

TOWN OF NEWBURGH PLANNING BOARD TECHNICAL REVIEW COMMENTS

PROJECT NAME: NEWBURGH CHICKEN, LLC

PROJECT NO.: 23-17

PROJECT LOCATION: 197 SOUTH PLANK ROAD

SECTION 60, BLOCK 3, LOT 6.1

REVIEW DATE: 26 JULY 2023
MEETING DATE: 3 AUGUST 2023

PROJECT REPRESENTATIVE: DYNAMIC ENGINEERING

- 1. An Existing Conditions Plan should be provided for review by the Planning Board and the Zoning Board of Appeals.
- 2. The Bulk Table provided on the plan identifies the front yard setbacks from Route 52 and Route 300 frontage as being 50 feet. Section 185-18(4)(b) states "front yards abutting all County and State highways shall be at least 60 feet in depth". Bulk Table should be revised depicting the required 60 foot front yard setback at Route 52 and Route 300.
- 3. The Zoning Bulk Table identifies fast food restaurant in the ID Zone for reference. The site is located in the B Zone and should be compared to the IB Zone setbacks in the Bulk Table. Placement of the B Zone setbacks in the Bulk Table and providing comparative charts identifying existing and proposed could lead to a misinterpretation of the Zoning Bulk requirements for the property.
- 4. The Planning Board should discuss the need for a use variance for the relocation of the structure on the property. Previous determinations by the Zoning Board of Appeals identify that any changes to a site plan causes all pre-existing non conformities to lose their grandfathered protection.
- 5. Comments for Ken Wersted and NYSDOT would be important at this point in order to evaluate the full movement intersection proposed at NYS Route 52.
- 6. It is noted that the proposed structure will have to comply with Section 107-21 for provisions with fire protection sprinkler systems.
- 7. Adjoiner's Notices must be sent within 10 days of this meeting.
- 8. Note 15 on the site plan states "the applicant requests any and all submission waivers that are not specifically identified herein. Testimony will be supplied at the Public Hearing to support said submission waivers." It is unclear what waivers this note is referencing. This note should be removed from any plan sheets submitted.

- 9. The applicant should evaluate the Town's design guidelines. Parking in the front yard setback is not in compliance with the design guidelines.
- 10. Sidewalks should be evaluated along the property frontage within the NYDOT right-of-way.
- 11. Additional review will be undertaken upon receipt of detail design plans.

Respectfully submitted,

MHE Engineering, D.P.C.
Patal of Defense

Patrick J. Hines

Principal PJH/ltm

Newburgh Chicken, LLC 197 South Plank Road Section 60, Block 3, Lot 6.1

PROJECT NARRATIVE FOR THE PROPOSED POPEYES CHICKEN AT THE PROPERTY

Newburgh Chicken, LLC ("Newburgh Chicken") is the contract vendee of approximately 0.97 acres of certain real property located at 197 South Plank Road (NYS Route 52), situated within the Town of Newburgh ("Property"). The Property is currently owned by Louis J. Gallo and Jean F. Gallo, and is located on the south side of South Plank Road (NYS Route 52), at the intersection of Union Avenue and South Plank Road, in the Business (B) Zoning District. The Property abuts South Plank Road on the north side, Union Avenue on the east side, 203 South Plank Road on the west side, and 1437 Union Avenue on the south side. The adjacent property at 203 South Plank Road is currently used as a CVS Pharmacy with a drive thru pharmacy, and the property located at 1437 Union Avenue consists of a vacant building which is closed and not currently operational.

The Property is currently developed with an approximately 2,691 square-foot, one-story fast-food establishment (specifically, a Dairy Queen) with a drive-thru and 26 parking spaces. Newburgh Chicken seeks to develop the Property with an approximately 2,537 square-foot, one-story fast-food establishment (specifically, a Popeyes Chicken) with a drive-thru and 23 parking spaces. The existing fast-food establishment (Dairy Queen) and drive-thru has been located on the Property for several decades, and, as such, is a legal nonconforming use, as fast-food establishments are not permitted in the Business (B) Zoning District. It is for this reason that Newburgh Chicken seeks a special permit from the Zoning Board of Appeals pursuant to Town Code § 185-19.A(3).

The proposed Popeyes Chicken establishment is appropriate in the community, as a fast-food establishment has existed on the Property for several decades, albeit under a different corporate entity. Moreover, it is appropriate for the Property given its proximity to major corridors such as Interstates 84 and 87 and Route 52. Permitting Newburgh Chicken to develop a Popeyes Chicken on the Property will yield significant benefits to the Town of Newburgh by allowing the continued use of the Property as a fast-food establishment, as has been the case for several decades, and improving the safety of the Property, the traffic flow along South Plank Road, the appearance of the building, and the landscaping and functionality of the Property.



July 20, 2023

VIA EMAIL planningboard@townofnewburgh.org

Chairman John P. Ewasutyn and Members of the Planning Board Town of Newburgh 21 Hudson Valley Professional Plaza Newburgh, NY 12550

Re:

Newburgh Chicken, LLC - Proposed Popeyes Chicken

197 South Plank Road Parcel ID No. 60-3-6.1 Main Office
445 Hamilton Avenue
White Plains, NY 10601
Phone 914.946.4777
Fax 914.946.6868

Mid-Hudson Office 200 Westage Business Center Fishkill, NY 12524 Phone 845.896.0120

New York City Office 99 Madison Avenue New York, NY 10016 Phone 646.794.5747

NICHOLAS M. WARD-WILLIS Principal Member nward-willis@kblaw.com Also Admitted in CT

Dear Chairman Ewasutyn and Members of the Town of Newburgh Planning Board:

On behalf of Newburgh Chicken, LLC (the "Applicant"), Keane & Beane, P.C. is pleased to submit the enclosed materials for the proposed development of a Popeyes Chicken at property located at 197 South Plank Road (New York State Route 52), known and designated as Tax Parcel No. 60-3-6.1 and located in the Business (B) Zoning District (the "Property"). The Applicant is the contract vendee of the Property, which is currently owned by Louis J. Gallo and Jean F. Gallo. We request to be placed on the Planning Board's August 3rd Agenda for us to provide a conceptual overview of the project. A "gatekeeper" issue for this project is the need for a special permit from the ZBA to allow a non-conforming use to continue. We would appreciate the Planning Board considering this project at its August 3rd meeting, for referral to the ZBA.

I. Proposed Development

The Property is currently developed with an approximately 2,691 square-foot, one-story fast-food establishment (specifically, a Dairy Queen) with a drive-thru and 26 parking spaces. The existing fast-food establishment and drive-thru is a legal nonconforming use, as fast-food establishments are not permitted in the Business (B) Zoning District, and has been located on the Property for several decades. The Applicant seeks to develop the Property with an approximately 2,537 square-foot, one-story fast-food establishment (specifically, a Popeyes Chicken) with a drive-thru and 23 parking spaces. It is important to note that the proposed development will be in character with the neighborhood, where several other restaurants and fast-food establishments in the vicinity of the Property exist as standalone uses, such as the Taco Bell located at 1412 Union Avenue (Parcel ID No. 66-2-26), the Wendy's located across



Chairman John P. Ewasutyn and Members of the Town of Newburgh Planning Board July 20, 2023 Page 2

the street from the Taco Bell, at 1417 Union Avenue (Parcel ID No. 60-3-38), and the Perkins Restaurant & Bakery located next door to the Wendy's, at 1421 Union Avenue (Parcel ID No. 60-3-54).¹

II. Special Permit Approval from the Zoning Board of Appeals

As discussed on our phone call with the Planning Board Chair, our objective at this moment is to appear before the Zoning Board of Appeals for a special permit pursuant to Town Code § 185-19.A(3), which provides as follows:

A nonconforming use shall not be changed to another nonconforming use without a special permit from the Board of Appeals, and then only to a use which, in the opinion of said Board, is of the same or a more restricted nature.

The proposed use as a fast-food establishment is not permitted in the Business (B) Zoning District. Thus, the Applicant would need—as a threshold matter—a special permit from the Zoning Board of Appeals. However, after consulting with the secretary for the Zoning Board of Appeals, we were advised that we would need a referral from the Planning Board prior to being heard by the Zoning Board of Appeals. Accordingly, we are respectfully requesting such a referral from the Planning Board, with the understanding that we would return to the Planning Board in the future with detailed plans for Site Plan Approval, provided that the Zoning Board would issue a special permit to continue the fast-food use on the Property.

III. Submission Materials

As discussed on our call and in support of our request to the Planning Board, we have enclosed the following documents for the Board's review:

- (1) Project Narrative for the Proposed Popeyes Chicken at the Property
- (2) Conceptual Site Plan prepared by Dynamic Engineering Consultants, P.C., dated 11/16/2022
- (3) Five (5) renderings of the proposed Popeyes Chicken at the Property

¹ All of these restaurants and fast-food establishments are located in the Interchange Business (IB) Zoning District, but are nevertheless in very close proximity to the Property. thi



Chairman John P. Ewasutyn and Members of the Town of Newburgh Planning Board July 20, 2023 Page 3

IV. Conclusion

Based on the foregoing, the Applicant respectfully requests to be placed on the Planning Board's August 3, 2023 meeting agenda to review the enclosed materials and to request that the Planning Board refers the application to the Zoning Board of Appeals for a determination on a special permit pursuant to Town Code § 185-19.A(3).

We look forward to meeting with the Planning Board at its regular meeting on August 3, 2023. We further look forward to working with the Town to develop the Property in a way that will yield significant benefits to the community by allowing the continued use of the Property as a fast-food establishment, as has been the case for several decades, and by improving the safety of the Property, the traffic flow along South Plank Road, the appearance of the building, and the landscaping and functionality of the Property.

Thank you for your consideration.

Very truly yours,

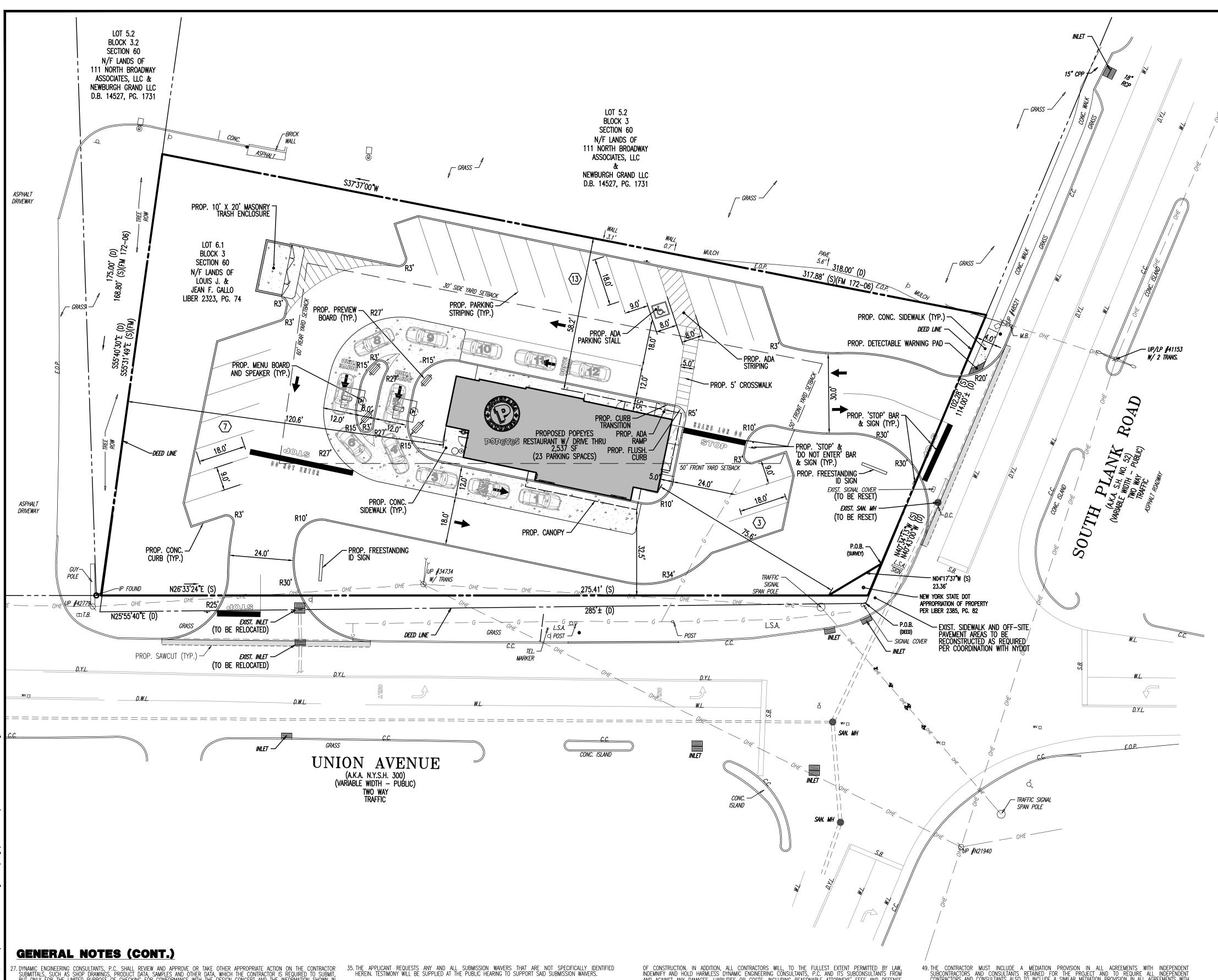
Nicholas M. Ward-Willis

Enclosures

cc: Gerald Canfield

Dominic Cordisco, Esq.

Patrick Hines, PE



DYNAMIC ENGINEERING CONSULTANTS, P.C. SHALL REVIEW AND APPROVE OR TAKE OTHER APPROPRIATE ACTION ON THE CONTRACTOR SUBMITTALS, SUCH AS SHOP DRAWINGS, PRODUCT DATA, SAMPLES AND OTHER DATA, WHICH THE CONTRACTOR IS REQUIRED TO SUBMIT, BUT ONLY FOR THE LIMITED PURPOSE OF CHECKING FOR CONFORMANCE WITH THE DESIGN CONCEPT AND THE INFORMATION SHOWN IN THE CONSTRUCTION MEANS OR METHODS, COORDINATION OF THE WORK WITH OTHER TRADES OR CONSTRUCTION SAFETY PRECAUTIONS, ALL OF WHICH ARE THE SOLE RESPONSIBILITY OF THE CONTRACTOR DYNAMIC ENGINEERING'S CONSTRUCTION SAFETY FREADUIONS, ALL OF WHICH ARE THE SOLE RESPONSIBILITY OF THE CONTRACTOR DYNAMIC ENGINEERING SEVIEW SHALL BE CONDUCTED WITH REASONABLE PROMPTNESS WHILE ALLOWING SUFFICIENT TIME TO PERMIT ADEQUATE REVIEW. REVIEW OF A SPECIFIC ITEM SHALL NOT INDICATE THAT DYNAMIC ENGINEERING CONSULTANTS, P.C. HAS REVIEWED THE ENTIRE ASSEMBLY OF WHICH THE ITEM IS A COMPONENT. DYNAMIC ENGINEERING CONSULTANTS, P.C. SHALL NOT BE RESPONSIBLE FOR ANY DEVIATIONS FROM THE CONSTRUCTION DOCUMENTS NOT BROUGHT TO THE ATTENTION OF DYNAMIC ENGINEERING CONSULTANTS, P.C. IN WRITING BY THE CONTRACTOR. DYNAMIC ENGINEERING CONSULTANTS, P.C. SHALL NOT BE REQUIRED TO REVIEW PARTIAL SUBMISSIONS OR THOSE FOR WHICH SUBMISSIONS OF CORRELATED ITEMS HAVE NOT BEEN RECEIVED. 28. IN AN EFFORT TO RESOLVE ANY CONFLICTS THAT ARISE DURING THE DESIGN AND CONSTRUCTION OF THE PROJECT OR FOLLOWING THE COMPLETION OF THE PROJECT, DYNAMIC ENGINEERING CONSULTANTS, P.C. AND THE CONTRACTOR MUST AGREE THAT ALL DISPUTES BETWEEN THEM ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE PROJECT SHALL BE SUBMITTED TO NONBINDING MEDIATION UNLESS THE PARTIES MUTUALLY AGREE OTHERWISE.

9. THE CONTRACTOR MUST INCLUDE A MEDIATION PROVISION IN ALL AGREEMENTS WITH INDEPENDENT SUBCONTRACTORS AND CONSULTANTS RETAINED FOR THE PROJECT AND TO REQUIRE ALL INDEPENDENT CONTRACTORS AND CONSULTANTS ALSO TO INCLUDE A SIMILAR MEDIATION PROVISION IN ALL AGREEMENTS WITH THEIR SUBCONTRACTORS, SUBCONSULTANTS, SUPPLIERS AND FABRICATORS, THEREBY PROVIDING FOR MEDIATION AS THE PRIMARY METHOD FOR DISPUTE RESOLUTION BETWEEN THE PARTIES TO ALL THOSE AGREEMENTS.

50. IF THE CONTRACTOR DEVIATES FROM THE PLANS AND SPECIFICATIONS, INCLUDING THE NOTES CONTAINED THEREON, WITHOUT FIRST OBTAINING PRIOR WRITTEN AUTHORIZATION FOR SUCH DEVIATIONS FROM THE OWNER AND ENGINEER, IT SHALL BE RESPONSIBLE FOR THE PAYMENT OF ALL COSTS TO CORRECT ANY WORK DONE, ALL FINES OR PENALTIES ASSESSED WITH RESPECT THERETO AND ALL COMPENSATORY OR PUNITIVE DAMAGES RESULTING THEREFROM AND IT SHALL INDEMNIFY AND HOLD THE OWNER AND ENGINEER HARMLESS FROM ALL SUCH COSTS TO CONNECT ANY SUCH WORK AND FROM ALL SUCH FINES AND PENALTIES, COMPENSATION AND PUNITIVE DAMAGES AND COSTS OF ANY NATURE RESULTING THEREFROM. L TRAFFIC SIGNS AND STRIPING SHALL FOLLOW THE REQUIREMENTS SPECIFIED IN THE MANUAL ON "UNIFORM TRAFFIC CONTROL

DEVICES FOR STREETS AND HIGHWAYS" PUBLISHED BY THE FEDERAL HIGHWAY ADMINISTRATION. 2. THE BUILDING SETBACK DIMENSIONS ILLUSTRATED AND LISTED ON THE SITE PLAN DRAWINGS ARE MEASURED FROM THE OUTSIDE SURFACE OF BUILDING WALLS. THESE SETBACK DIMENSIONS DO NOT ACCOUNT FOR ROOF OVERHANGS, ORNAMENTAL ELEMENTS, SIGNAGE OR OTHER EXTERIOR EXTENSIONS UNLESS SPECIFICALLY NOTED.

3. CONTRACTOR ACKNOWLEDGES HE HAS READ AND UNDERSTOOD THE DESIGN PHASE SOIL PERMEABILITY AND GROUNDWATER TEST RESULTS IN THE STORMWATER MANAGEMENT REPORT AND THAT THE CONTRACTORS RESPONSIBILITIES INCLUDE NECESSARY PROVISIONS TO ACHIEVE THE DESIGN PERMEABILITY IN THE FIELD. 34. CONTRACTOR TO BE ADVISED THAT THE ENGINEER WAS NOT PROVIDED WITH FINAL FLOOR PLAN DRAWINGS FOR THE BUILDING AT THE TIME OF SITE PLAN DESIGN. AS A RESULT, ENTRANCE DOOR LOCATIONS AS DEPICTED HEREON MAY NOT BE FINAL AND MUST BE CONFIRMED WITH THE ARCHITECTURAL PLANS PRIOR TO CONSTRUCTION. THE HANDICAP ACCESSIBLE PARKING SPACES AND THE ASSOCIATED RAMPS AND ACCESSIBLE ROUTE MUST COMPLY WITH NJAC 5:23—7 AND THE HANDICAP PARKING SPACES MUST BE LOCATED AS THE NEAREST SPACES TO THE ENTRANCE. CONTRACTOR TO NOTIFY OWNER AND ENGINEER IMMEDIATELY OF ANY DISCREPANCY PRIOR TO CONSTRUCTION.

- 6. PRIOR TO STARTING CONSTRUCTION, THE CONTRACTOR SHALL BE RESPONSIBLE TO MAKE SURE THAT ALL REQUIRED PERMITS AND APPROVALS HAVE BEEN OBTAINED. NO CONSTRUCTION OR FABRICATION SHALL BEGIN UNTILL THE CONTRACTOR HAS RECEIVED AND THOROUGHLY REVIEWED ALL PLANS AND OTHER DOCUMENTS BY
- ALL OF THE PERMITTING AUTHORITIES. i7. ALL WORK SHALL BE PERFORMED IN ACCORDANCE WITH THESE PLANS AND SPECIFICATIONS AND THE REQUIREMENTS AND STANDARDS OF THE LOCAL GOVERNING AUTHORITY.
- B. THE SOILS REPORT AND RECOMMENDATIONS SET FORTH THEREIN ARE A PART OF THE REQUIRED CONSTRUCTION DOCUMENTS AND IN CASE OF CONFLICT SHALL TAKE PRECEDENCE UNLESS SPECIFICALLY NOTED OTHERWISE ON THE PLANS. THE CONTRACTOR SHALL NOTIFY THE ENGINEER CONSTRUCTION MANAGER OF ANY DISCREPANCY 39. SITE CLEARING SHALL INCLUDE THE LOCATION AND REMOVAL OF ALL UNDERGROUND TANKS, PIPES, VALVES,

40. THE PROPERTY SURVEY SHALL BE CONSIDERED A PART OF THESE PLANS.

- I. ALL DIMENSIONS SHOWN ON THE PLANS SHALL BE FIELD VERIFIED BY THE CONTRACTOR PRIOR TO CONSTRUCTION. CONTRACTOR SHALL NOTIFY ENCINEER IF ANY DISCREPANCIES EXIST PRIOR TO PROCEEDING WITH CONSTRUCTION FOR NECESSARY PLAN CHANGES. NO EXTRA COMPENSATION SHALL BE PAID TO THE CONTRACTOR FOR WORK HAVING TO BE REDONE DUE TO DIMENSIONS OR GRADES SHOWN INCORRECTLY ON THESE PLANS IF SUCH NOTIFICATION HAS NOT BEEN GIVEN. 42. SOLID WASTE TO BE DISPOSED OF BY CONTRACTOR IN ACCORDANCE WITH ALL LOCAL, STATE AND FEDERAL REGULATIONS.
- 43. ALL EXCAVATED UNSUITABLE MATERIAL MUST BE TRANSPORTED TO AN APPROVED DISPOSAL LOCATION. 44. CONTRACTOR IS RESPONSIBLE FOR ALL SHORING REQUIRED DURING EXCAVATION AND SHALL BE PERFORMED IN ACCORDANCE WITH CURRENT OSHA STANDARDS, AS WELL AS ADDITIONAL PROVISIONS TO ASSURE STABILITY OF CONTIGUOUS STRUCTURES, AS FIELD CONDITIONS DICTATE.
- 45. ALL CONTRACTORS MUST CARRY STATUTORY WORKERS COMPENSATION. EMPLOYERS LIABILITY INSURANCE AND APPROPRIATE LIMITS OF COMMERCIAL GENERAL LIABILITY INSURANCE (CGL). ALL CONTRACTORS MUST HAVE THEIR CGL POLICIES ENDORSED TO NAME DYNAMIC ENGINEERING CONSULTANTS, P.C., ITS SUBCONSULTANTS AS ADDITIONAL INSURED AND TO PROVIDE CONTRACTUAL LIABILITY COVERAGE SUFFICIENT TO INSURE THE HOLD HARMLESS AND INDEMNITY OBLIGATIONS ASSUMED BY THE CONTRACTORS. ALL CONTRACTORS MUST FURNISH DYNAMIC ENGINEERING CONSULTANTS, P.C. WITH CERTIFICATES OF INSURANCE AS EVIDENCE OF THE REQUIRED INSURANCE PRIOR TO COMMENCING WORK AND UPON RENEWAL OF EACH POLICY DURING THE ENTIRE PERIOD

OF CONSTRUCTION. IN ADDITION, ALL CONTRACTORS WILL, TO THE FULLEST EXTENT PERMITTED BY LAW, INDEMNIFY AND HOLD HARMLESS DYNAMIC ENGINEERING CONSULTANTS, P.C. AND ITS SUBCONSULTANTS FROM AND AGAINST ANY DAMAGES, LIABILITIES OR COSTS, INCLUDING REASONABLE ATTORNEYS' FEES AND DEFENSE COSTS, ARISING OUT OF OR IN ANY WAY CONNECTED WITH THE PROJECT, INCLUDING ALL CLAIMS BY EMPLOYEES OF THE CONTRACTORS.

- 46. NEITHER THE PROFESSIONAL ACTIVITIES OF DYNAMIC ENGINEERING CONSULTANTS, P.C., NOR THE PRESENCE OF DYNAMIC ENGINEERING CONSULTANTS, P.C. OR ITS EMPLOYEES AND SUBCONSULTANTS AT A CONSTRUCTION/PROJECT SITE, SHALL RELIEVE THE GENERAL CONTRACTOR OF ITS OBLIGATIONS, DUTIES AND RESPONSIBILITIES INCLUDING, BUT NOT LIMITED TO, CONSTRUCTION MEANS, METHODS, SEQUENCE, TECHNIQUES OR PROCEDURES NECESSARY FOR PERFORMING, SUPERINTENDING AND COORDINATING THE WORK IN ACCORDANCE WITH THE CONTRACT DOCUMENTS AND ANY HEALTH OR SAFETY PRECAUTIONS REQUIRED BY ANY REGULATORY AGENCIES. DYNAMIC ENGINEERING CONSULTANTS, P.C. AND ITS PERSONNEL HAVE NO AUTHORITY TO EXERCISE ANY CONTROL OVER ANY CONSTRUCTION CONTRACTOR OR ITS EMPLOYEES IN CONNECTION WITH THEIR WORK OR ANY HEALTH OR SAFETY PROGRAMS OR PROCEDURES. THE GENERAL CONTRACTOR SHALL BE SOLELY RESPONSIBLE FOR JOBSITE SAFETY. DYNAMIC ENGINEERING CONSULTANTS, P.C. SHALL BE INDEMNIFIED BY THE GENERAL CONTRACTOR AND SHALL BE MADE ADDITIONAL INSLIED UNDER THE GENERAL CONTRACTOR'S BY THE GENERAL CONTRACTOR AND SHALL BE MADE ADDITIONAL INSURED UNDER THE GENERAL CONTRACTOR'S POLICIES OF GENERAL LIABILITY INSURANCE.
- 47. DYNAMIC ENGINEERING CONSULTANTS, P.C. SHALL REVIEW AND APPROVE OR TAKE OTHER APPROPRIATE ACTION ON THE CONTRACTOR SUBMITTALS, SUCH AS SHOP DRAWINGS, PRODUCT DATA, SAMPLES AND OTHER DATA, WHICH THE CONTRACTOR IS REQUIRED TO SUBMIT, BUT ONLY FOR THE LIMITED PURPOSE OF CHECKING FOR CONFORMANCE WITH THE DESIGN CONCEPT AND THE INFORMATION SHOWN IN THE CONSTRUCTION MEANS OR METHODS, COORDINATION OF THE WORK WITH OTHER TRADES OR CONSTRUCTION SAFETY PRECAUTIONS, ALL OF WHICH ARE THE SOLE RESPONSIBILITY OF THE CONTRACTOR. DYNAMIC ENGINEERING'S REVIEW SHALL BE CONDUCTED WITH REASONABLE PROMPTNESS WHILE ALLOWING SUFFICIENT TIME TO PERMIT ADEQUATE REVIEW. REVIEW OF A SPECIFIC ITEM SHALL NOT INDICATE THAT DYNAMIC ENGINEERING CONSULTANTS, P.C. HAS REVIEWED THE ENTIRE ASSEMBLY OF WHICH THE ITEM IS A COMPONENT. DYNAMIC ENGINEERING CONSULTANTS, P.C. SHALL NOT BE RESPONSIBLE FOR ANY DEVIATIONS FROM THE CONSTRUCTION DOCUMENTS NOT BROUGHT TO THE ATTENTION OF DYNAMIC ENGINEERING CONSULTANTS, P.C. IN WRITING BY THE CONTRACTOR. DYNAMIC ENGINEERING CONSULTANTS, P.C. IN WRITING BY THE CONTRACTOR. DYNAMIC ENGINEERING CONSULTANTS, P.C. IN WRITING BY THE CONTRACTOR. DYNAMIC ENGINEERING CONSULTANTS, P.C. IN WRITING BY THE CONTRACTOR. DYNAMIC ENGINEERING CONSULTANTS, P.C. SHALL NOT BE REQUIRED TO REVIEW PARTIAL SUBMISSIONS OR THOSE FOR WHICH SUBMISSIONS OF CORRELATED ITEMS HAVE NOT BEEN RECEIVED.
- 48. IN AN EFFORT TO RESOLVE ANY CONFLICTS THAT ARISE DURING THE DESIGN AND CONSTRUCTION OF THE PROJECT OR FOLLOWING THE COMPLETION OF THE PROJECT, DYNAMIC ENGINEERING CONSULTANTS, P.C. AND THE CONTRACTOR MUST AGREE THAT ALL DISPUTES BETWEEN THEM ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE PROJECT SHALL BE SUBMITTED TO NONBINDING MEDIATION UNLESS THE PARTIES MUTUALLY APPER OTHERWISE

49. THE CONTRACTOR MUST INCLUDE A MEDIATION PROVISION IN ALL AGREEMENTS WITH INDEPENDENT SUBCONTRACTORS AND CONSULTANTS RETAINED FOR THE PROJECT AND TO REQUIRE ALL INDEPENDENT CONTRACTORS AND CONSULTANTS ALSO TO INCLUDE A SIMILAR MEDIATION PROVISION IN ALL AGREEMENTS WITH THEIR SUBCONTRACTORS, SUBCONSULTANTS, SUPPLIERS AND FABRICATORS, THEREBY PROVIDING FOR MEDIATION AS THE PRIMARY METHOD FOR DISPUTE RESOLUTION BETWEEN THE PARTIES TO ALL THOSE AGREEMENTS.

- 50. IF THE CONTRACTOR DEVIATES FROM THE PLANS AND SPECIFICATIONS, INCLUDING THE NOTES CONTAINED THEREON, WITHOUT FIRST OBTAINING PRIOR WRITTEN AUTHORIZATION FOR SUCH DEVIATIONS FROM THE OWNER AND ENGINEER, IT SHALL BE RESPONSIBLE FOR THE PAYMENT OF ALL COSTS TO CORRECT ANY WORK DONE, ALL FINES OR PENALTIES ASSESSED WITH RESPECT THERETO AND ALL COMPENSATORY OR PUNITIVE DAMAGES RESULTING THEREFROM AND IT SHALL INDEMNIFY AND HOLD THE OWNER AND ENGINEER HARMLESS FROM ALL SUCH COSTS TO CONNECT ANY SUCH WORK AND FROM ALL SUCH FINES AND PENALTIES, COMPENSATION AND BUNDANCES AND COSTS OF ANY MATURE PERMITTER DAMAGES AND COSTS OF ANY MATURE PERMITTER PROJECTS OF ANY MATURE PERMITTER PROJECTS OF ANY MATURE PERMITTER PROJECTS OF ANY MATURE PERMITTERS. PUNITIVE DAMAGES AND COSTS OF ANY NATURE RESULTING THEREFROM.
- 51. ALL TRAFFIC SIGNS AND STRIPING SHALL FOLLOW THE REQUIREMENTS SPECIFIED IN THE MANUAL ON "UNIFORM TRAFFIC CONTROL DEVICES FOR STREETS AND HIGHWAYS" PUBLISHED BY THE FEDERAL HIGHWAY
- 2. THE BUILDING SETBACK DIMENSIONS ILLUSTRATED AND LISTED ON THE SITE PLAN DRAWINGS ARE MEASURED FROM THE OUTSIDE SURFACE OF BUILDING WALLS. THESE SETBACK DIMENSIONS DO NOT ACCOUNT FOR ROOF OVERHANGS, ORNAMENTAL ELEMENTS, SIGNAGE OR OTHER EXTERIOR EXTENSIONS UNLESS SPECIFICALLY NOTED. 53. CONTRACTOR ACKNOWLEDGES HE HAS READ AND UNDERSTOOD THE DESIGN PHASE SOIL PERMEABILITY AND GROUNDWATER TEST RESULTS IN THE STORMWATER MANAGEMENT REPORT AND THAT THE CONTRACTORS RESPONSIBILITIES INCLUDE NECESSARY PROVISIONS TO ACHIEVE THE DESIGN PERMEABILITY IN THE FIELD. 54. CONTRACTOR TO BE ADVISED THAT THE ENGINEER WAS NOT PROVIDED WITH FINAL FLOOR PLAN DRAWINGS FOR THE BUILDING AT THE TIME OF SITE PLAN DESIGN. AS A RESULT, ENTRANCE DOOR LOCATIONS AS DEPICTED HEREON MAY NOT BE FINAL AND MUST BE CONFIRMED WITH THE ARCHITECTURAL PLANS PRIOR TO CONSTRUCTION. THE HANDICAP ACCESSIBLE PARKING SPACES AND THE ASSOCIATED RAMPS AND ACCESSIBLE ROUTE MUST COMPLY WITH NJAC 5:23-7 AND THE HANDICAP PARKING SPACES MUST BE LOCATED AS THE NEAREST SPACES TO THE ENTRANCE. CONTRACTOR TO NOTIFY OWNER AND ENGINEER IMMEDIATELY OF ANY DISCREPANCY PRIOR TO CONSTRUCTION.

GENERAL NOTES

1. THIS PLAN HAS BEEN PREPARED BASED ON REFERENCES INCLUDING:

NORTH BRUNSWICK, NJ 08902

APPLICANT: LOUIS J GALLO & JEAN F GALLO

PARCEL 60-3-6.1 197 SOUTH PLANK ROAD TOWN OF NEWBURGH PARCEL DATA:

6. EXISTING USE: FAST-FOOD RESTAURANT (NON-PERMITTED USE) (§ 185-10, ATTACHMENT 11 7. PROPOSED USE: FAST-FOOD RESTAURANT (NON-PERMITTED USE) (§ 185-10, ATTACHMENT 11

8. SCHEDULE OF ZONING REQUIREMENTS (§ 185-11, ATTACHMENT 13)

ZONE B (BUSINESS ZONE)

	ZONE REQUIREMENT	FAST FOOD RESTAURAUNT — IB ZONE (FOR REFERENCE)	EXISTING	PROPOSED
	MINIMUM LOT AREA	40,000 SF	42,212 SF (.97 AC)	42,212 SF (.97 AC)
	MINIMUM LOT WIDTH	150 SF	125.5 FT (E)	125.5 FT (E)
	MINIMUM LOT DEPTH	150 SF	297.0 FT	297.0 FT
	MINIMUM FRONT YARD SETBACK (SOUTH PLANK ROAD)	50 FT	13.9 FT (E)	75.6 FT
	MINIMUM FRONT YARD SETBACK (UNION AVENUE)	50 FT	25.3 FT (E)	32.5 FT (V)
	MINIMUM REAR YARD SETBACK	60 FT	79.4 FT	120.6 FT
	MINIMUM SIDE YARD SETBACK	30 FT	6.6 FT (E)	58.2 FT
	MAXIMUM BUILDING HEIGHT	40 FT	≤40 FT	≤40 FT
	MAXIMUM LOT SURFACE COVERAGE	80%	49.4% (20,837 SF)	61.3% (25,884 SF)
	MAXIMUM BUILDING COVERAGE	40%	6.4% (2.691 SF)	6.0% (2.537 SE)

N/S: NO STANDARD N/A: NOT APPLICABLE (E): EXISTING NON-CONFORMANCE (V): VARIANCE

- A. THE MINIMUM PARKING SPACE WIDTH SHALL BE NINE (9) FEET, AND THE MINIMUM LENGTH SHALL BE EIGHTEEN (18) FEET. EACH SPACE SHALL BE DELINEATED ON THE SURFACE OF THE PARKING AREA BY TWO (2) PAINTED LINES PARALLEL TO THE LONGEST DIMENSION OF THE SPACE, EACH OF WHICH LINES SHALL BE FOUR (4) INCHES IN WIDTH AND BEGINNING EIGHT (8) INCHES AND ENDING TWELVE (12) INCHES INSIDE BOTH DIVIDING LINES OF THE SPACE. (§ 185-13D.(5)) (COMPLIES)
- B. OFF-STREET PARKING SPACE REQUIREMENTS FOR NONRESIDENTIAL USES SUCH AS RESTAURAUNT, CLUB, EATING OR DRINKING PLACE, INCLUDING FAST-FOOD AND DRIVE-THROUGH FACILITIES SHALL BE ONE (1) SPACE PER FOUR (4) SEATS, OR PER FORTY (40) SQUARE FEET OF SEATING AREA OR AS REQUIRED BY THE PLANNING BOARD FOR RESTAURANTS DEMONSTRATING GREATER PARKING SPACE NEEDS IN THE JUDGEMENT OF THE PLANNING BOARD. (§

(24 SEATS)*(1 PARKING SPACE/4 SEATS) = 6 SPACES REQUIRED 23 SPACES PROVIDED (COMPLIES)

A. FOR A BUILDING WITH A FLOOR AREA OF LESS THAN TWENTY-FIVE THOUSAND (25,000) SQUARE FEET, ONE (1) OFF-STREET TRUCK LOADING SPACE SHALL BE PROVIDED. (§ 185-13B.(6)) (VARIANCE - DEDICATED LOADING ZONE

 DRIVEWAY REQUIREMENTS A. UNOBSTRUCTED ACCESS TO AND FROM A STREET SHALL BE PROVIDED. SUCH ACCESS SHALL CONSIST OF AT LEAST TWO (2) LANES OF TEN (10) FOOT WIDTH APIECE. (§ 185-13D.(6)(a) (COMPLIES)

B. NO ENTRANCE OR EXIT FOR AN ACCESSORY OFF-STREET PARKING AREA WITH OVER TEN (10) PARKING SPACES OR ANY LOADING BERTH SHALL BE LOCATED WITHIN ONE-HUNDRED AND FIFTY (150) FEET OF A STREET INTERSECTION. (§ 185-13D.(6)(b) (VARIANCE - DRIVEWAY LOCATED WITHIN 150' OF INTERSECTION) C. DRIVEWAYS SHALL BE DESIGNED WITH A GRADE NO MORE THAN ONE (1) INCH PER FOOT FROM EDGE OF PAVEMENT OR BACK OF CURB TO THE RIGHT—OF—WAY LINE. THE MINIMUM WIDTH OF THE DRIVEWAY PAVEMENT AT THE ROAD PAVEMENT LINE OR AT THE CURBLINE SHALL BE FIFTEEN (15) FEET, TAPERING TO A MINIMUM OF TEN (10) FEET AT THE RIGHT—OF—WAY LINE. (§ 161—34A.) (COMPLIES)

L. SIDEWALKS SHALL BE LOCATED SUCH THAT THE OUTSIDE OF THE SIDEWALK IS TWO (2) FEET FROM THE INSIDE OF THE RIGHT-OF-WAY LINE. (§ 161-35A.) (COMPLIES)

A. CURBS ARE TO BE SIX (6) INCHES WIDE AT THE TOP AND EIGHT (8) INCHES WIDE AT THE BOTTOM, WITH A TOTAL HEIGHT OF TWENTY (20) INCHES. THE FACE OF THE CURB SHALL BE EXPOSED SIX (6) INCHES AT THE EDGE OF THE PAVED ROADWAY. (§ 161-39L.(1)) (COMPLIES)

14. FAST-FOOD, DRIVE-THRU AND DRIVE-UP ESTABLISHMENT REQUIREMENTS A. ALL DRIVE-THRU AISLES SHALL EXIT INTO A PARKING AREA OR ONTO A SIDE STREET AND NOT DIRECTLY ONTO ROUTES 9W, 17K, 32, 52 OR 300. (§ 185-42A.(1)) (COMPLIES) B. PARKING SHALL BE ADEQUATE FOR THE TYPE OF FACILITY PROPOSED, WITH THREE (3) ADDITIONAL SHORT-TERM SPACES DEVOTED SPECIFICALLY FOR PICK-UP OR ORDER DELAYS FOR EACH DRIVE-UP, DRIVE-THRU, WALK-UP OR PICK-UP WINDOW OR AREA INSIDE OR OUTSIDE OF THE BUILDING. (§ 185-42A.(3)) (COMPLIES)

C. PUBLIC ROADS AND INTERNAL DRIVE AISLES SHALL NOT BE BLOCKED BY WAITING DRIVE—THRU TRAFFIC. (§ 185–42A.(4)) (COMPLIES)

D. PARKING AREAS AND CIRCULATION DRIVES SHALL BE ADEQUATELY SEPARATED SO AS TO AVOID CONFLICT BETWEEN PARKING CARS AND WAITING DRIVE-THRU TRAFFIC. (§ 185-42A.(5)) (COMPLIES) . ADEQUATE STACKING SPACE WILL BE PROVIDED FOR WAITING DRIVE—THRU VEHICLES SUCH THAT THESE VEHICLES DO NOT INTERFERE WITH SITE VEHICULAR OR PEDESTRIAN CIRCULATION. (§ 185–42A.(6)) (COMPLIES)

PROVISION OF SUFFICIENT SECURITY TO PREVENT THE USE OF THE PREMISES AS A LOITERING PLACE DURING HOURS OF OPERATION. (§ 185-42B.(1)) (COMPLIES) PROVISION OF ADEQUATE FACILITIES AND PERSONNEL FOR DISPOSAL OF TRASH AND OTHER DEBRIS. (§ 185-42B.(2)) (COMPLIES)

iii. PROVISION FOR CONTINUING MAINTENANCE OF THE EXTERIOR OF THE BUILDING AND THE GROUNDS, INCLUDING LANDSCAPING, SIGNS AND POLICING OF LITTER. (§ 185-42B.(3)) (COMPLIES)

15. THE APPLICANT REQUESTS ANY AND ALL SUBMISSION WAIVERS THAT ARE NOT SPECIFICALLY IDENTIFIED HEREIN. TESTIMONY WILL BE SUPPLIED AT THE PUBLIC HEARING TO SUPPORT SAID SUBMISSION WAIVERS. 16. PRIOR TO STARTING CONSTRUCTION, THE CONTRACTOR SHALL BE RESPONSIBLE TO MAKE SURE THAT ALL REQUIRED PERMITS AND APPROVALS HAVE BEEN OBTAINED. NO CONSTRUCTION OR FABRICATION SHALL BEGIN UNTIL THE CONTRACTOR HAS RECEIVED AND THOROUGHLY REVIEWED ALL PLANS AND OTHER DOCUMENTS BY ALL OF THE PERMITTING AUTHORITIES.

17. ALL WORK SHALL BE PERFORMED IN ACCORDANCE WITH THESE PLANS AND SPECIFICATIONS AND THE REQUIREMENTS AND STANDARDS OF THE LOCAL GOVERNING AUTHORITY.

18. THE SOILS REPORT AND RECOMMENDATIONS SET FORTH THEREIN ARE A PART OF THE REQUIRED CONSTRUCTION DOCUMENTS AND IN CASE OF CONFLICT SHALL TAKE PRECEDENCE UNLESS SPECIFICALLY NOTED OTHERWISE ON THE PLANS. THE CONTRACTOR SHALL NOTIFY THE ENGINEER CONSTRUCTION MANAGER OF ANY DISCREPANCY BETWEEN SUILS REPORT & PLANS 19. SITE CLEARING SHALL INCLUDE THE LOCATION AND REMOVAL OF ALL UNDERGROUND TANKS, PIPES, VALVES, ETC.

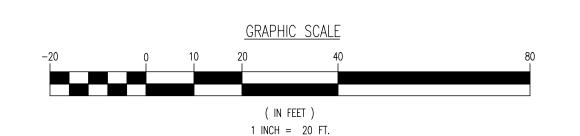
20. THE PROPERTY SURVEY SHALL BE CONSIDERED A PART OF THESE PLANS. 21. ALL DIMENSIONS SHOWN ON THE PLANS SHALL BE FIELD VERIFIED BY THE CONTRACTOR PRIOR TO CONSTRUCTION. CONTRACTOR SHALL NOTIFY ENGINEER IF ANY DISCREPANCIES EXIST PRIOR TO PROCEEDING WITH CONSTRUCTION FOR NECESSARY PLAN CHANGES. NO EXTRA COMPENSATION SHALL BE PAID TO THE CONTRACTOR FOR WORK HAVING TO BE REDONE DUE TO DIMENSIONS OR GRADES SHOWN INCORRECTLY ON THESE PLANS IF SUCH NOTIFICATION HAS NOT BEEN GIVEN.

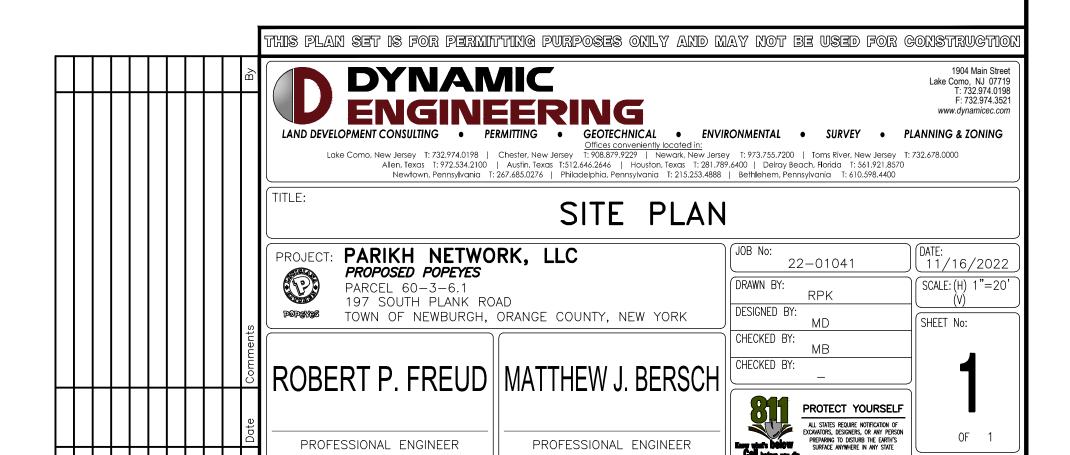
22. SOLID WASTE TO BE DISPOSED OF BY CONTRACTOR IN ACCORDANCE WITH ALL LOCAL, STATE AND FEDERAL REGULATIONS. 23. ALL EXCAVATED UNSUITABLE MATERIAL MUST BE TRANSPORTED TO AN APPROVED DISPOSAL LOCATION.

24. CONTRACTOR IS RESPONSIBLE FOR ALL SHORING REQUIRED DURING EXCAVATION AND SHALL BE PERFORMED IN ACCORDANCE WITH CURRENT OSHA STANDARDS, AS WELL AS ADDITIONAL PROVISIONS TO ASSURE STABILITY OF CONTIGUOUS STRUCTURES, AS FIELD CONDITIONS DICTATE.

25. ALL CONTRACTORS MUST CARRY STATUTORY WORKERS COMPENSATION, EMPLOYERS LIABILITY INSURANCE AND APPROPRIATE LIMITS OF COMMERCIAL GENERAL LIABILITY INSURANCE (CGL). ALL CONTRACTORS MUST HAVE THEIR CGL POLICIES ENDORSED TO NAME DYNAMIC ENGINEERING CONSULTANTS, P.C., ITS SUBCONSULTANTS AS ADDITIONAL INSURED AND TO PROVIDE CONTRACTUAL LIABILITY COVERAGE SUFFICIENT TO INSURE THE HOLD HARMLESS AND INDEMNITY OBLIGATIONS ASSUMED BY THE CONTRACTORS. ALL CONTRACTORS MUST FURNISH DYNAMIC ENGINEERING CONSULTANTS, P.C. WITH CERTIFICATES OF INSURANCE AS EVIDENCE OF THE REQUIRED INSURANCE PRIOR TO COMMENCING WORK AND UPON RENEWAL OF EACH POLICY DURING THE ENTIRE PERIOD OF CONSTRUCTION. IN ADDITION, ALL CONTRACTORS WILL, TO THE FULLEST EXTENT PERMITTED BY LAW, INDEMNIFY AND HOLD HARMLESS DYNAMIC ENGINEERING CONSULTANTS, P.C. AND ITS SUBCONSULTANTS FROM AND AGAINST ANY DAMAGES, LIABILITIES OR COSTS, INCLUDING REASONABLE ATTORNEYS' FEES AND DEFENSE COSTS. ARISING OUT OF OR IN ANY WAY CONNECTED WITH THE PROJECT. INCLUDING ALL CLAIMS BY EMPLOYEES OF THE CONTRACTORS

26. NEITHER THE PROFESSIONAL ACTIVITIES OF DYNAMIC ENGINEERING CONSULTANTS, P.C., NOR THE PRESENCE OF DYNAMIC ENGINEERING CONSULTANTS, P.C. OR ITS EMPLOYEES AND SUBCONSULTANTS AT A CONSTRUCTION/PROJECT SITE, SHALL RELIEVE THE GENERAL CONTRACTOR OF ITS OBLIGATIONS, DUTIES AND RESPONSIBILITIES INCLUDING BUT NOT LIMITED TO, CONSTRUCTION MEANS, METHODS, SEQUENCE, TECHNIQUES OR PROCEDURES NECESSARY FOR PERFORMING, SUPERINTENDING AND COORDINATING THE WORK IN ACCORDANCE WITH THE CONTRACT DOCUMENTS AND ANY HEALTH OR SAFETY PRECAUTIONS REQUIRED BY ANY REGULATORY AGENCIES. DYNAMIC ENGINEERING CONSULTANTS, P.C. AND ITS PERSONNEL HAVE NO AUTHORITY TO EXERCISE ANY CONTROL OVER ANY CONSTRUCTION CONTRACTOR OR ITS EMPLOYEES IN CONNECTION WITH THEIR WORK OR ANY HEALTH OR SAFETY PROGRAMS OR PROCEDURES. THE GENERAL CONTRACTOR SHALL BE SOLELY RESPONSIBLE FOR JOBSITE SAFETY. DYNAMIC ENGINEERING CONSULTANTS, P.C. SHALL BE INDEMNIFIED BY THE GENERAL CONTRACTOR AND SHALL BE MADE ADDITIONAL INSURED UNDER THE GENERAL CONTRACTOR'S POLICIES OF GENERAL LIABILITY INSURANCE.





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