered in all respects in an "AS IS" condition and state of repair without representation or warranty express or implied on the part of Lessor. Lessee throughout the term of this Lease, at its sole cost and expense, shall maintain the Demised Premises, electrical, plumbing, refrigeration and HVAC systems and equipment serving the Demised Premises in good working condition and state of repair, and in safe and sanitary condition in accordance with the provisions herein and comply with all municipal, health and environmental regulations applicable to the Demised Premises; provided, however, that (i) nothing under this paragraph shall be construed to increase Lessor's obligation to maintain the Demised Premises. In the event Lessee, in its use and occupancy of the Demised Premises or its repairs carried out under this paragraph, causes any damage to the Demised Premises or any part thereof, Lessee shall promptly repair such damage with materials of like kind and quality as exists on the date of execution hereof at its sole cost and expense.

(b) In addition, Lessee shall maintain and repair as necessary the sidewalks in front of the Demised Premises and further Lessee shall also keep said sidewalks free from accumulations of refuse or of snow and/or ice.

(c) Lessor shall be responsible to maintain the structure, roof and heating system in good working condition and state of repair, and in safe and sanitary condition in accordance with the provisions herein and comply with all municipal, health and environmental regulations applicable to the Demised Premises; provided, however, that nothing under this paragraph shall be construed to increase Lessor's obligation to maintain the Demised Premises.

**LESSOR'S RIGHTS.** Lessee covenants and agrees that Lessor shall have the right to do the following things and matters in and about the Demised Premises:

(a) At all reasonable times by himself or his duly authorized agents to go upon and inspect the Demised Premises and every part thereof, and/or at his option to make repairs, alterations and additions to the Demised Premises or the building of which the Demised Premises is a part.

(b) At any time or times and from time to time to make such rules and regulations as in his judgment may from time to time be necessary for the safety, care and cleanliness of the premises, and for the preservation of good order therein. Such rules and regulations shall, when noticed thereof is given to Lessee, form a part of this lease.

(c) To display a "For Sale" sign at any time, and also, after notice from either party of intention to determine this lease, or at any time within three months prior to the expiration of this lease, a "For Rent" sign, or both "For Rent" and "For Sale" signs; and all of said signs shall be placed upon such part of the premises as Lessor may elect and may contain such matter as Lessor shall require. Prospective purchasers or tenants authorized by Lessor may inspect the premises at reasonable hours at any time.

(d) The Lessor may discontinue all facilities furnished and services rendered, or any of them, by Lessor, not expressly covenanted for herein, it being understood that they constitute no part of the consideration for this lease.

#### **RESPONSIBILITY OF LESSEE.**

(a) Lessee agrees to be responsible for and to relieve and hereby relieves the Lessor from all liability by reason of any injury or damage to any person or property in the Demised Premises, whether belonging to the Lessee or any other person, caused by any fire, breakage or leakage in any part or portion of the Demised Premises, or any part or portion of the building of which the Demised Premises is a part, or from water, rain or snow that may leak into, issue or flow from any part of the said premises, or of the building of which the Demised Premises is a part, or from the drains, pipes, or plumbing work of the same, or from any place or quarter, whether such breakage, leakage, injury or damage be caused by or result from the negligence of Lessor or his servants or agents or any person or persons whatsoever.

(b) Lessee also agrees to be responsible for and to relieve and hereby relieves Lessor from all liability by reason of any damage or injury to any person or thing which may arise from or be due to the use, misuse or abuse of all or any of the elevators, hatches, openings, stairways, hallways, of any kind whatsoever which may exist or hereafter be erected or constructed on the said premises, or from any kind of injury which may arise from any other cause whatsoever on the said premises or the building of which the Demised Premises is a part, whether such damage, injury, use, misuse or abuse be caused by or result from the negligence of Lessor, his servants or agents or any other person or persons whatsoever.

#### **RESPONSIBILITY OF LESSOR.**

(a) In the event that the Demised Premises is totally destroyed or so damaged by fire or other casualty not occurring through fault or negligence of the Lessee or those employed by or acting for him, that the same cannot be repaired or restored within a reasonable time, this lease shall absolutely cease and determine, and the rent shall abate for the balance of the term.

(b) If the damage caused as above be only partial and such that the premises can be restored to their then condition within a reasonable time, the Lessor may, at his option, restore the same with reasonable promptness, reserving the right to enter upon the Demised Premises for that purpose. The Lessor also reserves the right to enter upon the Demised Premises whenever necessary to repair damage caused by fire or other casualty to the building of which the Demised Premises is a part, even though the effect of such entry be to render the Demised Premises or a part thereof untenable. In either event the rent shall be apportioned and suspended during the time the Lessor is in possession, taking into account the proportion of the Demised Premises rendered untenable and the duration of the Lessor's possession. If a dispute arises as to the amount of rent due under this clause, Lessee agrees to pay the full amount claimed by Lessor. Lessee shall, however, have the right to proceed by law to recover the excess payment, if any.

(c) Lessor shall make such election to repair the premises or terminate this lease by giving notice thereof to Lessee at the leased premises within thirty days from the day Lessor received notice that the Demised Premises had been destroyed or damaged by fire or other casualty.

(d) Lessor shall not be liable for any damage, compensation or claim by reason of inconvenience or annoyance arising from the necessity of repairing any portion of the building, the interruption in the use of the premises, or the termination of this lease by reason of the destruction of the premises.

(e) The Lessor has let the Demised Premises in their present condition and without any representations on the part of the Lessor, his officers, employees, servants and/or agents. It is understood and agreed that Lessor is under no duty to make repairs or alterations at the time of letting or at any time thereafter.

(f) It is understood and agreed that the Lessor hereof does not warrant or undertake that the Lessee shall be able to obtain a permit under any Zoning Ordinance or Regulation for such use as Lessee intends to make of the said premises, and nothing in this lease contained shall obligate the Lessor to assist Lessee in obtaining said permits, the Lessee further agrees that in the event a permit cannot be obtained by Lessee under any Zoning Ordinance or Regulation, this lease shall not terminate without Lessor's consent, and the Lessee shall use the premises only in a manner permitted under such Zoning Ordinance or Regulation.

#### **MISCELLANEOUS AGREEMENTS AND CONDITIONS.**

(a) No contract entered into or that may be subsequently entered into by Lessor with Lessee, relative to any alterations, additions, improvements or repairs, nor the failure of Lessor to make such alterations, additions, improvements or repairs as required by any such contract, nor the making by Lessor or his agents or contractors of such alterations, additions, improvements or repairs shall in any way affect the payment of the rent or said other charges at the time specified in this lease.

(b) It is hereby covenanted and agreed, any law, usage or custom to the contrary notwithstanding, that Lessor shall have the right at all times to enforce the covenants and provisions of this lease in strict accordance with the terms hereof, notwithstanding any conduct or custom on the part of the Lessor in refraining from so doing at any time or times; and, further, that the failure of Lessor at any time or times to enforce his rights under said covenants and provisions strictly in accordance with the same shall not be construed as having created a custom in any way or manner ordinary to the specific terms, provisions and covenants of this lease or as having in any way or manner modified the same.

(c) This lease is granted upon the express condition that Lessee and/or the occupants of the premises herein leased, shall not conduct themselves in a manner which the Lessor in his sole opinion may deem improper or objectionable, and that if at any time during the term of this lease or any extension or continuation thereof, Lessee or any occupier of the said premises shall have conducted himself, herself or themselves in a manner which Lessor in his sole opinion deems improper or

objectionable. Lessee shall be taken to have broken the covenants and conditions of this lease, and Lessor will be entitled to all of the rights and remedies granted and reserved herein for the Lessee's failure to observe any of the covenants and conditions of this lease.

(d) In the event of the failure of Lessee promptly to perform the covenants hereof, Lessor may go upon the Demised Premises and perform such covenants, the cost thereof, at the sole option of Lessor, to be charged to Lessee as additional and delinquent rent.

**REMEDIES OF LESSOR.** If the Lessee:

(a) Does not pay in full when due any and all installments of rent and/or any other charge or payment herein reserved, included, or agreed to be treated or collected as rent and/or any other charge, expense, or cost herein agreed to be paid by the Lessee, or

(b) Violates or fails to perform or otherwise breaks any covenant or agreement herein contained; or

(c) Vacates the Demised Premises or removes or attempts to remove or manifests an intention to remove any goods or property therefrom otherwise than in the ordinary and usual course of business without having first paid and satisfied the Lessor in full for all rent and other charges then due or that may thereafter become due until the expiration of the then current term, above mentioned; or

(d) Becomes embarrassed or insolvent, or makes an assignment for the benefit of creditors, or if a petition in bankruptcy is filed by or against the Lessee, or a bill in equity or other proceeding for the appointment of a receiver for the Lessee is filed, or if proceedings for reorganization or for composition with creditors under any State or Federal law be instituted by or against Lessee, or if the real or personal property of the Lessee shall be sold or levied upon by any Sheriff, Marshall or Constable;

then and in any or either of said events, there shall be deemed to be a breach of this lease, and thereupon ipso facto and without entry or other action by Lessor:

(a) The rent for the entire unexpired balance of the term of the lease, as well as all other charges, payments, costs and expenses herein agreed to be paid by the Lessee, or at the option of Lessor any part thereof, and also all costs and officers, commissions including watchmen's wages and further including the five percent chargeable by Act of Assembly to the Lessor, shall, in addition to any and all installments of rent already due and payable and in arrears and/or any other charge or payment herein reserved, included or agreed to be treated or collected as rent, and/or any other charge, expense or cost herein agreed to be paid by the Lessee which may be due and payable and in arrears, be taken to be due and payable and in arrears as if by the terms and provisions of this lease, the whole balance of unpaid rent and other charges, payments, taxes, costs and expenses were on that date payable in advance, and if this lease or any part thereof is assigned, or if the premises or any part thereof is sub-let, Lessee hereby irrevocably constitutes and appoints Lessor Lessee's agent to

collect the rents due by such assignee or sub-lease and apply the same to the rent due hereunder without in any way affecting Lessee's obligation to pay any unpaid balance of rent due hereunder;

(b) This lease and the term hereby created shall determine and become absolutely void without any right on the part of the Lessee to save the forfeiture by payment of any sum due or by other performance of any condition, terms or covenant broken, whereupon, Lessor shall be entitled to recover damages for such breach in an amount equal to the amount of rent reserved for the balance of the term of this lease, less the fair value of the said Demised Premises, for the residue of said term.

**FURTHER REMEDIES OF LESSOR.** In the event of any default as above set forth, the Lessor, or anyone acting on Lessor's behalf, at Lessor's option:

(a) May without notice or demand enter the Demised Premises, breaking open locked doors if necessary to affect entrances, without liability to action for prosecution or damages for such entry or for the manner thereof, for the purpose of distraining or levying and for any other purposes, and take possession of and sell all goods and chattels at auction, on three days' notice served in person on the Lessee or left on the premises, and pay the said Lessor out of the proceeds, and even if the rent be not due and unpaid, should the Lessee at any time remove or attempt to remove goods and chattels from the premises without leaving enough thereon to meet the next periodical payment, Lessor authorizes the Lessor to follow for a period of ninety days after such removal, take possession of and sell at auction, upon like notice, sufficient of such goods to meet the proportion of rent accrued at the time of such removal; and the Lessee hereby releases and discharges the Lessor, and his agents, from all claims, actions, suits, damages, and penalties, for or by reason or on account of any entry, distraint, levy, appraisement or sale: and/or

(b) May enter the premises, and without demand proceed by distress and sale of the goods there found to levy the rent and/or other charges herein payable as rent, and all costs and officers' commissions, including watchmen's wages and sums chargeable to Lessor, and further including a sum equal to 5% of the amount of the levy as commissions to the constable or other person making the levy, shall be paid by the Lessee, and in such case all costs, officers' commission and other charges shall immediately attach and become part of the claim of Lessor for rent, and any tender of rent without said costs, commission and charges made after the issue of a warrant of distress shall not be sufficient to satisfy the claim of the Lessor, Lessee hereby expressly waives in favor of Lessor the benefit of all laws now made or which may hereafter be made regarding any limitation as to the goods upon which, or the time within which, distress is to be made after removal of goods, and further relieves the Lessor of the obligations of proving or identifying such goods, it being the purpose and intent of this provision that all goods of Lessee, whether upon the Demised Premises or not, shall be liable to distress for rent. Lessee waives in favor of Lessor all rights under the Act of Assembly of April 6, 1951, P.L. 69, and all supplements and amendments thereto that have been or may hereafter be passed, and authorizes the sale of any goods distrained for rent at any time after five days from said distraint without any appraisement and/or condemnation thereof.

(c) The Lessee further waives the right to issue a Writ of Replevin under the Pennsylvania Rules of Civil Procedure, No. 1071 Act and Laws of the Commonwealth of Pennsylvania, or under any other law previously enacted and now in force, of which may be hereafter enacted, for the recovery of any articles, household goods, furniture, etc., seized under a distress for rent or levy upon an execution for rent, damages or otherwise; all waivers hereinbefore mentioned are hereby extended to apply to any such actions and/or

(d) May lease said premises or any part or parts thereof to such person or persons as may in Lessor's discretion seem best and the Lessee shall be liable for any loss of rent for the balance of the then current term.

**CONFESSION OF JUDGMENT. THE FOLLOWING PARAGRAPHS SET FORTH WARRANTS OF AUTHORITY FOR AN ATTORNEY TO CONFESS JUDGMENT AGAINST LESSEE. IN GRANTING THIS RIGHT TO CONFESS JUDGMENT AGAINST LESSEE, LESSEE HEREBY KNOWINGLY, INTENTIONALLY, VOLUNTARILY AND IRREVOCABLY AND, ON THE ADVICE OF THE SEPARATE COUNSEL OF LESSEE, UNCONDITIONALLY WAIVES ANY AND ALL RIGHTS LESSEE HAD OR MAY HAVE TO PRIOR NOTICE AND AN OPPORTUNITY FOR HEARING UNDER THE RESPECTIVE CONSTITUTIONS AND LAWS OF THE UNITED STATES AND THE COMMONWEALTH OF PENNSYLVANIA.**

**(a) CONFESSION OF JUDGMENT/MONEY DAMAGES. LESSEE HEREBY KNOWINGLY, INTENTIONALLY, VOLUNTARILY AND IRREVOCABLY AGREES THAT, IF BASE RENT OR ANY CHARGES HEREBY RESERVED AS ADDITIONAL RENT OR LIQUIDATED DAMAGES, OR ANY OTHER SUM PAYABLE HEREUNDER SHALL REMAIN UNPAID WHEN THE SAME IS DUE BEYOND ANY APPLICABLE GRACE PERIOD (IF ANY), LESSEE HEREBY EMPOWERS ANY PROTHONOTARY OR ATTORNEY OF ANY COURT OF RECORD TO APPEAR FOR LESSEE IN ANY AND ALL ACTIONS WHICH MAY BE BROUGHT FOR SUCH RENT, LIQUIDATED DAMAGES OR OTHER CHARGES OR EXPENSES AGREED TO BE PAID BY LESSEE HEREUNDER, AND TO CONFESS JUDGMENT AGAINST LESSEE IN ANY COMPETENT COURT FOR THE RECOVERY OF SUCH RENT, LIQUIDATED DAMAGES OR OTHER CHARGES OR EXPENSES; AND IN SUCH SUITS OR ACTIONS TO CONFESS JUDGMENT AGAINST LESSEE FOR ALL OR ANY PART OF SUCH RENT INCLUDING, AT LESSOR'S OPTION, SUCH RENT FOR THE ENTIRE UNEXPIRED BALANCE OF THE TERM, COMPUTED AS AFORESAID, AND ANY OTHER CHARGES, PAYMENTS, COSTS AND EXPENSES RESERVED AS RENT OR AGREED TO BE PAID BY THE LESSEE, AS WELL AS LIQUIDATED DAMAGES; AND FOR INTEREST AND COSTS TOGETHER WITH AN ATTORNEY'S COMMISSION EQUAL TO THE GREATER OF FIVE THOUSAND (\$5,000.00) DOLLARS OR TEN (10%) PERCENT OF THE AMOUNT SO CONFESSED. SAID AUTHORITY SHALL NOT BE EXHAUSTED BY ONE (1) EXERCISE THEREOF, BUT JUDGMENT MAY BE CONFESSED AS AFORESAID FROM TIME TO TIME AND AS OFTEN AS ANY SUCH RENT OR OTHER CHARGES RESERVED AS SUCH RENT OR LIQUIDATED DAMAGES SHALL FALL DUE OR BE IN ARREARS. SUCH POWERS MAY BE EXERCISED AFTER THE EXPIRATION OF THE TERM.**

Initials of authorized signatory of Lessee

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(b) CONFESSION OF JUDGMENT/EJECTMENT. LESSEE HEREBY KNOWINGLY, INTENTIONALLY, VOLUNTARILY AND IRREVOCABLY AGREES THAT, IF AN EVENT OF DEFAULT OCCURS OR IN THE EVENT THAT, AND WHEN THIS LEASE SHALL BE DETERMINED BY TERM, COVENANT, LIMITATION OR CONDITION BROKEN, AS AFORESAID, DURING THE TERM, AND ALSO WHEN AND AS SOON AS THE TERM, AS SAME MAY HAVE BEEN EXTENDED FROM TIME TO TIME, HEREBY CREATED SHALL HAVE EXPIRED OR BE TERMINATED, IT SHALL BE LAWFUL FOR ANY ATTORNEY, AS ATTORNEY FOR LESSEE TO CONFESS JUDGMENT IN EJECTMENT IN ANY COMPETENT COURT AGAINST LESSEE AND ALL PERSONS CLAIMING UNDER LESSEE FOR THE RECOVERY BY LESSOR OF POSSESSION OF THE PREMISES, WITHOUT ANY LIABILITY ON THE PART OF THE SAID ATTORNEY, FOR WHICH THIS LEASE SHALL BE A SUFFICIENT WARRANT; WHEREUPON, IF LESSOR SO DESIRE, A WRIT OF POSSESSION WITH CLAUSES FOR COSTS MAY ISSUE FORTHWITH OR WITHOUT ANY PRIOR WRIT OR PROCEEDING WHATSOEVER, IF FOR ANY REASON, AFTER SUCH ACTION HAS BEEN COMMENCED, THE SAME SHALL BE DETERMINED AND THE POSSESSION OF THE PREMISES REMAINS IN OR IS RESTORED TO LESSEE, THE LESSOR SHALL HAVE THE RIGHT IN THE EVENT OF ANY SUBSEQUENT DEFAULT OR DEFAULTS TO CONFESS JUDGMENT IN EJECTMENT AGAINST LESSEE IN THE MANNER AND FORM HEREINBEFORE SET FORTH, TO RECOVER POSSESSION OF THE PREMISES FOR SUCH SUBSEQUENT DEFAULT. NO SUCH DETERMINATION OF THIS LEASE NOR RECOVERING POSSESSION OF THE PREMISES SHALL DEPRIVE LESSOR OF ANY REMEDIES OR ACTION AGAINST LESSEE FOR RENT OR FOR DAMAGES DUE OR TO BECOME DUE FOR THE BREACH OF ANY CONDITION OR COVENANT; NOR THE RESORT TO ANY WAIVER OF THE RIGHT TO INSIST UPON THE FORFEITURE, AND TO OBTAIN POSSESSION IN THE MANNER PROVIDED IN THE MANNER PROVIDED HEREIN.

Initials of authorized signatory of Lessee

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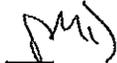
(c) AFFIDAVIT OF DEFAULT. IN ANY ACTION TO CONFESS JUDGMENT IN EJECTMENT, LESSOR SHALL FIRST CAUSE TO BE FILED IN SUCH ACTION AN AFFIDAVIT MADE BY LESSOR OR SOMEONE ACTING FOR LESSOR SETTING FORTH THE FACTS NECESSARY TO AUTHORIZE THE ENTRY OF JUDGMENT, OF WHICH FACTS SUCH AFFIDAVIT SHALL BE CONCLUSIVE EVIDENCE AND IF A TRUE COPY OF THE LEASE (AND OF THE TRUTH OF THE COPY SUCH AFFIDAVIT SHALL BE SUFFICIENT EVIDENCE) BE FILED IN SUCH ACTION, IT SHALL NOT BE NECESSARY TO FILE THE ORIGINAL AS A WARRANT OF ATTORNEY, ANY RULE OF COURT, CUSTOM OR PRACTICE TO THE CONTRARY NOTWITHSTANDING.

Initials of authorized signatory of Lessee

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(iv) LESSEE WAIVER. LESSEE SPECIFICALLY ACKNOWLEDGES THAT LESSEE HAS KNOWINGLY, INTENTIONALLY, VOLUNTARILY AND IRREVOCABLY WAIVED CERTAIN DUE PROCESS RIGHTS TO A PREJUDGMENT

HEARING BY AGREEING TO THE TERMS OF THIS PARAGRAPH REGARDING CONFESSION OF JUDGMENT. LESSEE FURTHER SPECIFICALLY AGREES THAT, IN THE EVENT OF DEFAULT, LESSOR MAY PURSUE MULTIPLE REMEDIES INCLUDING OBTAINING POSSESSION OF THE PREMISES PURSUANT TO A JUDGMENT BY CONFESSION AND ALSO OBTAINING A MONEY JUDGMENT FOR PAST DUE AND ACCELERATED AMOUNTS AND EXECUTING UPON SUCH JUDGMENT. FURTHERMORE, LESSEE SPECIFICALLY WAIVES ANY CLAIM AGAINST LESSOR AND LESSOR'S COUNSEL FOR VIOLATION OF LESSEE'S CONSTITUTIONAL RIGHTS IN THE EVENT THAT JUDGMENT IS CONFESSED PURSUANT TO THIS PARAGRAPH.

Initials of authorized signatory of Lessee 

**EJECTMENT.** When this lease shall be determined by condition broken, either during the original term of this lease or any renewal or extension thereof, and also when and as soon as the term hereby created or any extension thereof shall have expired, it shall be lawful of any attorney as attorney for Lessee to file an agreement for entering in any competent Court an amicable action and judgment in ejectment against Lessee and all persons claiming under Lessor for the recovery by Lessor of possession of the herein Demised Premises, for which this lease shall be his sufficient warrant, whereupon, if Lessor so declares, a writ of Execution or of Possession may issue forthwith, without any prior writ or proceedings whatsoever, and provided that if for any reason after such action shall have been commenced the same shall be determined and the possession of the premises hereby demised remain in or be restored to Lessee, Lessor shall have the right upon any subsequent default or defaults, or upon the termination of this lease as hereinbefore set forth, to bring one of more amicable action or actions as hereinbefore set forth to recover possession of the said premises.

**AFFIDAVIT OF DEFAULT.** In any amicable action of ejectment and/or for rent in arrears, Lessor shall first cause to be filed in such action an affidavit made by him or someone acting for him setting forth the facts necessary to authorize the entry of judgment, of which facts such affidavit shall be conclusive evidence and if a true copy of this lease (and of the truth of the copy such affidavit shall be sufficient evidence) be filed in such action, it shall not be necessary to file the original as a warrant of attorney, any rule of Court, custom or practice to the contrary notwithstanding.

**WAIVERS BY LESSEE OF ERRORS, RIGHT OF APPEAL, STAY, EXEMPTION, INQUISITION.** Lessor expressly agrees that any judgment, order or decree entered against him by or in any Court or Magistrate by virtue of the powers of attorney contained in this lease, or otherwise, shall be final, and that he will not take an appeal, certiorari, writ of error, exception or objection to the same, or file a motion or rule to strike off or open or to stay execution of the same, and releases to Lessor and to any and all attorneys who may appear for Lessee all errors in the said proceedings, and all liability therefor, Lessee expressly waives the benefits of all laws, now or hereafter in force, exempting any goods on the Demised Premises, or elsewhere from distraint, levy or sale in any legal proceedings taken by the Lessor to enforce any rights under the lease. Lessee further waives the right of inquisition on any real estate that may be levied upon to collect any amount which may become due under the terms and conditions of this lease, and does hereby voluntarily condemn the same and authorizes

the Prothonotary or Clerk of Court to issue a Writ of Execution or other process upon Lessee's voluntary condemnation, and further agrees that the said real estate may be sold on a Writ of Execution or other process. If proceedings shall be commenced by Lessor to recover possession under the Acts of Assembly, either at the end of the term or sooner termination of this lease, or for nonpayment of rent or any other reason Lessee specifically waives the right to the three months' notice and/or the fifteen or thirty days' notice required by the Act of April 6, 1951, P.L. 69, and agrees that five days' notice shall be sufficient in either or any other case.

**RIGHT OF ASSIGNEE OF LESSOR.** The right to enter judgment against Lessee and to enforce all of the other provisions of this lease hereinabove provided for may, at the option of any assignee of this lease, be exercised by any assignee of this Lessor's right, title and interest in this lease in his, her or their own name, notwithstanding the fact that any or all assignments of the said right, title and interest may not be executed and/or witnessed in accordance with the Act of Assembly of May 28, 1715, 1 Sm. L. 90, and all supplements and amendments thereto that have been or may hereafter be passed and Lessee hereby expressly waives the requirements of said Act of Assembly and any and all laws regulating the manner and/or form in which such assignments shall be executed and witnessed.

**REMEDIES CUMULATIVE.** All of the remedies hereinbefore given to Lessor and all rights and remedies given to him by law and equity shall be cumulative and concurrent. No determination of this lease or the taking or recovering of the premises shall deprive Lessor of any of his remedies or actions against the Lessee for rent due at the time or which, under the terms hereof, would in the future become due as if there had been no determination, or for any and all sums due at the time or which, under the terms hereof, would in the future become due as if there had been no determination, nor shall the bringing of any action for rent or breach of covenant, or the resort to any other remedy herein provided for the recovery of rent be construed as a waiver of the right to obtain possession of the premises.

**CONDEMNATION.** In the event that the premises demised or any part thereof is taken or condemned for a public or quasi-public use, this lease shall, as to the part so taken, terminate as of the date title shall vest in the condemnor, and rent shall abate in proportion to the square feet of leased space taken or condemned or shall cease if the entire premises be so taken. In either event the Lessee waives all claims against the Lessor by reason of the complete or partial taking of the Demised Premises, and it is agreed that the Lessee shall not be entitled to any notice whatsoever of the partial or complete termination of this lease by reason of the aforesaid.

**SUBORDINATION.** This Agreement of Lease and all its terms, covenants and provisions are and each of them is subject and subordinate to any lease or other arrangement or right to possession, under which the Lessor is in control of the Demised Premises, to the rights of the owner or owner's of the Demised Premises and of the land or buildings of which the Demised Premises are a part, to all rights of the Lessor's landlord and to any and all mortgages and other encumbrances now or hereafter placed upon the Demised Premises or upon the land and/or the buildings containing the same; and Lessee expressly agrees that if Lessor's tenancy, control, or right to possession shall terminate either by expiration, forfeiture or otherwise, then this lease shall

thereupon immediately terminate and the Lessee shall, thereupon, give immediate possession, and Lessee hereby waives any and all claims for damages or otherwise by reason of such termination as aforesaid.

**TERMINATION OF LEASE.** It is hereby mutually agreed that either party hereto may terminate this lease at the end of said term by giving to the other party written notice thereof at least thirty (30) days prior thereto, but in default of such notice, this lease shall continue upon the same terms and conditions in force immediately prior to the expiration of the term hereof as are herein contained from month to month unless or until terminated by either party hereto, giving the other thirty (30) days written notice for removal previous to expiration of the then current term; PROVIDED, however, that should this lease be continued for a further period under the terms hereinabove mentioned, any allowances given Lessee on the rent during the original term shall not extend beyond such intention to change the terms and conditions of this lease, and Lessee shall not within thirty (30) days from such notice notify Lessor of Lessee's intention to vacate the Demised Premises at the end of the then current term, Lessee shall be considered as Lessee under the terms and conditions mentioned in such notice for a further term as above provided, or for such further term as may be stated in such notice. In the event that Lessee shall give notice, as refuse so to vacate the same on the date designated by such notice, then it is expressly agreed that Lessor shall have the option either (a) to disregard the notice so given as having no affect, in which case all the terms and conditions of this lease shall continue thereafter with full force precisely as if such notice had not been given, or (b) Lessor may, at any time within thirty days after the present term or any renewal or extension thereof, as aforesaid, give the said Lessee ten days' written notice of his intention to terminate the said lease; whereupon the Lessee expressly agrees to vacate said premises at the expiration of the said period of ten days specified in said notice. All powers granted to Lessor by this lease may be exercised and all obligations imposed upon Lessee by this lease shall be performed by Lessee as well during any extension of this original term of this lease as during the original term itself.

**NOTICES.** All notices required to be given by Lessor to Lessee shall be sufficiently given by leaving the same upon the Demised Premises, but notices given by Lessee to Lessor must be given by registered mail, and as against Lessor the only admissible evidence that notice has been given by Lessee shall be a registry return receipt signed by Lessor or his agent.

**LEASE CONTAINS ALL AGREEMENTS.** It is expressly understood and agreed by and between the parties hereto that this lease and the riders attached hereto and forming a part hereof set forth all the promises, agreements, conditions and understandings between Lessor or his Agent and Lessee relative to the Demised Premises, and that there are no promises, agreements, conditions or understandings, either oral or written, between them other than are herein set forth. It is further understood and agreed that, except, as herein otherwise provided, no subsequent alteration, amendment, change or addition to this lease shall be binding upon Lessor or Lessee unless reduced to writing and signed by them.

**HEIRS AND ASSIGNEES.** All rights and liabilities herein given to, or imposed upon, the respective parties hereto shall extend to and bind the several and respective heirs,

executors, administrators, successors and assigns of said parties; and if there shall be more than one Lessee, they shall all be bound jointly and severally by the terms, covenants and agreements herein, and the word "Lessee" shall be deemed and taken to mean each and every person or party mentioned as a Lessee herein, be the same one or more; and if there shall be more than one Lessee, any notice required or permitted by the term of this lease may be given by or to any one thereof, and shall have the same force and effect as if given by or to all thereof. The words "his" and "him" wherever stated herein shall be deemed to refer to the "Lessor" and "Lessee" whether such Lessor or Lessee be singular or plural and irrespective of gender. No rights, however, shall inure to the benefit of any assignee of Lessee unless the assignment to such assignee has been approved by Lessor in writing as aforesaid.

**HEADINGS NO PART OF LEASE.** Any heading preceding the text of the several paragraphs and sub-paragraphs hereof are inserted solely for convenience of reference and shall not constitute a part of this lease, nor shall they affect its meaning, construction or effect.

IN WITNESS WHEREOF, the parties hereto have executed these presents the day and year first above written, and intend to be legally bound thereby.

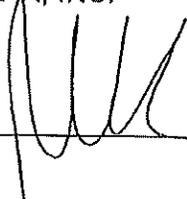
LESSOR:

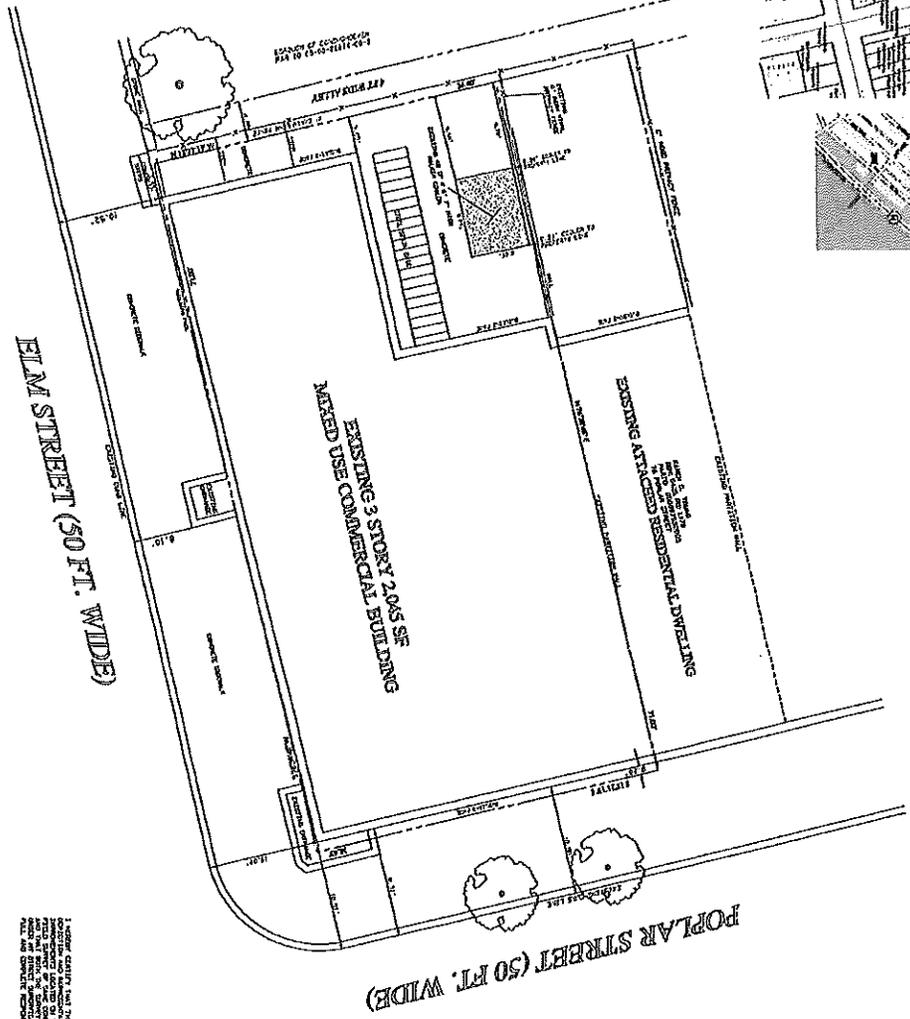
J & P ELM ENTERPRISES, LLC

  
\_\_\_\_\_

LESSEE:

P & J POPLAR, INC.

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



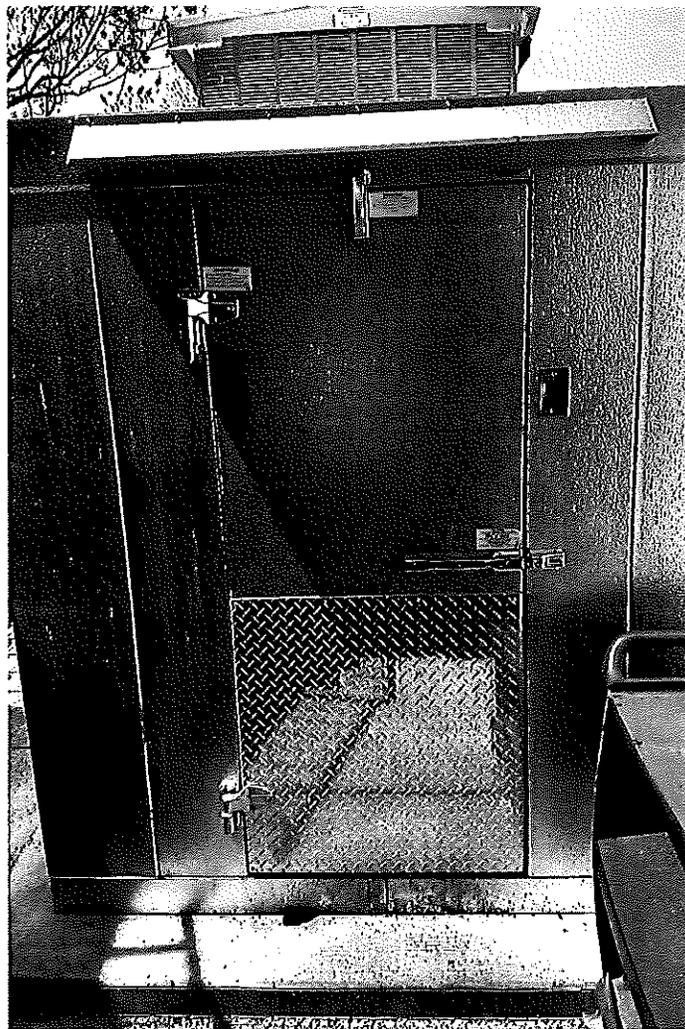
1. THESE PLANS AND SPECIFICATIONS SHALL BE SUBJECT TO THE APPROVAL OF THE BOARD OF ZONING ADJUSTMENTS AND THE BOARD OF CITY PLANNING AND ZONING. THE BOARD OF ZONING ADJUSTMENTS SHALL HAVE THE FINAL SAY IN THE MATTER OF THE ZONING ADJUSTMENT AND THE BOARD OF CITY PLANNING AND ZONING SHALL HAVE THE FINAL SAY IN THE MATTER OF THE PLANNING AND ZONING ADJUSTMENT.

**ZONING HEARING PRESENTATION PLAN**

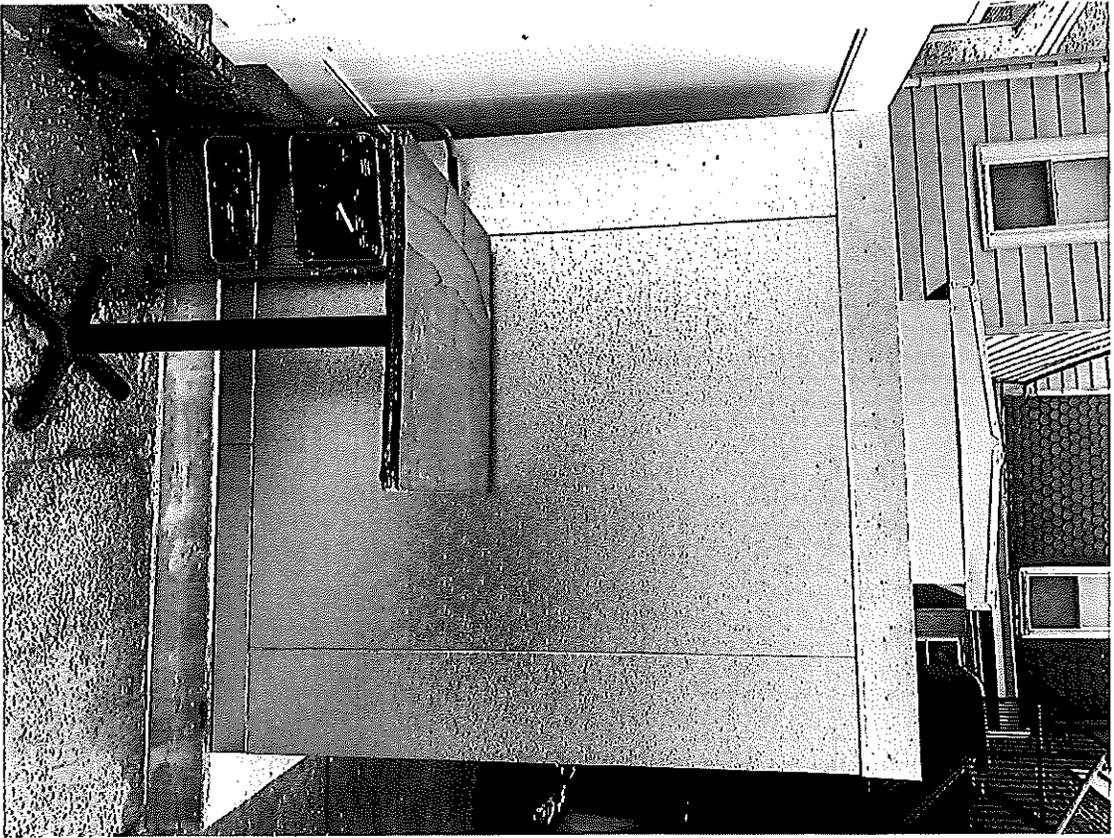
PREPARED FOR  
**P&J POPLAR, INC.**  
 72-74 POPLAR STREET  
 SUITE 100  
 THE BOROUGHS OF CHARLESTON  
 MAGDOENESS COUNTY, FLEMING ISLAND

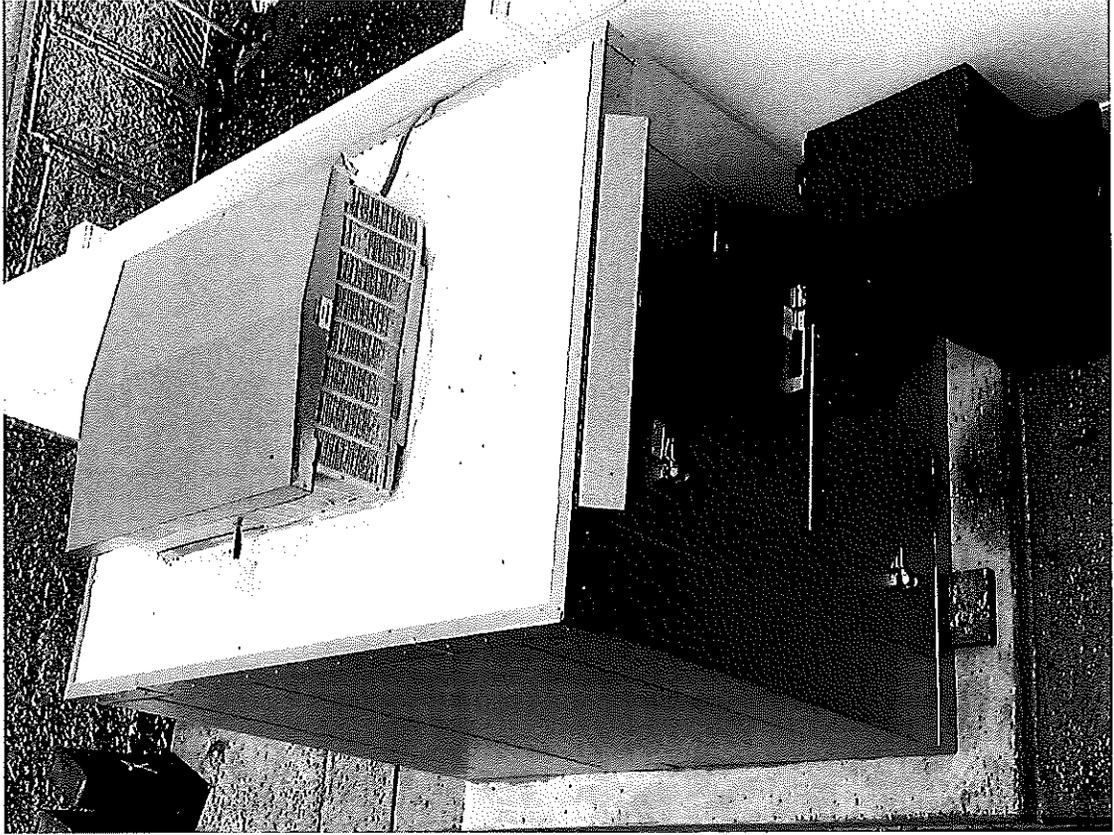
**OTM**  
 LLC

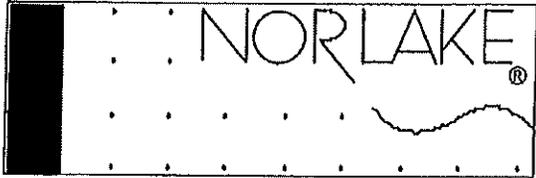
DATE	10/11/2011
BY	OTM LLC
FOR	P&J POPLAR, INC.
PROJECT	72-74 POPLAR STREET
LOCATION	FLEMING ISLAND, FL
SCALE	AS SHOWN
PROJECT NO.	11-001
DATE	10/11/2011











## SOUND TEST REQUEST

Parent Test Req. Number \_\_\_\_\_

DATE: 10/4/13

MODEL NO: CPB050DC-A

COND. UNIT P/N, MODEL NO: M4EF-0058-1AA-278 (RST42 Compr)  
SK 13081355

AMB. DECIBEL LEVEL: 41.2 (MAX. 45 db.)

AMBIENT TEMP: 69F

### TEST RESULTS

CABINET FRONT; 63.8 @ / 65.2 FL  
(42" FROM CABINET, @ Centerline and 38" below @ Floor)

### REFERENCE READINGS

CABINET REAR; 60.5 @ / 63.3 FL Comments: \_\_\_\_\_  
(42" FROM CABINET, @ Centerline & 38" below)

CABINET LH SIDE; 62.3 @ / 64.7 FL Comments: \_\_\_\_\_  
(42" FROM CABINET, @ centerline & 38" below)

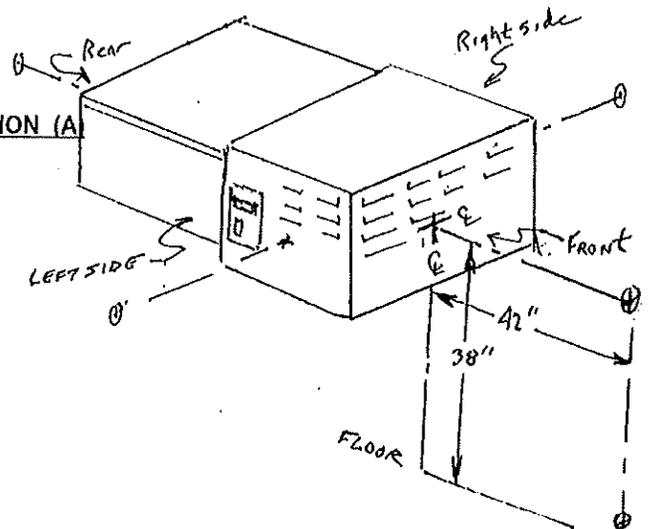
CABINET RH SIDE; 64.8 @ / 65.0 FL Comments: \_\_\_\_\_  
(42" FROM CABINET, @ centerline & 38" below)

NOTE: Two READINGS WERE TAKEN  
on each side; one directly out 42"  
from source & out 42" & Down 38"

SEE SKETCH BELOW FOR ORIENTATION

TEST METER: EXTECH MOD. 407736  
RANGE (LO) RESPONSE (F) FUNCTION (A)

TESTED BY: J. TAHER

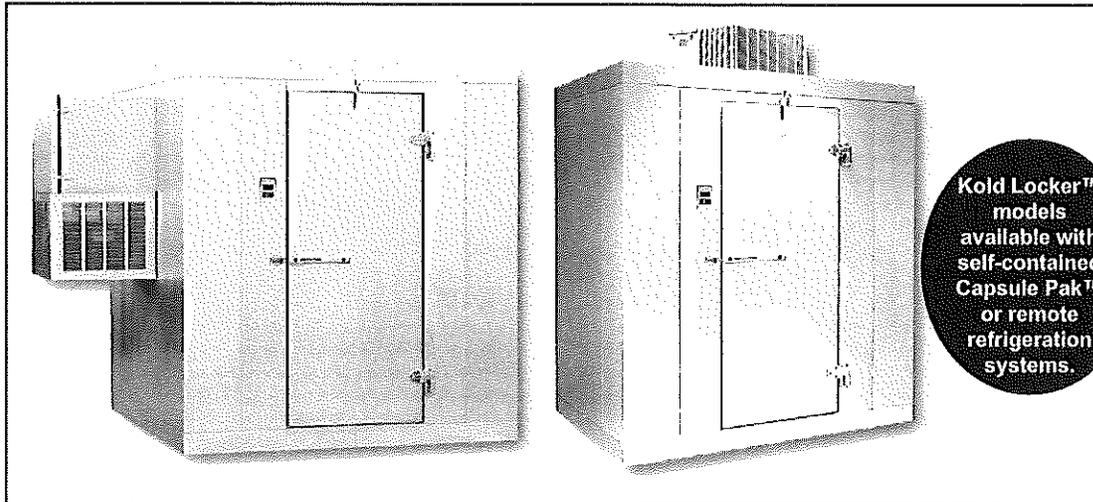




NOR-LAKE, INCORPORATED  
727 Second Street  
Hudson, Wisconsin 54016

800-955-5253  
715-386-2323  
866-961-5253 Paris  
800-388-5253 Service  
715-386-6149 FAX  
www.norlake.com

## KOLD LOCKER™ WALK-INS



Kold Locker™ models available with self-contained Capsule Pak™ or remote refrigeration systems.

Standard Model Coolers and Freezers In Stock for SAME DAY SHIPMENT

### STANDARD FEATURES

- STANDARD MODELS SHIP THE SAME DAY\*
- Cooler or freezer models
- Sizes from 3'6" x 6' to 10' x 14'
- Three heights: 8'7" & 7'7" with floor; 7'4" floorless
- indoor or outdoor models
- Two temperatures; +35°F, -10°F
- Capsule Pak™ refrigeration system (ceiling or wall mount) (ordered separately)
- Air-cooled condensing unit (wall mount – 10 day ship)
- Automatic condensate vaporizer. No drain line required on indoor units
- Time clock or electronic control provided for automatic defrost on both coolers and freezers
- 26 gauge corrosion resistant stucco embossed coated steel on all surfaces except interior floor
- Smooth aluminum interior floor (on models with floor)
- Floorless models supplied with NSF listed vinyl sealers
- Full 4" thick panels foamed-in-place with EPA-compliant polyurethane insulation
- 26" wide, self-closing door
- Heavy duty adjustable cam-lift hinges
- Spring actuated door closer
- Deadbolt locking handle with independent key/padlock feature and inside safety release
- Magnetic gasket
- Digital thermometer and light switch
- Floor double sweep gasket
- Perimeter door heater wire
- High output low profile LED light positioned above the door to prevent interference with shelving or product
- NSF, UL flame spread 25 on all panels; UL and CSA electrical listing on door sections \*\*\*\*
- UL, C-UL listing on complete Capsule Pak™ refrigeration systems \*\*\*
- City of Houston listed

- California State listed
- CN UL flame spread approval
- DOE compliant
- Oregon State listed
- USDA accepted
- 15 year panel warranty
- 18 months parts & labor warranty

#### INDOOR MODELS:

- Hot gas condensate vaporizer available on many models

#### OUTDOOR MODELS:

- White membrane roof and trim
- Refrigeration hood
- -20°F ambient controls

### OPTIONAL FEATURES\*\*

- -20°F Capsule Pak systems, contact factory for details
- U-shaped shelving system
- Floor tread plate kit
- Exterior ramp
- Condensing unit air deflector kit
- Door hood (outdoor models)
- Heater kit for outdoor use where ambient conditions may go below 32°F
- Leak detector/alarm (may be a requirement in some areas)
- Three phase electrical
- Remote Capsule Pak™ refrigeration systems
- Heights: 8'7" with floor, 8'4" without floor
- Electric vaporizer
- Five year compressor warranty

\* Some models ship in 5 or 10 days

\*\* Most options are available two weeks from receipt of order. Please contact us for specific questions.

\*\*\* C-UL is Underwriters Laboratories Safety Certification Mark which indicates that UL has tested the equipment to applicable CSA Standards.

\*\*\*\* UL Sanitation is Underwriters Laboratories Sanitation Mark which indicates that UL has tested the equipment to applicable NSF Standards.

KOLD LOCKER™ WALK-INS

SPECIFICATION  
GUIDE

# KOLD LOCKER™ WALK-INS

## WALK-IN SPECIFICATIONS

Kold Locker™ walk-ins are built of modular panels, and are insulated with foamed-in-place EPA-compliant polyurethane insulation. Each panel is designed to ensure ease of installation, long term reliability and high insulating efficiency.

A. All panels are manufactured with male and female mating rails to ensure proper alignment during installation. The polyurethane insulation wraps around the return bend metal seams on both section to create a lightweight panel of exceptional strength and durability. All panels are a full four (4) inches thick and provide a superior insulating value.

B. The foamed-in-place cam locking fasteners ensure an airtight seal for maximum energy efficiency.

C. Kold Locker™ panel gaskets located around the outer perimeter of the panel are continuous, without cuts or breaks at corners. The Nor-Lake patented gasket design provides a foamed-in-place gasket as an integral part of the panel. Gaskets cannot fall off or pull off during shipment or installation.

D. Panels lock together tightly to assure an energy efficient walk-in.

E. Edge caps for ends of floor and ceiling panels are foamed-

in-place rather than overlapped or mechanically fastened. Edge caps cannot come loose, and they stay in place through the life of the walk-in.

F. Panel Finishes: Interior and exterior panels are fabricated with 26 gauge corrosion resistant stucco embossed coated steel. Models supplied with a floor will include a smooth aluminum interior floor surface.

G. Insulation: Panels are four (4) inches thick, metal clad and foamed-in-place with HFC-245fa polyurethane insulation which is CFC and HCFC free.

The R-values for 4" HE panels are:

### Cooler:

Walls/Ceilings	R-value 25
Doors	R-value 25

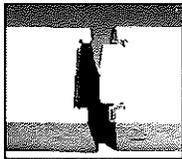
### Freezer:

Walls/Ceilings	R-value 32
Doors	R-value 32
Floors	R-value 28

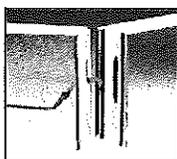
### Mini Kold Locker™ Walk-Ins

3'6" x 6'0" x 6'7" and 3'6" x 7'0" x 6'7"

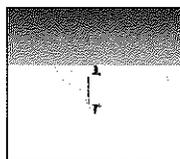
Similar floor space as 3 door reach-in but with 20%-30% more capacity. Modular, easy to get into existing building, through doors and hallways.



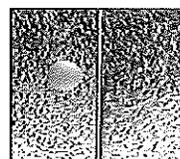
A.



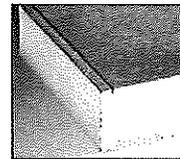
B.



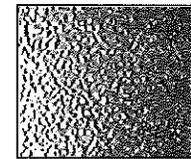
C.



D.



E.



F.

## KOLD LOCKER™ WALK-IN AVAILABLE SIZES

The 45 Series is available in one size which is 4' wide x 5' long x 6'-0" high. This model is supplied with a walk-in floor. This series ships in 5 days.

The Standard Series of Kold Locker™ walk-ins are all 6'-7" high and are all supplied with a floor. The sizes available are as follows: 4' wide x 6' long, 6' wide x 6' long, 6' wide x 8' long, 6' wide x 10' long, 6' wide x 12' long, 8' wide x 8' long, and 8' wide x 10' long.

The 77 Series of Kold Locker™ walk-ins are all 7'-7" high and are all supplied with a floor. The sizes available are as follows: 6' wide x 6' long, 6' wide x 8' long, 6' wide x 10' long, 6' wide x 12' long, 8' wide x 8' long, and 8' wide x 10' long.

The 74 Series of Kold Locker™ walk-ins are all 7'-3 5/8" high and are all supplied without a floor. Wall panels are installed on top of NSF listed vinyl sealers provided. The sizes available are as follows: 6' wide x 6' long, 6' wide x 8' long, 6' wide x 10' long, 6' wide x 12' long, 8' wide x 8' long, and 8' wide x 10' long.

## OUTDOOR MODELS

All Kold Locker™ walk-ins installed outdoors include a weather protection kit consisting of: One piece, 35 mill, white membrane roof material which requires no seaming or gluing to the top of the Kold Locker™ walk-in ceiling panels.

Metal trim for flashing the membrane roof material to the side of the Kold Locker™ walk-in wall panels is included.

Trim is secured to the Kold-Locker™ wall panels with self-drilling and self-tapping TEK screws. In applications where the Kold Locker™ walk-in is installed next to a building, the trim can be used to secure the turned up membrane roof material to the building wall, with fasteners supplied. Door rain hoods are an option and should be included on installations where the door panels are exposed to the outdoor weather.

## DOOR

Door sections manufactured at Nor-Lake are factory tested to assure proper fit, performance and alignment. All doors feature a stepped profile design that serves as a barrier to air flow which results in an energy efficient door system. Door sections are 4" thick, metal clad and foamed-in-place with EPA-compliant polyurethane insulation.

Each Kold Locker™ walk-in compartment is equipped with a 26" wide door opening. The height of the door opening varies with the series of Kold Locker™ walk-in ordered. The 45 Series has a 59" high door opening, the Standard Series (6'7" high) has a 66" high door opening and the 74 and 77 Series Kold Locker™ walk-ins have a 78" high door opening. The door is self-closing, flush mounted, infitting and constructed to incorporate heavy duty, molded ABS breaker which is permanently foamed-in-place.

Doors are available with right or left side hinges and include two field adjustable cam-lift hinges with locking set screw, top hinge spring loaded, spring actuated door closer, NL 9800 deadbolt locking handle with independent key/padlock feature and inside safety release. The doors are pre-hung in a four foot wide frame panel which is equipped with replaceable perimeter heater wire, magnetic stainless steel trim, digital thermometer, vapor proof LED light fixture and switch with exterior pilot indicator light.

The door section is completely pre-wired within concealed conduit inside the door frame panel. 120/60/1 electrical is field wired to a junction box which is surface mounted next to the interior frame above the vapor proof LED light fixture.

Hinges and door handle are mounted to 1/2" synthetic insulated tapping plates. Each door section is complete with a fiberglass reinforced plastic heated threshold.

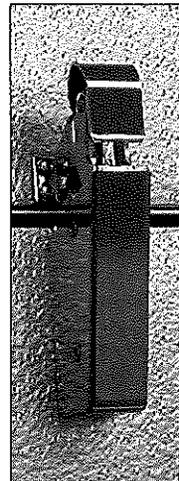
DOOR OPENING SIZE		
W	H	MODEL
26"	59"	45 Series
26"	66"	STD Series
26"	78"	74 Series
26"	78"	77 Series

These doors are designed and certified for use in walk-in cooler applications.

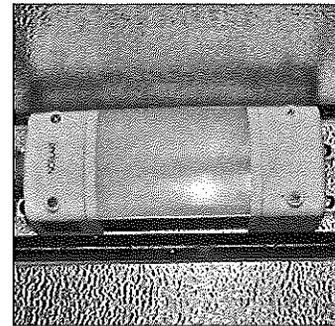
DOOR MODEL NUMBER	ENERGY CONSUMPTION (KWH/DAY)	DOOR SURFACE AREA (SQ. FT.)	ELECTRICAL	WATTS	AMPS
KL26X59	2.30	12.00	120/60/1	97.73	0.81
KL26X66	2.37	13.40	120/60/1	100.80	0.84
KL26X78	2.49	15.80	120/60/1	106.07	0.88



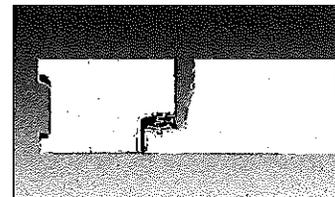
Deadbolt-locking handle



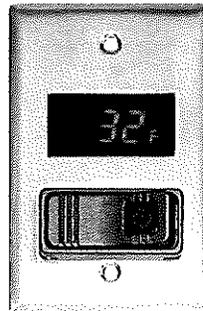
Spring actuated door closer



LED Light Fixture



Doors feature a stepped profile design



Digital Thermometer/ Light Switch

These doors are designed and certified for use in walk-in freezer applications.

DOOR MODEL NUMBER	ENERGY CONSUMPTION (KWH/DAY)	DOOR SURFACE AREA (SQ. FT.)	ELECTRICAL	WATTS	AMPS
KL26X59	6.48	12.00	120/60/1	189.69	1.58
KL26X66	6.68	13.40	120/60/1	196.07	1.63
KL26X78	7.01	15.80	120/60/1	207.07	1.73

# KOLD LOCKER™ WALK-INS

## FLOOR CONSTRUCTION

Floor panels (when supplied) are similar in construction to the wall panels except they are made to withstand uniformly distributed floor loads of up to 800 pounds per square foot. The interior floor metal is smooth aluminum.

The 74 Series, floorless models, are supplied with a patented vinyl floor sealer to stop conductivity at floor level. This unique sealer sits flat on existing floors and fits tightly against the interior/exterior wall panels. The walk-in wall panel is supported on the shoulder of the sealer so the foam edge is free of compressing weight. The vinyl floor sealer is NSF listed.

## SHELVING KITS

Shelving kits specifically designed for each Kold Locker™ walk-in configuration are offered as an optional extra. These kits are shipped with the Kold Locker™ walk-in and Capsule Pak™ refrigeration system so that all necessary components are at your location promptly when you need them. The shelving sets are coded to correspond to the Kold Locker™ walk-in configuration ordered and are offered in either three or four tier.

## SHELVING SYSTEM TYPES

**A. Green Kote™ Shelving:** Electrostatically applied green baked epoxy over zinc steel and brite basic wire. Thickness: 2-3 mill. 15 year guarantee against corrosion.

**B. Nor-Lake Standard Chrome Kote™ Shelving:** Plated quality wire and steel. Surface nickel chrome plated.

Select the shelving FINISH of your choice. Shelving posts are engineered for maximum strength. Shelves are adjustable on 2" centers. All shelves are NSF listed and are zinc coated with a heavy layer of Protoxy for a maximum life span under humid storage conditions. Special clips are utilized to gain the maximum square footage of storage space for each Kold Locker™ model. 14", 18" and 24" wide shelves are used as required for maximum storage capacity in each set. This wire shelving is ideal for storage of all refrigerated or frozen products.

## SHELVES

Shelves to have #9 (.148") ga. crosswires spaced 3/4" on centers with crossbraces 1/4" (.192") minimum of 4-3/4" on center.

**Shelf Frames:** Channel to be 9/16" x 1" x .075" thick.

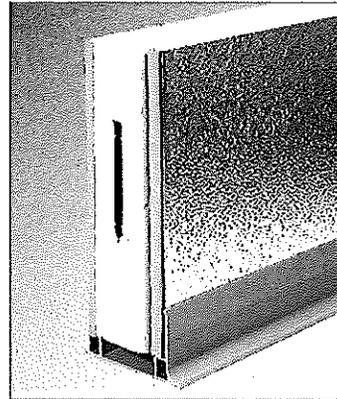
**Shelf Collars:** A round tapered 1-5/16" high steel collar to be welded at each corner.

## POSTS

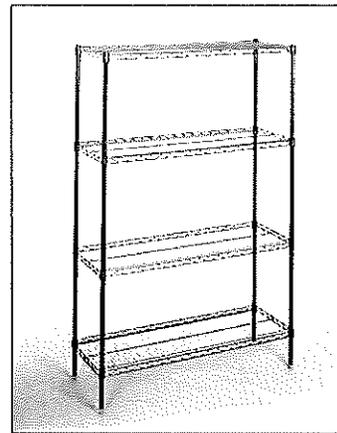
Posts to be .062" thick 1" O.D. round tubing notched every 2" on each corner of the post.

## POST LEVELERS

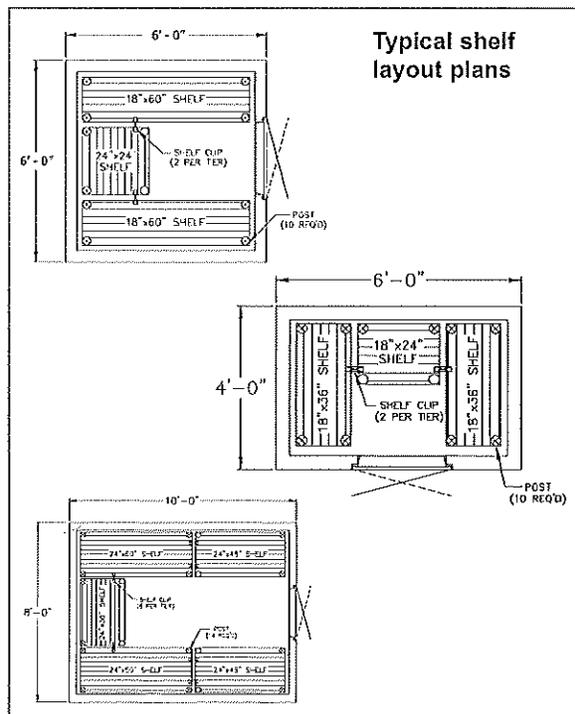
Installed on the bottom of each post is nylon housing for a steel leveler 3/8"-16 x 1-3/4".



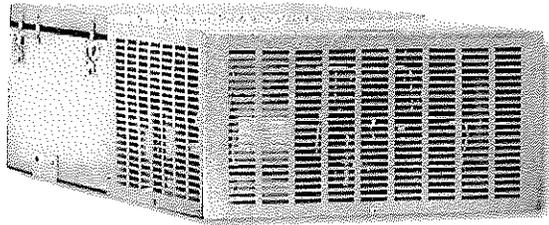
Floorless models are supplied with a patented vinyl floor sealer



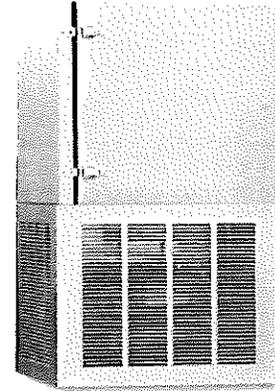
Shelving system types include Green Kote™ and Chrome Kote™



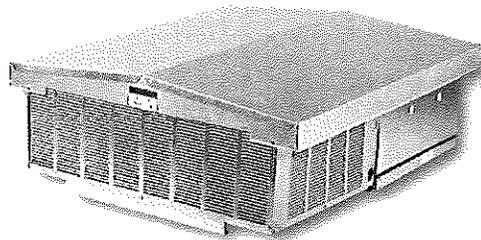
## STANDARD CAPSULE PAK™ REFRIGERATION SYSTEMS



INDOOR CEILING MOUNT



WALL MOUNT



OUTDOOR CEILING MOUNT

Capsule Pak™ refrigeration systems are an ideal solution for simple and rapid installation. Each system consists of a condensing unit and evaporator coil together in one housing. All models are factory assembled, wired, charged, tested and fully equipped for fast and easy insertion into a factory prepared walk-in opening.

With Capsule Pak™ systems, installation costs are greatly reduced because there's no piping or other components requiring field installation. Certain models also come with a power cord so the unit can be plugged in.

### STANDARD FEATURES

- Available for coolers or freezers
- Indoor or outdoor models
- Two temperatures: +35°F, -10°F
- Ceiling or wall mount
- Air cooled condensing unit
- Automatic condensate vaporizer. No drain lines required on indoor units
- Time clock or electronic control provided for automatic defrost on both coolers and freezers
- UL and C-UL electrical listing on complete Capsule Pak™ refrigeration systems\*\*
- -20°F ambient controls (outdoor models)
- 18 months parts and labor warranty

### OPTIONAL FEATURES\*

- Condensing unit air deflector kit
- Heater kit for outdoor use where ambient conditions may go below 32°F
- Three phase electrical
- Remote Capsule Pak™ refrigeration system
- Electric condensate vaporizer
- 5 year compressor warranty

\* Most options are available two weeks from receipt of order. Please contact us for specific questions.

\*\* C-UL is Underwriters Laboratories Safety Certification Mark which indicates that UL has tested the equipment to applicable CSA Standards.

# KOLD LOCKER™ WALK-INS

## CAPSULE PAK™ REFRIGERATION SYSTEM SPECIFICATION

Capsule Pak™ refrigeration systems consist of a unitized system which is factory assembled, wired, charged, tested and fully equipped for insertion into a factory prepared walk-in opening. The Capsule Pak™ system has a flush coil which keeps all components outside the walk-in storage area, allowing more storage inside. Models are available for wall or ceiling mounting for use on indoor or outdoor installations. Models are available for interior compartment design temperatures of +35°F and -10°F. Installation is fast and easy. No plumbing required on indoor units.

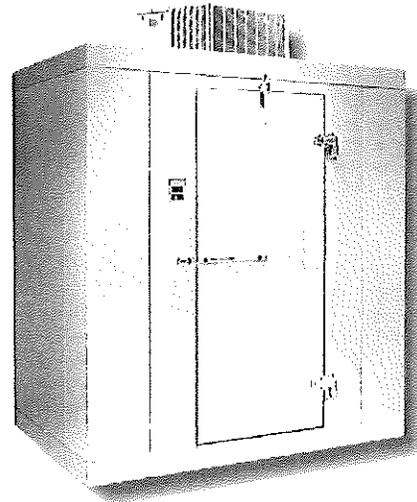
The Capsule Pak™ evaporator section is an integral factory assembled component of the complete Capsule Pak™ refrigeration system. The evaporator section is designed to be located entirely outside the walk-in with no intrusions into the refrigerated space. The evaporator enclosure is constructed utilizing foamed-in-place polyurethane insulation and equipped with a removable, gasketed access cover. Capsule Pak™ models use high efficiency EC evaporator fan motors to circulate air throughout the walk-in.

All indoor Capsule Pak™ models are equipped with a discharge gas condensate vaporizer or optional electric condensate vaporizer. All outdoor Capsule Pak™ models are equipped with low ambient controls consisting of crankcase heater, flooded condenser head pressure control and pump down cycle.

**All standard Capsule Pak™ refrigeration systems are stocked for same day shipment.**

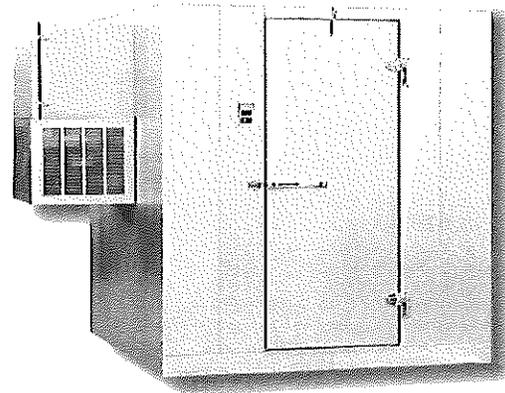
All standard Capsule Pak™ refrigeration systems are UL and C-UL listed.

Note: Allow minimum of 6" clearance above the Capsule Pak™ system for installation. Consideration should be given to accessibility for service and free condenser air flow. Consult factory with installation questions.



### CEILING MOUNT CAPSULE PAK™ SYSTEM

Ceiling Mount Capsule Pak™ systems are conveniently located on top of the walk-in to maximize available floor space. Available in indoor and outdoor models for single or dual walk-in compartments. Ceiling mount systems are available for same day shipment.



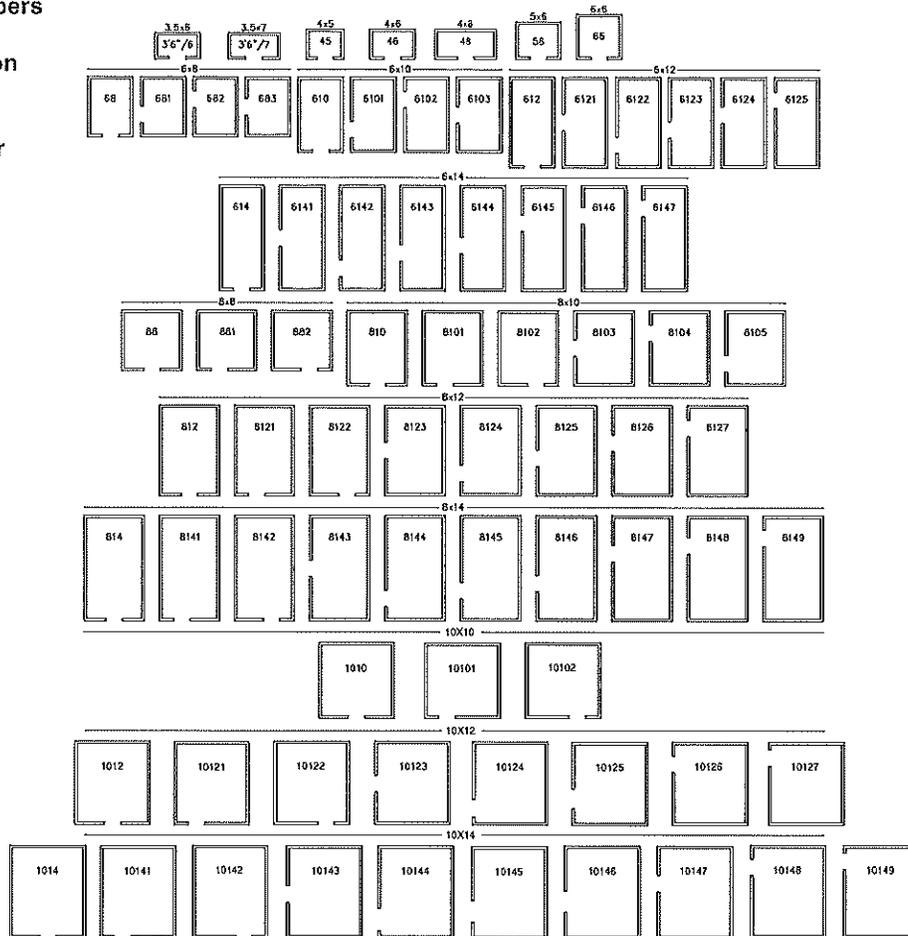
### WALL MOUNT CAPSULE PAK™ SYSTEM

The Wall Mount Capsule Pak™ System provides easy access for service and installation where there is not enough room for a ceiling mounted application. Available in indoor models for single or dual walk-in compartments. Wall Mount Systems are available to ship in ten days.

# KOLD LOCKER™ WALK-INS

## FLOOR PLAN LAYOUTS FOR SINGLE ROOM COOLERS OR FREEZERS

Model numbers indicate the door location on the standard Kold Locker layouts



## PHYSICAL SPECIFICATIONS

6'7" HIGH		7'4" HIGH & 7'7" HIGH	
UNIT INTERIOR	CAPACITY CU. FT.	UNIT INTERIOR	CAPACITY CU. FT.
KL45 (6'0" High)	77	KL7745	100
KL46 (4' x 6')	105	KL7746	123
KL56 (5' x 6')	137	KL7756	159
KL66 (6' x 6')	168	KL7766	196
KL68 (6' x 8')	231	KL7768	270
KL610 (6' x 10')	295	KL77610	344
KL612 (6' x 12')	357	KL77612	418
KL614 (6' x 14')	420	KL77614	490
KL88 (8' x 8')	318	KL7788	372
KL810 (8' x 10')	404	KL77810	473
KL812 (8' x 12')	490	KL77812	574
KL814 (8' x 14')	578	KL77814	675
KL1010 (10' x 10')	515	KL771010	602
KL1012 (10' x 12')	625	KL771012	731
KL1014 (10' x 14')	736	KL771014	860

# KOLD LOCKER™ WALK-INS

## MATCHING CAPSULE PAK™ REFRIGERATION SYSTEMS

KOLD LOCKER™ MODEL SYSTEM MOUNT	-10°F CEILING MOUNT	+38°F to +35°F CEILING MOUNT	+38°F to +35°F WALL MOUNT	-10°F WALL MOUNT
<b>6'0" HIGH WITH FLOOR</b>				
KL45	CPF060DC-A	CPB050DC-A	CPB050DW	N/A
KOD45	CPF060DCO-A	CPB050DCO-A	N/A	N/A
<b>6'7" HIGH WITH FLOOR</b>				
KL366	CPF050DC-A	CPB050DC-A	CPB050DW	N/A
KL367	CPF050DC-A	CPB050DC-A	CPB050DW	N/A
KL46	CPF060DC-A	CPB050DC-A	CPB050DW	N/A
KL56	CPF075DC-B	CPB050DC-A	CPB050DW	N/A
KL66	CPF075DC-B	CPB050DC-A	CPB050DW	N/A
KL68	CPF100DC-A	CPB050DC-A	CPB050DW	CPF100DW
KL610	CPF100DC-A	CPB050DC-A	CPB050DW	CPF100DW
KL812	CPF150DC-A	CPB075DC-A	N/A	N/A
KL614	N/A	CPB100DC-A	N/A	N/A
KL88	CPF100DC-A	CPB050DC-A	CPB050DW	CPF100DW
KL810	CPF150DC-A	CPB075DC-A	CPB075DW	CPF150DW
KL812	CPF150DC-A	CPB100DC-A	N/A	N/A
KL814	CPF151DC-A	CPB100DC-A	N/A	N/A
KL1010	CPF151DC-A	CPB100DC-A	N/A	N/A
KL1012	CPF151DC-A	CPB100DC-A	N/A	N/A
KL1014	CPF151DC-A	CPB100DC-A	N/A	N/A
<b>6'7" HIGH WITH FLOOR OUTDOOR</b>				
KOD46	CPF075DCO-A	CPB050DCO-A	N/A	N/A
KOD56	CPF075DCO-A	CPB050DCO-A	N/A	N/A
KOD66	CPF100DCO-A	CPB075DCO-A	N/A	N/A
KOD68	CPF100DCO-A	CPB075DCO-A	N/A	N/A
KOD610	CPF150DCO-A	CPB075DCO-A	N/A	N/A
KOD612	CPF150DCO-A	CPB075DCO-A	N/A	N/A
KOD614	N/A	CPB100DCO-A	N/A	N/A
KOD88	CPF150DCO-A	CPB075DCO-A	N/A	N/A
KOD810	CPF150DCO-A	CPB075DCO-A	N/A	N/A
KOD812	CPF151DCO-A	CPB100DCO-A	N/A	N/A
KOD814	CPF151DCO-A	CPB100DCO-A	N/A	N/A
KOD1010	CPF151DCO-A	CPB100DCO-A	N/A	N/A
KOD1012	CPF151DCO-A	CPB100DCO-A	N/A	N/A
KOD1014	CPF200DCO-A	CPB100DCO-A	N/A	N/A
<b>7' 4" HIGH LESS FLOOR - INDOOR ONLY</b>				
KL7446	N/A	CPB050DC-A	CPB050DW	N/A
KL7456	N/A	CPB050DC-A	CPB050DW	N/A
KL7466	N/A	CPB050DC-A	CPB050DW	N/A
KL7468	N/A	CPB075DC-A	CPB075DW	N/A
KL74610	N/A	CPB075DC-A	CPB075DW	N/A
KL74612	N/A	CPB075DC-A	N/A	N/A
KL74614	N/A	CPB100DC-A	N/A	N/A
KL7488	N/A	CPB075DC-A	CPB075DW	N/A
KL74810	N/A	CPB075DC-A	CPB075DW	N/A
KL74812	N/A	CPB100DC-A	N/A	N/A
KL74814	N/A	CPB100DC-A	N/A	N/A
KL741010	N/A	CPB100DC-A	N/A	N/A
KL741012	N/A	CPB100DC-A	N/A	N/A
KL741014	N/A	CPB100DC-A	N/A	N/A

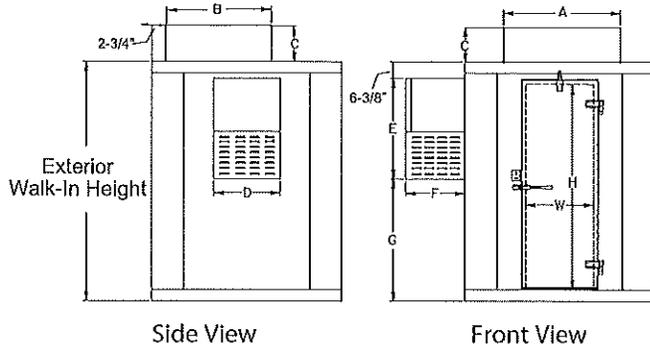
# KOLD LOCKER™ WALK-INS

## MATCHING CAPSULE PAK™ REFRIGERATION SYSTEMS

KOLD LOCKER™ MODEL SYSTEM MOUNT	-10°F CEILING MOUNT	+38°F to +35°F CEILING MOUNT	+38°F to +35°F WALL MOUNT	-10°F WALL MOUNT
<b>7' 7" HIGH WITH FLOOR</b>				
KL7746	CPF075DC-B	CPB050DC-A	CPB050DW	N/A
KL7748	CPF100DC-A	CPB050DC-A	N/A	N/A
KL7756	CPF100DC-A	CPB050DC-A	CPB050DW	CPF100DW
KL7766	CPF100DC-A	CPB050DC-A	CPB050DW	CPF100DW
KL7768	CPF100DC-A	CPB050DC-A	CPB050DW	CPF100DW
KL77610	CPF150DC-A	CPB075DC-A	CPB075DW	CPF150DW
KL77612	CPF150DC-A	CPB075DC-A	N/A	N/A
KL77614	N/A	CPB100DC-A	N/A	N/A
KL7788	CPF150DC-A	CPB075DC-A	CPB075DW	CPF150DW
KL77810	CPF150DC-A	CPB075DC-A	CPB075DW	CPF150DW
KL77812	CPF150DC-A	CPB100DC-A	N/A	N/A
KL77814	CPF151DC-A	CPB100DC-A	N/A	N/A
KL771010	CPF151DC-A	CPB100DC-A	N/A	N/A
KL771012	CPF151DC-A	CPB100DC-A	N/A	N/A
KL771014	CPF151DC-A	CPB100DC-A	N/A	N/A
<b>7' 7" HIGH WITH FLOOR OUTDOOR</b>				
KOD7746	CPF075DCO-A	CPB075DCO-A	N/A	N/A
KOD7756	CPF100DCO-A	CPB075DCO-A	N/A	N/A
KOD7766	CPF100DCO-A	CPB075DCO-A	N/A	N/A
KOD7768	CPF160DCO-A	CPB075DCO-A	N/A	N/A
KOD77610	CPF150DCO-A	CPB075DCO-A	N/A	N/A
KOD77612	CPF150DCO-A	CPB075DCO-A	N/A	N/A
KOD77614	N/A	CPB100DCO-A	N/A	N/A
KOD7788	CPF150DCO-A	CPB075DCO-A	N/A	N/A
KOD77810	CPF151DCO-A	CPB075DCO-A	N/A	N/A
KOD77812	CPF151DCO-A	CPB100DCO-A	N/A	N/A
KO77B814	CPF200DCO-A	CPB100DCO-A	N/A	N/A
KOD771010	CPF151DCO-A	CPB100DCO-A	N/A	N/A
KOD771012	CPF200DCO-A	CPB100DCO-A	N/A	N/A
KOD771014	CPF200DCO-A	CPB100DCO-A	N/A	N/A
<b>8'4" HIGH LESS FLOOR</b>				
KL8466	N/A	CPB050DC-A	N/A	N/A
KL8468	N/A	CPB075DC-A	N/A	N/A
KL84610	N/A	CPB075DC-A	N/A	N/A
KL84612	N/A	CPB075DC-A	N/A	N/A
KL84614	N/A	CPB100DC-A	N/A	N/A
KL8488	N/A	CPB075DC-A	N/A	N/A
KL84810	N/A	CPB075DC-A	N/A	N/A
KL84812	N/A	CPB100DC-A	N/A	N/A
KL84814	N/A	CPB100DC-A	N/A	N/A
<b>8'7" HIGH WITH FLOOR</b>				
KL8766	CPF100DC-A	CPB050DC-A	N/A	N/A
KL8768	CPF100DC-A	CPB050DC-A	N/A	N/A
KL87610	CPF150DC-A	CPB075DC-A	N/A	N/A
KL87612	CPF150DC-A	CPB075DC-A	N/A	N/A
KL87614	N/A	CPB100DC-A	N/A	N/A
KL8788	CPF150DC-A	CPB075DC-A	N/A	N/A
KL87810	CPF150DC-A	CPB075DC-A	N/A	N/A
KL87812	N/A	CPB100DC-A	N/A	N/A
KL87814	N/A	CPB100DC-A	N/A	N/A
<b>8'7" HIGH WITH FLOOR OUTDOOR</b>				
KOD8766	CPF100DCO-A	CPB075DCO-A	N/A	N/A
KOD8768	CPF150DCO-A	CPB075DCO-A	N/A	N/A
KOD87610	CPF150DCO-A	CPB075DCO-A	N/A	N/A
KOD87612	CPF150DCO-A	CPB075DCO-A	N/A	N/A
KOD87614	N/A	CPB100DCO-A	N/A	N/A
KOD8788	CPF150DCO-A	CPB075DCO-A	N/A	N/A
KOD87810	CPF151DCO-A	CPB075DCO-A	N/A	N/A
KOD87812	N/A	CPB100DCO-A	N/A	N/A
KOD87814	N/A	CPB100DCO-A	N/A	N/A

# KOLD LOCKER™ WALK-INS

## CAPSULE PAK™ PHYSICAL SPECIFICATIONS



CEILING MOUNT MODEL NO.	"A" DIMENSION	"B" DIMENSION	"C" DIMENSION
CPB050DC-A	29"	44-1/2"	14-3/4"
CPB075DC-A	37"	44-1/2"	14-3/4"
CPB100DC-A	34-1/2"	59"	21-1/4"
CPB150DC-A	34-1/2"	59"	21-1/4"
CPF050DC-A	28"	44-1/2"	14-3/4"
CPF060DC-A	37"	44-1/2"	14-3/4"
CPF075DC-B	37"	44-1/2"	14-3/4"
CPF075DC-B	54"	24-1/4"	14-3/4"
GPF100DC-A	34-1/2"	59"	21-1/4"
CPF150DC-A	34-1/2"	59"	21-1/4"
GPF151DC-A	34-1/2"	59"	21-1/4"
CPF200DC-A	34-1/2"	59"	21-1/4"
CPB050DCO-A	32"	44-1/2"	16-1/8"
CPB075DCO-A	43"	48-1/4"	16-1/8"
CPB100DCO-A	40-1/2"	59"	22-7/8"
CFB150DCO-A	40-1/2"	59"	22-7/8"
CPF060DCO-A	43"	48-1/4"	16-1/8"
CPF075DCO-A	43"	48-1/4"	16-1/8"
GPF100DCO-A	40-1/2"	59"	22-7/8"
CPF150DCO-A	40-1/2"	59"	22-7/8"
CPF151DCO-A	40-1/2"	59"	22-7/8"
CPF200DCO-A	40-1/2"	59"	22-7/8"

Door Opening Size

W	H	Model
26"	59"	45 Series
26"	66"	STD Series
26"	78"	74 Series
26"	78"	77 Series

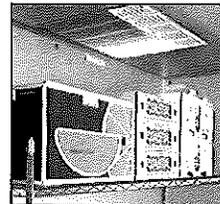
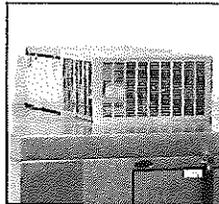
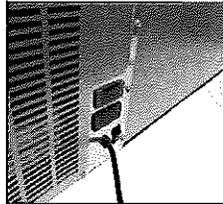
WALL MOUNT MODEL NO.	"D" DIMENSION	"E" DIMENSION	"F" DIMENSION	"G" DIMENSION			
				EXTERIOR WALK-IN HEIGHT			
				6'	6'7"	7'4"	7'7"
CPB050DW	25-1/4"	38"	22-1/4"	27-3/8"	34-3/8"	43"	46-3/8"
CPB075DW	44-1/8"	45"	30"	N/A	27-5/8"	36-1/4"	39-5/8"
CPF100DW	44-1/8"	45"	30"	N/A	27-5/8"	36-1/4"	39-5/8"
CPF150DW	44-1/8"	45"	30"	N/A	27-5/8"	36-1/4"	39-5/8"

**NOTE:**

- Consideration must be given to accessibility for service & free condenser air flow. Consult factory with installation questions.
- +90°F ambient or less and 50% RH
- Subject to change without notice

# KOLD LOCKER™ WALK-INS

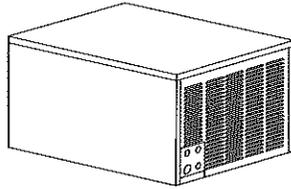
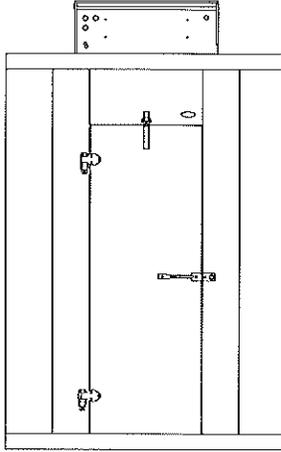
## CAPSULE PAK™ ELECTRICAL DATA (ALL SYSTEMS USE R-404A REFRIGERANT)



MODEL	ELECTRICAL	TOTAL SYSTEM AMPS	TOTAL DEFROST AMPS	MCA	NEMA PLUG OR FUSE SIZE	CORD & PLUG SYSTEM
<b>CEILING MOUNT</b>						
CPB050DC-A	115/60/1	14.3	N/A	N/A	5-20P	X
CPB075DC-A	208-230/60/1	7.7	N/A	N/A	6-20P	X
CPB100DC-A	208-230/60/1	7.7	N/A	N/A	6-15P	X
CPB150DC-A	208-230/60/1	10.4	N/A	15.4	25	
CPF050DC-A	115/60/1	11.6	5.84	13.5	20	
CPF060DC-A	208-230/60/1	7.7	N/A	N/A	6-20P	X
CPF075DC-B	208-230/60/1	8.1	N/A	9.7	6-15P	X
CPF075DC-B	208-230/60/1	8.1	N/A	9.7	6-15P	X
CPF100DC-A	208-230/60/1	7.5	N/A	N/A	6-15P	X
CPF150DC-A	208-230/60/1	12.0	12.2	13.9	20	
CPF151DC-A	208-230/60/1	10.0	10.2	13.4	20	
CPF200DC-A	208-230/60/1	15.7	11.4	17.7	20	
CPB050DCO-A	115/60/1	12.0	N/A	15.3	20	
CPB075DCO-A	208-230/60/1	8.6	N/A	12.0	15	
CPB100DCO-A	208-230/60/1	8.2	N/A	11.2	20	
CFB150DCO-A	208-230/60/1	10.4	N/A	15.8	25	
CPF060DCO-A	208-230/60/1	7.4	7.2	11.4	15	
CPF075DCO-A	208-230/60/1	7.0	6.7	9.65	15	
CPF100DCO-A	208-230/60/1	8.6	8.8	10.3	15	
CPF150DCO-A	208-230/60/1	9.6	10.9	12.0	15	
CPF151DCO-A	208-230/60/1	11.7	8.45	13.95	20	
CPF200DCO-A	208-230/60/1	14.2	10.3	16.4	20	
<b>WALL MOUNT</b>						
CPB050DW	115/60/1	11.2	N/A	N/A	5-20P	X
CPB075DW	208/230-60-1	8.7	N/A	N/A	6-15P	X
CPF100DW	208-230/60/1	11.4	7.1	14.9	20	
CPF150DW	208-230/60/1	11.2	7.1	14.2	20	

# KOLD LOCKER™ WALK-INS

## REMOTE CAPSULE PAK™ REFRIGERATION SYSTEMS (ALL SYSTEMS USE R-449A REFRIGERANT)



These systems include ambient controls, weather-proof hoods, precharged systems with quick connects for simple field connections to precharged lines of your choice. Consult factory for application, pricing and ship date availability.

MODEL NUMBER	REFRIG. OPENING SIZE	CONDENSING UNIT				AWEF
		VOLTAGE	COND. AMPS	MIN. CIRCUIT AMPS	MAX FUSE SIZE	

### CEILING MOUNT 35°F COOLER SYSTEMS

RCPB075JC-A-EV	MEDIUM	208-230/60/1	5.24	7.18	15	3.62
RCPB100JC-A-EV	LARGE	208-230/60/1	7.1	9.8	15	5.01

### CEILING MOUNT -10°F FREEZER SYSTEMS

RCPF075JC-A-EV	MEDIUM	208-230/60/1	5.74	7.93	15	N/A
RCPF100JC-A-EV	LARGE	208-230/60/1	6.32	8.43	15	N/A
RCPF150JC-A-EV	LARGE	208-230/60/1	12.4	16.3	20	N/A

EVAPORATOR UNIT				
VOLTAGE	DEFROST AMPS	EVAP AMPS	MIN. CIRCUIT AMPS	MAX FUSE SIZE

230/60/1	N/A	1.1	1.3	15
230/60/1	N/A	1.0	1.3	15

230/60/1	6.7	2.2	6.7	15
230/60/1	8.8	1.2	8.8	15
230/60/1	10.7	1.1	10.7	15

### Optional Electric Condensate Vaporizer

Exclusive to Nor-Lake is the Electric Condensate Vaporizer for Remote Capsule Pak™ Systems. This UL and C-UL approved product requires no drain lines on indoor applications, which makes installation fast and easy and allows equipment to be operational in a shorter time frame.

