



**CITY OF BEACON, NEW YORK
ONE MUNICIPAL PLAZA
BEACON, NY 12508**

Mayor Randy Casale
Councilmember Lee Kyriacou, At Large
Councilmember George Mansfield, At Large
Councilmember Terry Nelson, Ward 1
Councilmember John E. Rembert, Ward 2
Councilmember Jodi M. McCrede, Ward 3
Councilmember Amber J. Grant, Ward 4
City Administrator Anthony Ruggiero

**City Council Workshop Agenda
August 26, 2019
7:00 PM**

Workshop Agenda Items:

1. Discussion Regarding the Twilight League Baseball Field at Memorial Park
2. City of Beacon Grant Writer
3. Presentation from Recreation Director Regarding Riverfront Park and Green Street Park
4. Historic District Landmark Overlay
5. Proposed Local Law to Amend Chapter 159 Article II of the Code of the City of Beacon Regarding the Nuisance Law
6. Moratorium with Respect to Land Use Approvals for Residential, Commercial, and Mixed-Use Developments
7. Special Use Permit Regarding 305 Main Street
8. The View Offer of Dedication

**City of Beacon Workshop Agenda
8/26/2019**

Title:

Discussion Regarding the Twilight League Baseball Field at Memorial Park

Subject:

Background:

ATTACHMENTS:

Description	Type
Letter to Mayor Casale Requesting Renaming Baseball Field In Memory of Jack Dexter	Cover Memo/Letter
Jack Dexter Obituary	Backup Material

**Jeffrey & Virginia Dexter
2669 Sunderland Hill Road
Sunderland, VT 05250
802-430-7078**

August 23, 2019

Randy Casale, Mayor
City of Beacon
1 Municipal Plaza
Beacon, NY 12508

Dear Randy,

As you know, my father, Jack Dexter, passed away two weeks ago. As you also know, his accomplishments for his beloved Beacon have been great. For this reason (with some accomplishments noted below), I am respectfully asking that the City Council consider and agree that naming the Twilight League baseball field at Memorial Park "Jack Dexter Field" would be a deserved and fitting tribute.

Some of his accomplishments:

- Chairman of the Heart Fund in the 1960's
- A three-term County Supervisor (later County Representative) representing Beacon for a total of 10 years
- A Dutchess County Planning Board member for eight years
- Appointed by Governor Mario Cuomo to the Stewart Airport Advisory Commission from 1992-1996
- Member of the Beacon Recreation Commission
- Served on the Howland Library Board of Directors
- Served on the Pop Warner Board of Directors
- A lifetime Member of WH Mase Hook & Ladder Fire Company
- Member of the St. Rocco's Social Club
- Member of the Beacon Elks Lodge
- Member of the American Legion
- Member of the Knights of Columbus
- Served as Master of Ceremonies for dozens of local sporting and civic events and awards banquets
- A "three-letter" standout in baseball, football and basketball at Beacon High School, graduating in 1950
- Excelled in semi-pro baseball with the Beacon Braves, Newburgh Jewels, Knapp Builders
- A forty-year member of many Beacon Softball League teams, both slow and fast pitch
- Served as President of the Dutchess County (DC) Old Timers Baseball Association for 10 years
- Was a member of the DC Fast Pitch Softball Board of Directors
- Was inducted into the Beacon High School Hall of Fame (HOF), the Dutchess County Baseball HOF, the Dutchess County Softball HOF and the Dutchess County Sports Museum HOF
- Helped coach youth baseball teams in the 1960's

If necessary (and prudent to expedite this) I'd be happy to make this request in person. I say this because we're having a Celebration of Life for Dex's many friends and family members at St. Rocco's on September 14th and it would be great to be able to announce this there. If this is granted, as is appropriate, I would also request identification of the field be noted (e.g. a plaque on the backstop). If necessary, I would pay for this.

Thank you and the Council for this consideration. I look forward to hearing from you soon...and please contact me if you or anyone have any questions.

Sincerely,

Jeffrey Dexter

Jack I. (Dex) Dexter, born July 17, 1932, of Parkland, FL (formerly of Beacon, NY), entered into rest on August 8th, 2019 at home, surrounded by his loved ones.

Jack was born in Cortland, NY, the son of William Dexter and Patricia (Morgan) Dexter. His family moved to Beacon, NY. He graduated from Beacon High School in 1950 and attended Rutgers University.

Jack served in the US Army. He was employed at TEXACO Research Lab from 1954 to 1960. He then worked for IBM East Fishkill in Community Relations.

While at IBM, he was granted Executive Leave of Absence for 1985 and 1986 to work with Lt. Governor Al DelBello and Governor Mario Cuomo on the early development of Stewart International Airport. From 1992 to 1996, he was appointed by Gov. Cuomo to the Stewart Airport Advisory Commission.

After retiring from IBM, Jack was a volunteer with the Dutchess County Hospice program. He also volunteered for the Hospice by the Sea in Boca Raton, FL.

While in Beacon, he was a communicant of St. John's Church.

Jack was active in many community activities. Among them, he was Chairman of the Heart Fund; served on the Beacon Recreation Commission; the Howland Free Library Board of Directors; and the Pop Warner Board of Directors. He was a Life Member of the WH Mase Hook & Ladder Fire Department. He was also a member of St. Rocco's Social Club; the Beacon Elks Lodge; the American Legion; and the Knights of Columbus.

Jack was elected to the Dutchess County Legislature for three terms. He served as both Assistant Majority Leader and Assistant Minority Leader of the Democratic caucus. He was also appointed to the Dutchess County Planning Board, serving from 1979 to 1987. He was Master of Ceremonies for countless banquets and award ceremonies relying on his improvisational talents and quick wit. This was an area for which he was truly suited for and he thoroughly enjoyed all such events.

In addition to all his civic activities, Dex always found time for and excelled in area sports. Though he played many sports, baseball was his true passion. After college, he played semi-pro baseball with the Beacon Braves, Newburgh Dodger Jewels, and the Poughkeepsie Ho-Bo's. In the 1960's and 70's he played baseball in the Twi-light League for Knapp Builders and Wolf Sporting Goods. During this time he also played for the Millerton Red Sox in the Inter-State League. For over 40 years, Dex played on many Beacon softball teams, both slow pitch and fast pitch, as well as on Over-35, Over-55 and Over-65 leagues in Beacon, Fishkill and Poughkeepsie. He served as President of the Dutchess County (DC) Old Timers Baseball Association for 10 years, and as a member of the DC Fast Pitch Softball Board of Directors. He was inducted into the Beacon High School Hall of Fame (HOF), the Dutchess County Baseball HOF, the Dutchess County Softball HOF and the Dutchess County Sports Museum HOF. He also coached a number of Beacon's youth baseball teams.

Among Dex's favorite annual Beacon events was attending NY Giant football games as a member of the LLABTOOF Club.

Dex is survived by his wife Ellie of 65 years and his three children: Jeff (wife, Ginny) of Sunderland, VT; Michele (Mimi) of Norwalk, CT; and Sandra (husband, Peter Versace) of Parkland, FL. He is also

survived by his much beloved grandchildren, Stephen Dexter, Andréa Stella (husband, Maxime Van Melkebeke), Haley Dexter (husband, Yev Teplitskiy), Gabrielle Stella, Natalia Versace and Julian Versace....and his great grandson Maël Van Melkebeke. He is also survived by many nieces and nephews.

He is preceded in death by his parents and his brothers Bill and Tom.

The family would like to thank the talented and caring doctors, nurses and aides of the VITAS Healthcare Team 151, all of whom worked tirelessly and passionately to care for Dex in his final days.

A private, family service will be held at the beach near his Florida home. A celebration of Dex's life will be held in Beacon in the near future.

Donations can be made in Jack's name to VITAS Healthcare Team 151, 5420 N.W. 33rd Ave. Suite 100, Ft. Lauderdale, FL 33309; the American Heart Association, Hudson Valley Region, 301 Manchester Road, Suite 105, Poughkeepsie, NY 12603; or The Michael J. Fox Foundation for Parkinson's Research, P.O. Box 5014, Hagerstown, MD 21741-5014.

Dex will live on as a great inspiration and role model to his children, grandchildren and great grandchildren. He was widely thought of as an ethical and generous person with immeasurable kindness to others and true selflessness. His favorite mantra was "This moment is as it should be." He truly lived a wonderful life - and did it "His Way".

City of Beacon Workshop Agenda
8/26/2019

Title:

City of Beacon Grant Writer

Subject:

Background:

ATTACHMENTS:

Description	Type
Contract Agreement Between the City of Beacon and Choice Words for Grant Writing Services	Backup Material

Independent Contractor Agreement

This Agreement is entered into as of September 1, 2019, between the City of Beacon, with an address of 1 Municipal Plaza, Beacon, NY, 12508, and Choice Words LLC, with an address of 27 Sunset Ridge, New Paltz, NY, 12561 ("the Contractor").

1. Independent Contractor. Subject to the terms and conditions of this Agreement, the City of Beacon hereby engages the Contractor as an independent contractor to perform the services set forth herein. The Contractor agrees to be responsible for the payment of all employment taxes and withholdings specified by law, which may be due in regard to compensation by the City of Beacon. The Contractor shall have no claim against the City of Beacon hereunder or otherwise for vacation pay, sick leave, retirement benefits, social security, worker's compensation, health or disability benefits, unemployment insurance benefits, or employee benefits of any kind.

2. Duties. Choice Words LLC will provide municipal grant writing services to the City of Beacon, as well as public relations support as needed/requested by City officials. Choice Words will research, write, and submit grants on behalf of the City, seeking funding from a variety of federal, state, and private sources. Choice Words will diligently develop competitive grant proposals for selected programs as directed by Anthony Ruggiero and/or appointed designees, and file them in a timely manner. Choice Words will collaborate with City officials throughout this process, including scheduling telephone and in-person meetings as needed. Choice Words will provide detailed monthly work logs upon request.

All texts, including any drafts thereof, will be the sole property of the City of Beacon, which shall have the sole discretion to use the texts for whatever purposes it sees fit, and the Contractor hereby waives any claim, proprietary or otherwise, that it may have to the texts.

3. Term. This engagement shall commence on September 1, 2019, and shall continue in full force and effect until the contracted 4 months/160 hours are complete, unless terminated earlier in accordance with this Agreement. The Agreement may be extended thereafter by mutual agreement. Either party may terminate this agreement at any time on written notice for cause and on one month's (30 days) written notice without cause.

4. Compensation. As compensation for the services rendered pursuant to this Agreement, the City of Beacon shall pay the Contractor at the hourly rate of \$85 per hour, with the total number of hours projected to be approximately 40 hours per month for 4 months. Prior to commencing work, the City of Beacon shall pay the Contractor a retainer payment equal to the first month of the expected number of hours to be performed under this contract (\$3,400). Choice Words will then invoice the

City of Beacon monthly for the hours to be worked each month until the contractual period has ended. If in performing its duties for the City of Beacon Choice Words exceeds 160 hours overall, Choice Words will bill the City of Beacon for the incremental increase in hours. Choice Words will not increase the hours beyond the scope of this agreement without first receiving written authorization from Anthony Ruggiero and/or appointed designees.

5. Expenses. During the term of this Agreement, the Contractor shall bill and the City of Beacon shall reimburse the Contractor and designated associates for all reasonable and pre-approved out-of-pocket expenses which are incurred in connection with the performance of the duties hereunder.

6. Confidentiality. The Contractor acknowledges that during the engagement it and its associates will have access to and become acquainted with information, records and specifications owned or licensed by the City of Beacon and/or used by the City of Beacon in connection with the operation of its business, including, without limitation, the City of Beacon's business, accounts and procedures. The Contractor agrees that it and its associates will not disclose any of the aforesaid, directly or indirectly, or use any of them in any manner, either during the term of this Agreement or at any time thereafter, except as required in the course of this engagement with the City of Beacon.

7. Conflicts of Interest. The Contractor represents that it is free to enter into this Agreement, and that this engagement does not violate the terms of any agreement between the Contractor and any third party.

IN WITNESS WHEREOF the undersigned have executed this Agreement as of the day and year first written above. The parties hereto agree that facsimile signatures shall be as effective as if originals.

The City of Beacon

By : _____
Anthony Ruggiero
Administrator

Choice Words LLC

By : _____
Steve Densmore
President

City of Beacon Workshop Agenda
8/26/2019

Title:

Presentation from Recreation Director Regarding Riverfront Park and Green Street Park

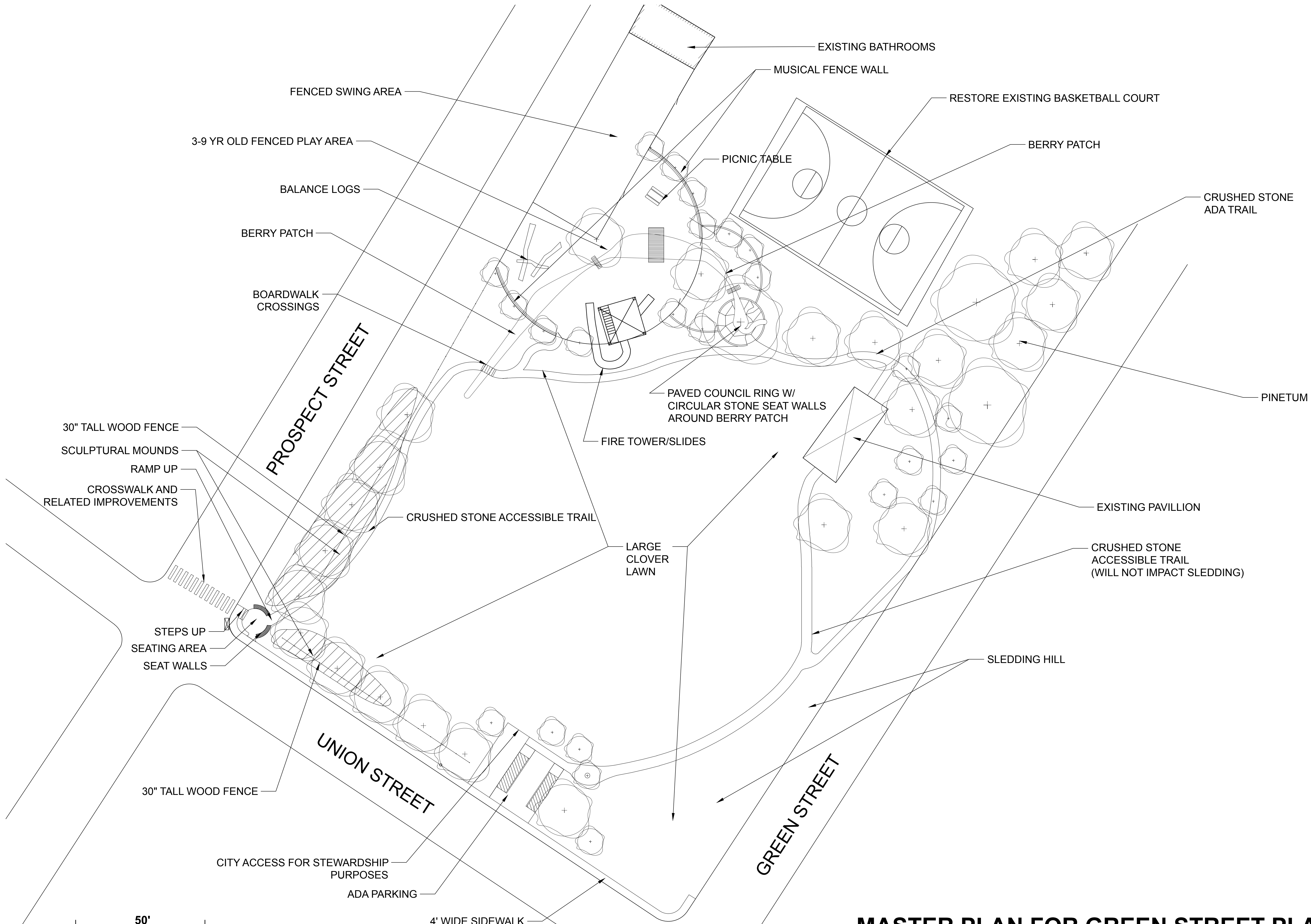
Subject:

Background:

ATTACHMENTS:

Description	Type
Riverfront Park Design	Presentation
Green Street Park Concept Plan	Presentation





JULY 2019

NOTE: ARTIST'S RENDERING. NOT INTENDED FOR CONSTRUCTION. THIS DRAWING IS INTENDED FOR PLANNING PURPOSES ONLY.

City of Beacon Workshop Agenda
8/26/2019

Title:

Historic District Landmark Overlay

Subject:

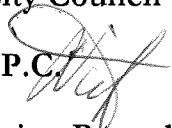
Background:

ATTACHMENTS:

Description	Type
Memorandum from Keane and Beane Regarding HDLO Expansion	Cover Memo/Letter
Memorandum from Dutchess County Planning and Development Regarding the Proposed HDLO Expansion	Cover Memo/Letter
Letter to Owners of Proposed Historic Homes	Cover Memo/Letter
City of Beacon Code Chapter 134 Regarding Historic Preservation	Backup Material
Uses Permitted by Special Permit in the Historic District and Landmark Overlay Zone	Backup Material

MEMORANDUM

TO: City of Beacon City Council

FROM: Keane & Beane, P.C. 

RE: Historic Designation Procedure

DATE: July 18, 2019

At its July 29th work session meeting, the Council will review the Historic Resource Inventory form for a number of properties. The forms were completed by John Clarke and are being reviewed by Mr. Murphy of the Historical Society. The Council is reviewing each form to determine if the property or structure should be landmarked and added to the Historic District and Landmark Overlay Zone. Section 134-4 of the Code of the City of Beacon sets forth criteria by which the City Council may review and designate properties as historic landmarks. This memorandum outlines the steps the City Council must take to officially designate a property as a historic landmark. All designated historic districts and landmarks shall be included in the Historic District Landmark Overlay (HDLO) Zone

1. The City must review the property and make a determination that the property has characteristics to be considered for designation.

The City Council shall, upon investigation as it deems necessary, make a determination as to whether a proposed district or landmark meets one or more of the following factors:

- (1) Possesses special character or historic or aesthetic interest or value as part of the cultural, political, economic or social history of the City, county, state or nation;
- (2) Is identified with historic personages or with important events in national, state or local history;
- (3) Embodies distinguishing characteristics of an architectural-type specimen, inherently valuable for a study of a period, style, method of construction or of indigenous materials or craftsmanship;
- (4) Is the work of a designer whose work has significantly influenced an age; or
- (5) Qualifies for inclusion on the State or National Registers of Historic Places.

- 2. Once the City Council has made a determination that the property meets one or more of the factors previously set forth, notice must be sent to the property owner by certified mail or personal delivery.**

Notice of a proposed designation shall be sent by certified mail or personal delivery to the owner of the property proposed for designation. The notice must describe the property proposed and explain why the City Council is considering it for designation. The notice must also set forth the public hearing date on which the City Council will consider the designation. Once the City Council has issued notice of a proposed designation, no building permits shall be issued by the Building Inspector until the Council has made its decision.

- 3. The City Council must hold a public hearing on at least 14 days' notice, prior to designating the property.**

The City Council, owners and any interested parties may present testimony or documentary evidence at the hearing which will become part of a record regarding the historic, architectural or cultural importance of the proposed landmark or historic district. The record may also contain reports, public comments or other evidence offered outside of the hearing.

In making its determination, the City Council must consider the factors previously set forth and any testimony or evidence presented during the public hearing.

- 4. The City Council must make a decision within 60 days of the conclusion of the public hearing.**

If the City Council fails to act within 60 days, or fails to extend the period in which to act, the designation shall be deemed to have been denied.

A super majority vote of five Council members is necessary to designate a new historic landmark if the property owner objects to such designation.

- 5. The City Council shall forward notice of each property designated as a landmark and the boundaries of each designated historic district to the property owner, the City Clerk, the Planning Board, the Zoning Board, and the offices of the Dutchess County Clerk for recordation.**

Please let us know if you have any questions.



COUNTY OF DUTCHESS
DEPARTMENT OF PLANNING AND DEVELOPMENT

August 26, 2019

To: City Council, City of Beacon

Re: **Referral #19-260 — LL Proposing to add 35 properties to the Historic District Landmark Overlay**
Parcels: see referred materials

The Dutchess County Department of Planning and Development has reviewed the subject referral within the framework of General Municipal Law (GML) (Article 12B, §239-l/m).

ACTION

The City is proposing to add 35 parcels to the Historic District Landmark Overlay.

COMMENTS

We are pleased to see that the City is proposing to add additional properties to the Historic District Landmark Overlay as recommended in its Comprehensive Plan. Each property has been evaluated for its historic contributions which are detailed on the Historic Resource Inventory Forms that were completed on behalf of each property.

If not already prepared, we suggest that the City provide informational resources to property owners regarding the particulars of owning a property in the HLDC, including guidance on making home improvements and repairs.

RECOMMENDATION

The Department recommends that the Board rely upon its own study of the facts in the case with due consideration of the above comments.

Eoin Wrafter, AICP
Commissioner

By

A handwritten signature in dark ink, appearing to read "Jennifer F. Coccozza", is written over a horizontal line.

Jennifer F. Coccozza
Deputy Commissioner

August 14, 2019

VIA CERTIFIED MAIL

Blank

Re: **Notice of Public Hearing**
Property Proposed for Historic Designation in the City of Beacon

Dear Blank:

Please be advised that pursuant to Section 134-4 of the Code of the City of Beacon (the “City Code”), the City Council is considering designating your property located at _____ as an historic landmark to be included in the City’s Historic District and Landmark Overlay Zone (“HDLO”). A copy of the historic inventory form describing your property is attached. The City Council has scheduled a public hearing to discuss such designation on **Tuesday, September 3, 2019 at 7:00 p.m at City Hall, 1 Municipal Plaza, Beacon, NY.** For additional information, a copy of the Code of the City of Beacon is available at <https://ecode360.com/BE0803> and a copy of Chapter 134, Historic Preservation, is attached. We have set forth below an explanation of the City’s proposal and what it means for your property.

Designation of Historic Landmarks

The City Council has performed an investigation of your property and has made a determination that the proposed landmark meets one or more of the following criteria:

- (1) Possesses special character or historic or aesthetic interest or value as part of the cultural, political, economic or social history of the City, county, state or nation;
- (2) Is identified with historic personages or with important events in national, state or local history;
- (3) Embodies distinguishing characteristics of an architectural-type specimen, inherently valuable for a study of a period, style, method of construction or of indigenous materials or craftsmanship;
- (4) Is the work of a designer whose work has significantly influenced an age; or
- (5) Qualifies for inclusion on the State or National Registers of Historic Places.

On Tuesday, September 3, 2019, the City Council will hold a public hearing to receive public comment on its proposal to designate your property as an historic landmark. The City Council, owners and any interested parties may present testimony or documentary evidence at the hearing which will become part of a record regarding the historic, architectural or cultural importance of the proposed landmark. The record may also contain reports, public comments or other evidence offered outside of the hearing.

In determining whether or not to designate a new historic landmark, the City Council must consider the five factors listed above and any testimony or evidence presented during the public hearing. The City Council is required to make a decision within 60 days of the conclusion of the hearing. If the City Council fails to act within 60 days, or fails to extend the period in which to act, the designation shall be deemed to have been denied. Please note that a super majority vote of five (5) Council members is necessary to designate a new historic landmark if the property owner objects to such designation.

Benefits of Historic Designation

Additional uses are permitted by special permit in the HDLO pursuant to Section 223-24.7 of the City Code. Such uses include (a) specialized business uses of low traffic volume, normally associated with history, the arts or cultural uses, appropriate to the structure and compatible with the neighborhood, and (b) residential or professional uses, provided that they are appropriate to the structure, compatible with the neighborhood and are located on a road that can accommodate increased traffic as determined by the City Council. Once a property is added to the HDLO, a property owner is able to submit a special permit application to the City Council.

In addition, the City has also adopted a real property tax exemption for historic properties. Any historic real property within the City of Beacon altered or rehabilitated is exempt from City's real property and special ad valorem levies to the extent of any increase in value attributable to such alteration or rehabilitation, subject to and in accordance with the schedule set forth in § 199-10B(1) and conditions outlined in § 199-10B(1) and C.

Certificate of Appropriateness

Please note, if your property is included in the HDLO, a certificate of appropriateness from the Planning Board is required prior to any exterior alteration of the landmark or property within the HDLO. No certificate of appropriateness is needed for changes to interior spaces, unless they are open to the public, to architectural features that are not visible from a public street or way, public property

or public building. HDLO buildings are recognized as models for how to design high-quality, enduring structures that have gained in public appreciation over time, thereby serving as excellent examples for sustainable development. In reviewing an HDLO application and plans, the City Council or Planning Board considers factors outlined in Section 134-7 of the City Code.

An applicant whose certificate of appropriateness has been denied may apply to the Zoning Board of Appeals for a certificate of economic hardship to obtain relief from the requirements of Chapter 134 of the City Code. In order to obtain a certificate of economic hardship, the applicant must prove the existence of economic hardship by establishing that:

- (1) The property is incapable of earning a reasonable return, regardless of whether that return represents the most profitable return possible; and
- (2) The property cannot be adapted for any other use, whether by the current owner or by a purchaser, which would result in a reasonable return; and
- (3) Efforts to find a purchaser interested in acquiring the property and preserving it have failed.

The Zoning Board of Appeals will take into consideration the economic feasibility of alternatives to removal, alteration or demolition of a landmark or portion thereof, and balance the interest of the public in preserving the historic landmark or building, or portion thereof, and the interest of the owner in removing, altering or demolishing the landmark or portion thereof.

Public Hearing

As previously mentioned, the City Council will be discussing your property at a public hearing at City Hall at **7:00 p.m. on Tuesday, September 3, 2019**. You are invited to attend to present any testimony or documentary evidence at the hearing for consideration by the City Council. You are also free to submit any reports, comments or other documentation to the City Council prior to the public hearing. Such information may be hand delivered or mailed to City Hall or emailed to cityofbeacon@cityofbeacon.org.

If you have any questions or comments please do not hesitate to contact me.

Very truly yours,

Blank

Title

Encl.

Chapter 134

HISTORIC PRESERVATION

GENERAL REFERENCES

Zoning — See Ch. 223.

§ 134-1. Purpose.

There exist within the City of Beacon landmarks, structures, buildings and districts of special historic significance which, by reason of their antiquity or uniqueness of architectural construction or design, are of particular significance to the heritage of the City, county, state or nation.

§ 134-2. Historic District.

An Historic District and Landmark Overlay Zone (HDLO) is hereby established for the purposes of encouraging the protection, enhancement, perpetuation and use of buildings and structures and appurtenant vistas having special historical or aesthetic value which represent or reflect elements of the City's cultural, social, economic, political and architectural history.

§ 134-3. Definitions.

Unless specifically defined below, words or phrases in this chapter shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this chapter its most reasonable application.

ALTERATION — Any act or process that changes one or more of the exterior architectural features of a structure, including but not limited to the erection, construction, restoration, renovation, reconstruction, demolition, moving or removal of any structure.

CERTIFICATE OF APPROPRIATENESS — A certificate issued by the Planning Board indicating its approval of plans for alteration, construction, removal or demolition of a landmark or of a structure within an historic district.

CERTIFICATE OF ECONOMIC HARDSHIP — A certificate issued by the Zoning Board of Appeals authorizing an alteration, construction, removal or demolition even though a certificate of appropriateness has previously been denied.

CONSTRUCTION — The act of making an addition to an existing structure or the erection of a new principal or accessory structure on a lot or parcel.

DEMOLITION — Any act or process that destroys in part or in whole a landmark or a structure within an historic district.

EXTERIOR ARCHITECTURAL FEATURES — The design and general arrangement of the exterior of a structure open to view from a public way, public property or any part of any public building, including the kind and texture of building materials and number, proportion, type and spacing of windows, doors, walls, roofs, murals, projections and signs. This term shall also include all earthworks, sidewalks, driveways, fences, trees, landscaping and other features visible from a public way, public property or any part of any public building.

HISTORIC DISTRICT — An area designated as an "historic district" by action of the City Council in enacting this chapter and which contains within definable geographic boundaries one or more landmarks and which may have within its boundaries other properties or structures that, while not of such historic and/or architectural significance to be designated as landmarks, nevertheless contribute to the overall visual characteristics of the landmark or landmarks located within the historic district.

LANDMARK — A property or structure designated as a "landmark" by action of the City Council in enacting this chapter that is worthy of rehabilitation, restoration and preservation because of its historic and/or architectural significance to the City of Beacon.

OWNER OF RECORD — The person, corporation or other legal entity issued as owner of a parcel according to the records of the Dutchess County Clerk.

REPAIR — Any change that is not construction, removal or alteration.

STRUCTURE — Anything constructed or erected, the use of which requires permanent or temporary location on or in the ground, including, but without limiting the generality of the foregoing, buildings, fences, gazebos, walls, sidewalks, signs, billboards, backstops for tennis courts, radio and television antennae, including supporting towers, and swimming pools.

§ 134-4. Designation of landmarks or historic districts.

- A. The City Council may act upon its own initiative or upon petition from the owner of a proposed landmark, site, structure or property, the Planning Board, or historic preservation committee, to consider designation of an historic district or historic landmark, site, structure or property. All designated historic districts and landmarks shall be included in the HDLO.
- B. The City Council shall, upon investigation as it deems necessary, make a determination as to whether a proposed district or landmark meets one or more of the following criteria:
 - (1) Possesses special character or historic or aesthetic interest or value as part of the cultural, political, economic or social history of the City, county, state or nation;
 - (2) Is identified with historic personages or with important events in national, state or local history;

- (3) Embodies distinguishing characteristics of an architectural-type specimen, inherently valuable for a study of a period, style, method of construction or of indigenous materials or craftsmanship;
 - (4) Is the work of a designer whose work has significantly influenced an age; or
 - (5) Qualifies for inclusion on the State or National Registers of Historic Places.
- C. Notice of a proposed designation shall be sent by certified mail or personal delivery to the owner of the property proposed for designation, describing the property proposed and announcing a public hearing by the City Council to consider the designation. Once the City Council has issued notice of a proposed designation, no building permits shall be issued by the Building Inspector until the Council has made its decision.
- D. Notice of the public hearing shall be given by publication in a newspaper of general circulation in the City of Beacon at least 14 calendar days prior to the date of such hearing.
- E. The City Council shall hold a public hearing prior to designation of any landmark or historic district. The City Council, owners and any interested parties may present testimony or documentary evidence at the hearing which will become part of a record regarding the historic, architectural or cultural importance of the proposed landmark or historic district. The record may also contain reports, public comments or other evidence offered outside of the hearing.
- F. In determining whether or not to designate a new historic landmark, the City Council shall consider the factors listed in § 134-4B and any testimony or evidence presented during the public hearing.
- G. The City Council shall make a decision within 60 days of the conclusion of the hearing. If the City Council fails to act within 60 days, or fails to extend the period in which to act, the designation shall be deemed to have been denied. A super majority vote of five Council members is necessary to designate a new historic landmark if the property owner objects to such designation.
- H. The City Council shall forward notice of each property designated as a landmark and the boundaries of each designated historic district to the property owner, the City Clerk, the Planning Board, the Zoning Board, and the offices of the Dutchess County Clerk for recordation.
- I. A list of designated properties shall be maintained on file with the City Clerk and shown on the City of Beacon Zoning Map.

§ 134-5. Uses permitted by special permit.

Section 223-24.7 of Chapter 223, Zoning, of the City Code, enumerates the uses which may be permitted by special permit, issued by the City Council, in the Historic District and Landmark Overlay Zone, and the process by which such uses may be permitted.

§ 134-6. Certificate of appropriateness.

No person shall carry out any exterior alteration of a landmark or property within an historic district without first obtaining a certificate of appropriateness from the Planning Board or a certificate of economic hardship from the Zoning Board. No certificate of appropriateness is needed for changes to interior spaces, unless they are open to the public, to architectural features that are not visible from a public street or way, public property or public building, or for the installation of a temporary sign as described in § 223-15F of the Zoning Ordinance of the City of Beacon if located in a nonresidential district. Nothing in this chapter shall be construed to prevent the ordinary maintenance and repair of any exterior architectural feature of a landmark or property within an historic district which does not involve a change in design, material or outward appearance.

§ 134-7. Criteria for approval of certificate of appropriateness or special permit in HDLO.

- A. Historic districts are living entities that have typically grown and accommodated change through multiple time periods. HDLO buildings are recognized as models for how to design high-quality, enduring structures that have gained in public appreciation over time, thereby serving as excellent examples for sustainable development. In reviewing an HDLO application and plans, the City Council or Planning Board shall give consideration to:
- (1) The historic or architectural value or significance of the structure and its relation to the historic character of the surrounding area.
 - (2) The relationship of the exterior architectural features of such structure to the rest of the structure and to the surrounding area.
 - (3) The compatibility of exterior design in terms of scale, arrangement, texture and materials proposed, roof and cornice forms, spacing and proportion of windows and doors, exterior architectural details, signs, and street-front fixtures.
- B. In applying the principle of compatibility, the City Council or Planning Board shall use the following standards for new structures, additions, or alterations in the HDLO. Standards using the verb "shall" are required; "should" is used when the standard is to be applied unless the Planning Board or City Council finds a strong justification for an alternative solution in an unusual and specific circumstance; and "may"

means that the standard is an optional guideline that is encouraged but not required.

- (1) The design, character, and appropriateness to the property of the proposed alteration or new construction.
 - (a) Construction shall build on the historic context with applications required to demonstrate aspects of inspiration or similarities to adjacent HDLO structures or historic buildings in the surrounding area.
 - (b) Compatibility does not imply historic reproduction, but new architecture shall also not arbitrarily impose contrasting materials, scales, colors, or design features.
 - (c) The intent is to reinforce and extend the traditional patterns of the HDLO district, but new structures may still be distinguishable in up-to-date technologies and details, most evident in window construction and interiors.
 - (d) Exterior accessory elements, such as signs, lighting fixtures, and landscaping, shall emphasize continuity with adjacent HDLO properties and the historic characteristics of the sidewalk and streetscape.
 - (e) Where possible, parking shall be placed towards the rear of the property in an unobtrusive location with adequate screening from public views, unless another location provides better screening.
- (2) The scale and height of the proposed alteration or new construction in relation to the property itself, surrounding properties, and the neighborhood.
 - (a) Where possible, an addition to an historic structure should be placed towards the rear, or at least recessed, so that the historic structure remains more prominent than the subsidiary addition.
 - (b) Any alteration or addition to an historic structure shall not damage or obscure the character-defining features of the architecture or site to the maximum extent possible.
 - (c) The height of any new building facades in the HDLO shall not conflict with the heights of adjacent historic structures on adjoining HDLO parcels.
 - (d) Larger buildings or additions should incorporate significant breaks in the facades and rooflines, generally at intervals of no more than 35 feet.
- (3) Architectural and site elements and their relation to similar features of other properties in the HDLO.

- (a) It is not appropriate to disrupt the relationship between an historic building and its front yard or landscape, including screening historic properties from traditional street views by high walls or hedges.
- (b) Historic storefronts, porches, cornices, window and door surrounds, or similar architectural features should not be enclosed, obscured, or removed so that the character of the structure is substantially changed.
- (c) Deteriorated building features should be repaired rather than being replaced and, if not repairable, should be replicated in design, materials, and other historic qualities.
- (d) New buildings in the HDLO should have a top-floor cornice feature and first-floor architectural articulation, such as an architecturally emphasized entrance doorway or porch, to accent the central body of the building.
- (e) Architectural features and windows shall be continued on all sides that are clearly visible from a street or public parking area, avoiding any blank walls, except in cases of existing walls or potential common property walls.
- (f) New HDLO buildings shall have a front entrance door facing the primary street and connected to the sidewalk.
- (g) Primary individual window proportions shall be greater in height than width, but the approving body may allow exceptions for storefront, transom, and specialty windows. Mirrored, reflective, or tinted glass and all-glass walls, except greenhouses, shall not be permitted. Any shutters shall match the size of the window opening and appear functional.
- (h) Finish building materials should be wood, brick, traditional cement-based stucco, stone, smooth cast stone, smooth-finished fiber-cement siding, or other materials deemed acceptable by the approving body. Vinyl, aluminum or sheet metal siding or sheet trim, exposed concrete blocks or concrete walls, plywood or other similar prefabricated panels, unpainted or unstained lumber, synthetic rough-cut stone, synthetic brick, synthetic stucco, exterior insulation and finishing system (EIFS), direct-applied finish system (DAFS), and chain link, plastic, or vinyl fencing shall not be permitted.
- (i) Materials and colors should complement historic buildings on the block. Fluorescent, neon, metallic, or other intentionally garish colors, as well as stripes, dots, or other incompatible patterns, shall be prohibited.
- (j) Mechanical equipment and refuse containers shall be concealed from public view by approved architectural or

landscaping elements and shall be located to the rear of the site. Window or projecting air conditioners shall not be permitted on the front facade of new buildings or additions.

§ 134-8. Certificate of appropriateness application procedure.

- A. Prior to the commencement of any work requiring a certificate of appropriateness, the owner shall file an application for such a certificate with the Planning Board. The application shall include:
- (1) The name, address and telephone number of the applicant.
 - (2) Scaled drawings showing the proposed changes.
 - (3) Descriptions or samples of materials to be used.
 - (4) (Where the proposal includes signs or lettering,) a scaled drawing showing the type of lettering to be used, all dimensions and colors, a description of materials to be used, method of illumination, if any, and a plan showing the sign's location on the property.
 - (5) Any other information which the Planning Board may deem necessary in order to visualize the proposed work.
- B. No building permit shall be issued for such proposed work until a certificate of appropriateness has first been issued by the Planning Board. The certificate of appropriateness required by this act shall be in addition to and not in lieu of any building permit that may be required by any other ordinance of the City of Beacon.
- C. The applicant may consult with the Planning Board or its designated agent prior to submitting an application.
- D. Where site plan review or subdivision approval is also required for the application, the certificate of appropriateness procedure shall be conducted simultaneously with such review by the Planning Board.
- E. The Planning Board shall approve, deny or approve the permit with modifications within 45 days from receipt of the completed application. The Planning Board may hold a public hearing on the application at which an opportunity will be provided for proponents and opponents of the application to present their views. Notice of the public hearing shall be provided by the applicant in the same manner as required in § 223-61.3.
- F. All decisions of the Planning Board shall be in writing. A copy shall be sent to the applicant by registered mail and a copy filed with the City Clerk's Office for public inspection. The Planning Board's decision shall state the reasons for denying or modifying any application.

§ 134-9. Hardship criteria and application procedure.

- A. An applicant whose certificate of appropriateness has been denied may apply to the Zoning Board of Appeals for a certificate of economic hardship to obtain relief from the requirements of this chapter. Upon receipt of an application for relief, the Zoning Board shall, within 45 calendar days thereafter, hold a public hearing. Notice of the public hearing shall be provided by the applicant in the same manner as required in § 223-61.3.
- B. At the public hearing, the Zoning Board may hear testimony and entertain the submission of written evidence from the applicant and/or the public.
- C. To obtain a certificate of economic hardship, the applicant must prove the existence of economic hardship by establishing that:
 - (1) The property is incapable of earning a reasonable return, regardless of whether that return represents the most profitable return possible; and
 - (2) The property cannot be adapted for any other use, whether by the current owner or by a purchaser, which would result in a reasonable return; and
 - (3) Efforts to find a purchaser interested in acquiring the property and preserving it have failed.
- D. The Zoning Board shall take into consideration the economic feasibility of alternatives to removal, alteration or demolition of a landmark or portion thereof, and balance the interest of the public in preserving the historic landmark or building, or portion thereof, and the interest of the owner in removing, altering or demolishing the landmark or portion thereof.
- E. The Zoning Board shall make a decision within 30 days of the conclusion of the hearing on the application. The Board's decision shall be in writing and shall state the reasons for granting or denying the hardship application.
- F. All decisions of the Zoning Board of Appeals shall be in writing. A copy shall be sent to the applicant, and a copy shall be filed with the City Clerk. The Board's decision shall state the reasons for approving or denying the application. If the Zoning Board of Appeals approves the application, the Board shall issue a certificate of economic hardship.

§ 134-10. Enforcement.

All work performed pursuant to a certificate of appropriateness issued under this chapter shall conform to any requirements included therein. It shall be the duty of the Building Inspector to inspect periodically any such work to assure compliance. In the event that work is found that is not performed in accordance with the certificate of appropriateness, or upon notification of such fact by the Planning Board, the Building Inspector shall

issue a stop-work order, and all work shall immediately cease. No further work shall be undertaken on the project as long as a stop-work order is in effect.

§ 134-11. Penalties for offenses.

- A. Failure to comply with any of the provisions of this local law shall be deemed a violation, and the violation is subject to the penalties provided in § 223-53 of Chapter 223, Zoning.
- B. The City Council is also authorized to institute any and all actions required to enforce this chapter. This civil remedy shall be in addition to and not in lieu of any criminal prosecution and penalty.

§ 134-12. Fees.

- A. Each application for a certificate of appropriateness shall be accompanied by a fee, in an amount set by the City Council, payable to the City Clerk.
- B. The applicant may be charged a fee by the Planning Board for the actual cost of preparation and publication of each public notice of hearing on the application. Said fees shall also be fixed from time to time by resolution of the City Council.

§ 134-13. Assessment abatement.

Any person who is granted a certificate of appropriateness and performs the work detailed in the application submitted to the Planning Board will not be subject to an increase in assessment for the subject property as a result of the improvements made to the buildings and structures on said property. This clause does not apply to applicants who also receive a special permit as set forth in § 223-18 of Chapter 223, Zoning.

§ 223-24.7. Uses permitted by special permit in the Historic District and Landmark Overlay Zone. [Added 5-17-2010 by L.L. No. 4-2010]

The following uses may be permitted by special permit, issued by the City Council, in the Historic District and Landmark Overlay Zone:

- A. Specialized business uses of low traffic volume, normally associated with history, the arts or cultural uses, appropriate to the structure and compatible with the neighborhood. Such uses may include:
 - (1) Artists' or artisans' studios.
 - (2) Antique shops.
 - (3) Rare book, coin or stamp shops or similar type uses as determined by the City Council.
- B. Residential or professional uses, provided that they are appropriate to the structure, compatible with the neighborhood and are located on a road that can accommodate increased traffic as determined by the City Council. These uses may include the following:
 - (1) Sit-down restaurants not to exceed a seating capacity of 50.
 - (2) Bed-and-breakfast establishments not to exceed 10 guest bedrooms, subject to the requirements of § 223-24.4B, C and E.
 - (3) Professional offices not to exceed 10 employees.
 - (4) Multifamily residential use not to exceed four units.
 - (5) Artist live/work spaces not to exceed four units.
- C. Special permits warranted under certain conditions.
 - (1) Notwithstanding the limitations in Subsection B above, and with the exception of Subsection B(2), the City Council may approve a special permit for any of the uses listed in said section, and may allow a larger number of seats, employees, dwelling units, or artist live/work spaces, when it determines that such larger number is warranted by one or more of the following:
 - (a) Building(s) size.
 - (b) Building(s) configuration.

- (c) The nature of the proposed preservation and/or adaptive reuse of the building(s).
 - (d) The historic nature and context of the building(s) and the need for preservation and/or adaptive reuse.
- (2) In approving any such special permit, the City Council shall establish such limitations on the number of seats, employees, dwelling units, or artist live/work spaces, as the case may be, as it deems warranted.

D. Findings. **[Amended 4-16-2018 by L.L. No. 8-2018]**

- (1) The City Council must make the following findings before special permit approval is granted:
- (a) Any exterior restoration shall maintain the architectural and historic integrity of the structure. Any new construction shall be compatible with neighboring structures.
 - (b) The proposed use is compatible with the neighborhood, and activities permitted within the structure can be adequately buffered from any surrounding residential homes.
 - (c) The resulting traffic generation will not overburden existing roads, and adequate parking can be provided without unduly destroying the landscape or the setting of the structure.
 - (d) The proposed use is appropriate to the structure, will aid in the preservation of the structure and will not result in undue alterations or enlargement of the structure.
- (2) These standards shall be in addition to the general special permit standards set forth in § 223-18 and the standards set forth in § 134-7.

- E. A site plan shall be submitted to the Planning Board to accompany any special permit application under this section. The site plan shall be accompanied by schematic architectural drawings which shall show the existing conditions of the property and any existing structure and the proposed restoration or construction. The Planning Board must approve a certificate of appropriateness in order to grant site plan approval as set forth above.¹

1. Editor's Note: Former § 223-24.8, Amusement centers containing only vintage amusement devices, added 8-30-2010 by L.L. No. 12-2010, which immediately followed this section, was repealed 1-22-2019 by L.L. No. 1-2019.

City of Beacon Workshop Agenda
8/26/2019

Title:

Proposed Local Law to Amend Chapter 159 Article II of the Code of the City of Beacon Regarding the Nuisance Law

Subject:

Background:

ATTACHMENTS:

Description	Type
Memorandum from City Attorney Regarding Proposed Nuisance Local Law	Cover Memo/Letter
Proposed Local Law to Amend Chapter 159 Article II of the Code of the City of Beacon	Local Law

■ **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**
505 Park Avenue
New York, NY 10022
Phone 646.794.5747

MEMORANDUM

TO: Mayor Casale and
Members of the City of Beacon City Council

FROM: Keane & Beane, P.C.

RE: Proposed Nuisance Local Law

DATE: August 21, 2019

The attached proposed local law creates a new Chapter 159, Article II to regulate public nuisance abatement to provide more due process to property owners and to make the law a better and more practical enforcement tool. Our office has worked with the Building Inspector, Dave Buckley, and Lieutenant Tom Figlia to draft the attached local law. In response to their comments, suggestions and concerns our office has drafted the attached local law to completely update Chapter 159, Article II as follows:

- A public nuisance is presumed to exist for any building, structure or real property as follows:
 - Any building, structure or real property used for the illegal use, possession or distribution of a controlled substance or marijuana, as defined by the State Penal Law.
 - Any building, structure or real property used for prostitution as defined by the State Penal Law.
 - Any building, structure or real property used for indecent or obscene performances and/or promotion of obscene material as defined by the State Penal Law.
 - Any building, structure or real property used for illegal gambling activity as defined by the State Penal Law.
 - Any building, structure or real property used for the commission of illegal possession, use or sale of firearms or weapons as defined by the State Penal Law.
 - Any building, structure or real property used for the illegal sale, manufacture or consumption of alcohol beverages as defined by the State Alcohol Beverage Control Law.
 - Any building, structure or real property wherein there exists or has occurred a criminal nuisance, as defined by the State Penal Law.
 - Any building, structure or real property used for loitering, as defined by the State Penal Law.

- Any building, structure or real property wherein there exists or has occurred any violation of the City Code, including, but not limited to, Chapter 223, Zoning, and the New York State Uniform Fire Prevention and Building Code, including the property Maintenance Code of New York State, and any subsequent amendments or superseding provisions thereto, all of which have been previously adopted and incorporated into this Code by reference.
- The law redefines the term “Public Nuisance” to eliminate use of a point system to determine when a public nuisance exists. Under the provisions of the proposed local law a public nuisance is presumed to exist if there is (a) a conviction or adjournment in contemplation of dismissal for any of the activities set forth in the definition of “public nuisance” occurring on the premise, (b) service of an accusatory instrument for a violation of the New York State Uniform Fire Prevention and Building Code and/or any violation of the Code of the City of Beacon occurring on the premise or (c) service of a search warrant on the building, structure or real property where controlled substances, marijuana and/or weapons are seized.
- The law establishes a Panel to review cases where a presumption of public nuisance exists. The Panel consists of the Police Chief, the City Administrator, or the Building Inspector.
- Whenever any “Panel” member (the City Administrator, Chief of Police or the Building Inspector) has evidence to support a presumption of public nuisance, he or she will notify the other members of the Panel to discuss the public nuisance. The Panel will meet to review all supporting documentation, including copies of tickets and/or arrest paperwork. After its review, the Panel must make a determination on whether a presumption of public nuisance exists on the premise.
- Once the Panel determines that a presumption of public nuisance exists, the Panel will provide notice to the property owner and any other person directly or indirectly control of the premise. The notice will advise the property owner that he or she has 30 days to eliminate the public nuisance or 10 days to schedule a meeting with the Panel to develop an abatement plan.
- If the owner does not meet with the Panel within 10 days of receipt of notice, the owner shall have 30 days to abate the nuisance. The owner is required to meet with the Panel within 5 days after the 30 days has expired to demonstrate to the Panel that the nuisance has been eliminated.
- •The Panel shall notify the City Council that a nuisance exists on the premises **if** (a) the nuisance is not corrected within 30 days of the date of service, or (b) upon noncompliance with any written agreement reached with the Panel.
- At the direction of the City Council, the City Attorney may bring and maintain a civil action in the name of the City to abate the public nuisance and commence a civil action.

DRAFT LOCAL LAW NO. ____ OF 2019

**CITY COUNCIL
CITY OF BEACON**

**PROPOSED LOCAL LAW TO
AMEND CHAPTER 159 ARTICLE II OF THE CODE OF THE
CITY OF BEACON**

A LOCAL LAW to amend Chapter 159 Article II of Code of the City of Beacon, concerning public nuisance abatement.

BE IT ENACTED by the City Council of the City of Beacon as follows:

Section 1. Chapter 159, Article II of the Code of the City of Beacon entitled “Public Nuisance Abatement” is hereby repealed in its entirety.

Section 2. Chapter 159, Article II of the Code of the City of Beacon entitled “Public Nuisance Abatement” is hereby created as follows:

Article II Public Nuisance Abatement

§ 159-2 Findings and intent.

- A. The City Council finds that public nuisances exist in the City of Beacon in the operation of certain establishments and the use of property in flagrant violation of certain Penal Law, New York State Uniform Building and Fire Code and Municipal Code provisions, which nuisances substantially and seriously interfere with the interest of the public, in the quality of life and total community environment, commerce in the City, property values and the public health, safety and welfare. The City Council further finds that the occurrence of such activities and violations is detrimental to the health, safety and welfare of the City of Beacon and its neighborhoods thereof, businesses thereof and visitors thereto.
- B. As a result of the activities occurring at these properties, and/or the conditions in which they are maintained, these properties tend to receive and require more than the general, acceptable level of police and code enforcement services. As a result they place an undue and inappropriate burden on the City’s taxpayers. The City Council has determined that existing laws do not sufficiently encourage such property owners to take reasonable steps to abate the nuisances that their properties are creating, and has determined that enhanced penalties will give such property owners additional incentives to ameliorate said problems and help to compensate the City for the increase in code enforcement services.
- C. This local law is enacted to encourage property owners to recognize their responsibility to ensure that activities occurring on their property conform to the law and do not adversely affect their neighborhoods, unduly burden the City’s resources and provide a mechanism for the City to take action against property owners who fail to ensure property they own does not require a disproportionate level of the City’s resources to be devoted to such property.

- D. This Article is not intended to discourage crime victims or a person in legitimate need of police services from requesting them.
- E. This Article does not affect a property owner's duty to comply with all other laws governing residential tenancies which are contained in New York State Statutes.

§ 159-3 Definitions.

For the purposes of this article, the following terms shall have the meanings indicated:

MORTGAGEE

The person who is listed as the mortgagee on any unsatisfied or otherwise open mortgage on the premises recorded in the office of the Dutchess County Clerk.

OWNER

The person in whose name the premises affected by an order, issued in accordance with this article, is recorded as the owner in the office of the Dutchess County Clerk.

PANEL

The Chief of Police of the City of Beacon or his or her designee, the City Administrator of the City of Beacon or his or her designee and the Building Inspector of the City of Beacon or his or her designee.

PREMISES

The building, place or property whereon a public nuisance is being conducted or exists.

PUBLIC NUISANCE

- A. The below definition of public nuisance is not intended and shall not be interpreted to cover or include requests for assistance from police, medical, fire or ambulance services from an owner, tenant or occupant of a building or premises.
- B. For purposes of this article, a public nuisance shall be presumed to exist pursuant to § 159-5.B for any building, structure or real property as follows:
 - (1) Any building, structure or real property used for the illegal use, possession or distribution of a controlled substance or marijuana, as defined by the State Penal Law.
 - (2) Any building, structure or real property used for prostitution as defined by the State Penal Law.
 - (3) Any building, structure or real property used for indecent or obscene performances and/or promotion of obscene material as defined by the State Penal Law.
 - (4) Any building, structure or real property used for illegal gambling activity as defined by the State Penal Law.
 - (5) Any building, structure or real property used for the commission of illegal possession, use or sale of firearms or weapons as defined by the State Penal Law.
 - (6) Any building, structure or real property used for the illegal sale, manufacture or consumption of alcohol beverages as defined by the State Alcohol Beverage Control Law.
 - (7) Any building, structure or real property wherein there exists or has occurred a criminal nuisance, as defined by the State Penal Law.

- (8) Any building, structure or real property used for loitering, as defined by the State Penal Law.
- (9) Any building, structure or real property wherein there exists or has occurred any violation of the City Code, including, but not limited to, Chapter 223, Zoning, and the New York State Uniform Fire Prevention and Building Code, including the property Maintenance Code of New York State, and any subsequent amendments or superseding provisions thereto, all of which have been previously adopted and incorporated into this Code by reference.

§ 159-4 Nuisance forbidden.

No owner, operator, manger or tenant of any premises shall conduct, maintain, permit or allow the existence of a public nuisance at the premises.

§ 159-5 Prima Facie Evidence of Public Nuisance.

- A. Notice by first-class mail or personal service, from the City of Beacon, of the activities entailing a public nuisance to the owner, operator, manger or tenant of premises shall be prima facie evidence of knowledge of a public nuisance.
- B. The following shall constitute prima facie evidence of a public nuisance:
 - (1) The existence of two or more incidents of the following activities at any premises within the one-year period prior to the commencement of a civil action pursuant to this Chapter shall be prima facie evidence of the existence of a public nuisance:
 - (a) Any conviction or adjournment in contemplation of dismissal for any of the activities set forth in the definition of “public nuisance” in § 159-3 occurring on the premise.
 - (b) Service of an accusatory instrument (i.e. notice of violation or order to remedy) for a violation of the New York State Uniform Fire Prevent and Building Code and/or any violation of the Code of the City of Beacon occurring on the premise.
 - (c) Service of a search warrant on the building, structure or real property where controlled substances, marijuana and/or weapons are seized.
- C. The lack of knowledge of, acquiescence or participation in, or responsibility for a public nuisance on the part of the owner, mortgagee or any other person directly or indirectly in control of the premises, or having any interest in the premises or in any property, real or personal, used in conducting or maintaining the public nuisance, shall not be a defense by such owner, mortgagee or other person.

§ 159-6 Determination by Panel.

Whenever any Panel member has evidence to support a presumption of public nuisance, he or she shall notify the other members of the Panel to discuss the public nuisance. The Panel shall meet to review all supporting documentation, including copies of tickets and/or arrest paperwork. After its review, the Panel shall make a determination on whether a presumption of public nuisance exists at the premise.

§ 159-7 Service of notice.

- A. Once the Panel determines that a presumption of public nuisance exists, the Panel shall give notice to the property owner, and any other person directly or indirectly in control of the premises, and any tenants and/or occupants of the premises wherein the public nuisance is being conducted, maintained or permitted. Such notice and opportunity to be heard may be given to a mortgagee of the premises. Such notice shall be served upon an owner or any other person directly or indirectly in control of the premises pursuant to Article 3 of the New York State Civil Practice Law and Rules, and upon a mortgagee by means of certified mail, return receipt requested, sent to the mortgagee's last known address, provided that any service other than delivery to the person to be served shall be complete immediately upon delivery, mailing or posting without the necessity of filing proof of service.
- B. The notice provided for in Subsection A of this section shall:
- (1) Specify the activity creating the public nuisance;
 - (2) Provide 30 days for elimination of the public nuisance;
 - (3) Inform the owner or any other person directly or indirectly in control of the premises that, within five days after the 30 days has expired, the property owner must contact the City to schedule a meeting with the Panel to demonstrate to the Panel that the nuisance has been eliminated;
 - (4) Inform the owner or any other person directly or indirectly in control of the premises of his or her right to request a meeting with the Panel within 10 days of service of the notice;
 - (5) Inform the owner or any other person directly or indirectly in control of the premises that, upon expiration of 35 days after service without a meeting with the Panel, or upon noncompliance with any written agreement reached with the Panel, the City shall act to obtain compliance as provided by this article; and
 - (6) Inform the owner or any other person directly or indirectly in control of the premises of the obligation to post a copy of the notice within five days of receipt of said notice, in a conspicuous place, so that all premises occupants and others entering the premises shall have notice that the public nuisance is being conducted, maintained or permitted on the premises and that, upon expiration of 30 days after service of the notice, the City shall proceed under § 159-10.

§ 158-8 Meeting with the Panel.

- A. Upon receipt of notice, any person served with a notice described in § 158-7, shall have 10 days upon receipt of notice to request a meeting with the Panel to devise an abatement plan to remedy the nuisance activity.
- (1) If an abatement plan is not agreed upon, or the owner fails to abide by the abatement plan and a nuisance activity occurs within 12 months following the date of the meeting, the Panel shall advise the City Council that a presumption of public nuisance exists on the premises.
 - (2) If the owner abides by the abatement plan and no new nuisance activity occurs within the 12 months following the date of the abatement plan, the public nuisance determination shall be waived. Any presumption of public nuisance after 12 months shall require a new determination by the Panel and additional notice pursuant to § 158-7.

- B. If the property owner or any other person directly or indirectly fails to schedule a meeting with the Panel within 10 days of receipt of the notice described in § 158-7, he or she shall have 30 days after service of the notice to eliminate the public nuisance.
- (1) The property owner shall be required to appear before the Panel within five days after the 30 days has expired to demonstrate to the Panel that the nuisance has been eliminated. The property owner must contact the City to request a meeting with the Panel within such time.
 - (2) The Panel shall make a determination about whether the public nuisance has been eliminated. If Panel determines that the nuisance has been abated, the public nuisance determination shall be waived. Any presumption of a public nuisance after such waiver, shall require a new determination by the Panel and additional notice pursuant to § 158-7. If the Panel determines that the nuisance has not been abated, then the Panel shall advise the City Council that a presumption of public nuisance exists on the premise.
 - (3) If the property owner fails to schedule the required meeting with the Panel, the Panel shall advise the City Council that a presumption of public nuisance exists on the premise.

§ 159-9 Remedies enumerated.

- A. At the direction of the City Council of the City of Beacon, the City Attorney may bring and maintain a civil proceeding in the name of the City for the following types of relief:
- (1) Civil penalties. Civil penalties may be pursued in Dutchess County Supreme Court or in the City Court of the City of Beacon.
 - (2) Permanent injunction.
 - (3) Temporary closing order, as set forth under § 159-13.
 - (4) Temporary restraining order.
 - (5) Temporary injunction.

§ 159-10 Summons and complaint for civil action.

- A. If the nuisance is not corrected within 30 days of the date of service of the notice set forth in § 159-7, or upon noncompliance with any written agreement reached with the Panel, the Panel shall notify the City Council that a public nuisance exists.
- B. At the direction of the City Council of the City of Beacon, the City Attorney may bring and maintain a civil action in the name of the City to abate a public nuisance and shall commence a civil action by filing a summons and complaint in the manner required by the New York State Civil Practice Laws and Rules.
- C. The summons and complaint shall name as defendant at least one of the owners of some portion of or having some interest in the property, as set forth in the last filed tax roll, and shall describe the owner's premises by tax number and/or street address.
- D. The summons and complaint may also name as defendant any owner, operator, manager or tenant of the premises.

- E. The complaint shall allege the facts constituting the public nuisance.
- F. The complaint shall be accompanied by an affidavit, to affirm that the owner or his agent had notice of the public nuisance and an opportunity to abate the public nuisance.
- G. Because the public nuisance is conducted, maintained, permitted or allowed in the City of Beacon, the venue of such action shall be in Dutchess County Supreme Court or in the City Court of the City of Beacon.
- H. In rem jurisdiction over the premises shall be completed by affixing the summons to the premises and by mailing the summons and complaint by certified or registered mail, return receipt requested, to the person in whose name the real property is recorded as determined by the last filed tax rolls.
- I. With respect to any action commenced or to be commenced, the City Attorney may file a notice of pendency pursuant to the New York State Civil Practice Laws and Rules.

§ 159-11 Civil penalty.

If, upon the trial of an action for a public nuisance or upon a motion for summary judgment in Supreme Court or in City Court, a finding is made that defendant(s) have conducted, maintained, permitted or allowed a public nuisance, notwithstanding any other provision in the Beacon City Code concerning penalties, a penalty may be awarded as follows for each day it is found that the defendant conducted, maintained, permitted or allowed the public nuisance after notice to abate had been given by the City:

Period of noncompliance	Penalty per day
1-15 days	\$ 1,000
16-30 days	\$ 2,500
31 days or more	\$ 5,000

§ 159-12 Permanent injunction.

- A. If, upon the trial of a civil action for a public nuisance or upon a motion for summary judgment, a finding is made that defendant(s) have conducted, maintained, permitted or allowed a public nuisance, a permanent injunction may be granted.
- B. A permanent injunction may prohibit defendant from conducting, maintaining, permitting or allowing the public nuisance.
- C. A permanent injunction may authorize agents of the City to remove and correct any condition(s) in violation of the City Code. The judgment may further order that the cost of removing and correcting the violation(s), plus a charge of 50% as compensation to the City of administration and supervision expenses, be charged against defendant(s) and awarded to the City. The judgment may further order that the cost of removing and correcting the violation(s), plus the charge of 50% as compensation to the City for administration and supervision expenses, shall constitute a lien against the real property and shall be collected in the same manner as provided by law for the collection of real property taxes within the City.
- D. A judgment ordering a permanent injunction may direct the closing of the premises by the City, to the extent necessary to abate the public nuisance.

- E. A judgment awarding a permanent injunction shall provide for all costs and disbursements allowed by the New York State Civil Practice Laws and Rules and of the actual costs, expenses and disbursements of the City in investigating, bringing and maintaining the action.

§ 152-13 Closing of the building, structure or real property.

- A. If the judgment directs the closing of the building, structure or real property, the City shall serve the judgment upon defendant(s) in the manner required by the New York State Civil Practice Laws and Rules and shall post a copy of the judgment upon one (1) or more of the doors at entrances of the building, structure or real property, or in another conspicuous place on the building, structure or real property.
- B. In addition, the City shall affix upon one (1) or more of the doors at entrances of the building, structure or real property or in another conspicuous place on the building, structure or real property, a printed notice stating "CLOSED BY COURT ORDER" in block lettering of sufficient size to be observed by anyone intending to enter the premises. Mutilation or removal of such posted judgment or notice while it remains in force will be considered a separate violation and shall be punishable as contempt of court.
- C. After posting, the City may then command all persons present in the building, structure or real property to vacate the property forthwith. After the building, structure or real property has been vacated, the City may secure the premises.
- D. The closing directed by the judgment shall be for such period as the court may direct, but in no event shall the closing be for a period of more than a year from the posting of the judgment.
- E. A closing by the City shall not constitute an act of possession, ownership or control by the City.

§ 159-14 Administrative liability.

Neither the City of Beacon, nor any officer, agent or employee thereof, shall be personally liable for any damage resulting from any official determination, order or action required or permitted by or under this article.

§ 159-15 Severability.

If any provision of this article or the application thereof to any person or circumstances is held invalid, the remainder of this article and the application of such provision to other persons or circumstances shall not be rendered invalid thereby.

Section 3. Numbering for Codification

It is the intention of the City of Beacon and it is hereby enacted that the provisions of this Local Law shall be included in the Code of the City of Beacon; that the sections and subsections of this Local Law may be re-numbered or re-lettered by the Codifier to accomplish such intention; that the Codifier shall make no substantive changes to this Local Law; that the word "Local Law" shall be changed to "Chapter," "Section" or other appropriate word as required for codification; and that any such rearranging of the numbering and editing shall not affect the validity of this Local Law or the

provisions of the Code affected thereby.

Section 4. Severability

The provisions of this Local Law are separable and if any provision, clause, sentence, subsection, word or part thereof is held illegal, invalid or unconstitutional, or inapplicable to any person or circumstance, such illegality, invalidity or unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, subsections, words or parts of this Local Law or their petition to other persons or circumstances. It is hereby declared to be the legislative intent that this Local law would have been adopted if such illegal, invalid or unconstitutional provision, clause, sentence, subsection, word or part had not been included therein, and if such person or circumstance to which the Local Law or part hereof is held inapplicable had been specifically exempt there from.

Section 5. Effective Date

This local law shall take effect immediately upon filing with the Office of the Secretary of State.

City of Beacon Workshop Agenda
8/26/2019

Title:

Moratorium with Respect to Land Use Approvals for Residential, Commercial, and Mixed-Use Developments

Subject:

Background:

ATTACHMENTS:

Description	Type
Proposed Local Law Regarding Enactment of a Moratorium	Local Law

LOCAL LAW NO. ____ OF 2019

**CITY COUNCIL
CITY OF BEACON**

**LOCAL LAW REGARDING
ENACTMENT OF A MORATORIUM**

A LOCAL LAW to
enact moratorium on
residential and
commercial
development

BE IT ENACTED by the City Council of the City of Beacon as follows:

SECTION 1. TITLE

This local law shall be entitled, “A Local Law, pursuant to Municipal Home Rule Law § 10, to enact a moratorium with respect to land use approvals to review certain special use, site plan, and subdivision applications involving residential, commercial and mixed use developments within the City of Beacon, by means of amending Chapter 223, Zoning, of the Code of the City of Beacon.”

SECTION 2. LEGISLATIVE INTENT AND PURPOSE

The City Council hereby finds as follows:

1. The City of Beacon has seen an increase in development over the past several years. In 2017, the City was concerned that development of a large number of residential units in such a short period of time would stress the City's water supply. In response, on October 16, 2017, the City Council adopted a moratorium on residential development, including single family and mixed use developments, within the City of Beacon to protect the City and its residents, businesses and visitors from the potential impacts of new development on the City's water supply given the increased rate of development in the City.
2. Thereafter, the City of Beacon retained the services of WSP (Formerly LBG Hydrogeologic & Engineering Services) in order to perform a Comprehensive Water Supply Plan (the “Plan”) for the City. The Plan included evaluating the storage

capacity of the City's three reservoirs to estimate the safe yield of the reservoirs; conducting an extended yield test on the existing bedrock water-supply wells to determine the safe yield of the bedrock wells; conducting a groundwater exploration program at the City's Pump House Road well field to evaluate the potential to develop a high yielding sand and gravel production well; and the evaluation of current and projected City build-out populations to determine if the City has an adequate supply of drinking water to meet the current and projected water demand. The Plan was issued in March 2018 and concluded that the City had an adequate water supply to meet the City's current demands and projected demands through 2035 with existing resources.

3. The City's Water Supply is made up of the following resources:

Water Supply	Water Supply Capacity (Million Gallons Per Day-MGD)
Melzingah Reservoir	0.38 mgd
Mount Beacon Reservoir	0.43 mgd
Cargill Reservoir	0.60 mgd
Well #1	0.58 mgd
Well #2	1.15 mgd
Village of Fishkill	1.20 mgd
Total Water Production	4.34 mgd

4. In February 2019, Well #2 was taken off line because tests of the well showed high turbidity from silting. WSP examined Well #2 and determined that the excessive silting was entering the well from a fracture about 240 feet down. Well #2 has remained off line while the City developed a mitigation plan to restore the well.
5. WSP performed a Water Supply Adequacy review with Well #2 out of service, incorporating and assessing the water needs of existing developments, and projects in the process of being built, recently approved and pending before the Planning Board. WSP's review concluded that there is an adequate supply of water and an approximate surplus of 170,000 gpd (gallons per day).
6. The City has developed a course of action to correct the silting and bring Well #2 back on line. It is estimated that this work will take approximately three (3) months. The City is concerned that approving new development proposals while repairs are being made to Well #2 would be imprudent and it would not be fair to applicants to entertain new applications during this time of uncertainty because the success of the repairs to Well #2 will be unknown until the work is completed in three (3) months.
7. It is the intent and purpose of this Local Law to establish another temporary moratorium on residential and commercial development in order to protect the City and its residents, businesses and visitors from the potential impacts of new development on the City's water supply given the condition of Well #2. Imposition

of this moratorium will allow the City sufficient time to repair Well #2 and regulate residential and commercial development within the City of Beacon to further protect the City's water supply.

8. In addition, the intent and purpose of this Local Law is to allow the City a measured amount of time to review and revise targeted zoning laws, specifically focusing on amending the City's use and dimensional tables and establishing new regulations for the Linkage Zoning District. The City Planner is in the process of amending the City's Schedule of Dimensional Regulations, in its entirety, and Schedule of Use Regulations, in its entirety, for all residential and non-residential zoning districts in the City of Beacon. The proposed amendments will greatly impact the type and scale of development permitted in each Zoning District. The moratorium will allow the City to complete and adopt these new comprehensive regulations to promote efficient and sustainable long-term growth in the City of Beacon. As the City of Beacon grows, the current land use regulations are inadequate to deal with the sale of and resulting pressure of such development on the City and its resources. The City's updates to its zoning will create a comprehensive guide for the City to encourage and regulate progressive development that will benefit the community and minimize the impacts of future development.

SECTION 3. MORATORIUM

1. Effective immediately and continuing for a period of six (6) months from June 11, 2019, no application for a building permit (other than a building permit for a project previously approved by a land use board), area variance, use variance, special use permit, site plan approval, or subdivision approval will be processed by the Building Department, or City Council, Planning Board or Zoning Board of Appeals ("Land Use Boards"), and no permit or approval will be issued by the Building Department or any Land Use Board for the modification, expansion or establishment of residential, commercial or mixed use developments within the City until this ordinance has expired or has been repealed according to applicable law.
2. All applications for building permits, use variance, area variance, special use permit, site plan approval and subdivision approval submitted to the City on or before June 11, 2019, or pending before the Building Department or Land Use Board are exempt from this moratorium. Any application submitted after June 11, 2019 may be heard and reviewed by any Land Use Board, but may not be subject to a vote. The Land Use Board may hold public hearings and discuss the application, but the Land Use Board may not formally approve or deny such application. Any building permit application for a single family home and any application seeking a modification or extension of an existing approval that does not increase the density (by unit or bedroom count) shall be exempt from this moratorium and any residential application that would result in an increase in water usage of less than 330 gallons of water per day, as determined by the City Building Inspector, is exempt from this moratorium. Any non-residential application that would result in an increase in water

usage of less than 2,000 gallons per day, as determined by the City Building Inspector, is exempt from this moratorium. In addition, this moratorium shall not apply to the reuse of any existing non-residential building for industrial or manufacturing uses, as determined by the Building Inspector, where such use does not increase the existing building footprint or otherwise increase the building square footage.

3. The City Council may, by resolution, terminate this moratorium prior to its expiration, or alternatively, extend the moratorium for a period of ninety (90) days or such other time period, as the City Council, in its sole discretion, deems necessary to allow for repair of the City's water system.

SECTION 4. ADMINISTRATIVE RELIEF FROM MORATORIUM

4. In order to prevent an unlawful taking of property and to prevent irreparable harm, the City Council is authorized to grant limited relief from this moratorium pursuant to the standards and requirements herein. An applicant seeking such relief shall be required to show by clear and convincing evidence, including credible dollars and cents proof, that the applicant cannot make any reasonable use of its property due solely to the moratorium; that the moratorium prohibits fulfillment of the applicant's reasonable investment-backed expectations; that the moratorium causes irreparable injury to the applicant; and that it would be unreasonable and unjust not to grant relief from the moratorium.
5. An application may be made in writing to the City Council requesting an exemption from the provisions herein. After due notice and a public hearing on such application, the City Council may grant an exemption with such conditions as it may deem reasonable and necessary, provided such exemption is the minimum relief necessary.
6. All such applications to the City Council shall be deemed Unlisted actions under SEQRA. In the event relief from the moratorium is granted by the City Council, the applicant shall proceed to the City's Land Use Boards to apply for required development approvals. Notwithstanding any relief granted pursuant to this section, a development approval shall not be granted unless the approved application complies with all zoning and all other requirements in effect on the date of approval.
7. The applicant or any other person aggrieved by a decision of the City Council made pursuant to this section may apply to the state supreme court pursuant to article seventy-eight of the civil practice laws and rules.

SECTION 5. CONFLICTING LAWS SUPERSEDED

All local laws, ordinances, or parts of local laws and ordinances, of the City of Beacon that are in conflict with the provisions of this Local Law are hereby suspended to the extent necessary to give this Local Law full force and effect during the effective period of the moratorium. Pursuant to Municipal Home Rule Law Section 10, this Local Law shall supersede any inconsistent provisions of New York State General City Law for the entire duration of this moratorium, including any extension thereof.

SECTION 6. SEPARABILITY

The provisions of this Local Law are separable and if any provision, clause, sentence, subsection, word or part thereof is held illegal, invalid or unconstitutional, or inapplicable to any person or circumstance, such illegality, invalidity or unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, subsections, words or parts of this Local Law or their petition to other persons or circumstances. It is hereby declared to be the legislative intent that this Local Law would have been adopted if such illegal, invalid or unconstitutional provision, clause, sentence, subsection, word or part had not been included therein, and if such person or circumstance to which the Local Law or part hereof is held inapplicable had been specifically exempt there from.

SECTION 7. EFFECTIVE DATE

This Local Law shall take effect immediately upon adoption and filing with the Secretary of State as provided by the Municipal Home Rule Law.

City of Beacon Workshop Agenda
8/26/2019

Title:

Special Use Permit Regarding 305 Main Street

Subject:

Background:

ATTACHMENTS:

Description	Type
Special Use Permit Application Regarding 305 Main Street	Application
Letter Referring a Special Use Permit Application for 305 Main Street from the City of Beacon Planning Board to the City Council	Cover Memo/Letter
305 Main Street Plans	Plans
City of Beacon Code Regarding Special Permit Uses	Backup Material
City of Beacon Zoning Regarding the CMS District	Backup Material

APPLICATION FOR SPECIAL USE PERMIT

Submit to Planning Board Secretary, One Municipal Plaza, Suite One, Beacon, New York 12508

IDENTIFICATION OF APPLICANT

Name: Douglas Ballinger
Address: PO Box 268
Spencertown NY 12165
Signature: _____
Date: May 29, 2019
Phone: [REDACTED]

(For Official Use Only)

Application & Fee Rec'd
Initial Review

Date Initials

6-24-19 EB
7-9-19

PB Public Hearing

Sent to City Council

City Council Workshop

City Council Public Hearing

City Council Approve/Disapprove

IDENTIFICATION OF REPRESENTATIVE / DESIGN PROFESSIONAL

Name: Brad Will, AIA, NCARB, LEED AP
Address: 15 Railroad Ave. #101
Kingston, NY 12401

Phone: (845) 616-8664

Fax: _____

Email address: bwill@ashokanarchitecture.com

IDENTIFICATION OF SUBJECT PROPERTY:

Property Address: 305 Main Street, Beacon NY 12508

Tax Map Designation: Section 130200

Block 5954-36

Lot(s) 908866

Land Area: 1,260 S.F. (0.029 acres)

Zoning District(s) CMS - Central Main Street District

DESCRIPTION OF PROPOSED DEVELOPMENT:

Proposed Use: Wine and Tapas Bar

Gross Non-Residential Floor Space: Existing 945 S.F.

Proposed 945 S.F.

TOTAL: 945 S.F.

Dwelling Units (by type): Existing N/A

Proposed _____

TOTAL: _____

ITEMS TO ACCOMPANY THIS APPLICATION

- Five (5) **folded** copies and One (1) digital copy of a site location sketch showing the location of the subject property and the proposed development with respect to neighboring properties and developments.
- Five (5) **folded** copies and One (1) digital copy of the proposed site development plan, consisting of sheets showing the required information as set forth on the back of this form and other such information as deemed necessary by the City Council or the Planning Board to determine and provide for the property enforcement of the Zoning Ordinance.
- Five (5) **folded** copies and One (1) digital copy of additional sketches, renderings or other information.
- An application fee, payable to the City of Beacon, computed per the attached fee schedule.
- An initial escrow amount, payable to the City of Beacon, as set forth in the attached fee schedule.

INFORMATION TO BE SHOWN ON SITE LOCATION SKETCH

- a. Property lines, zoning district boundaries and special district boundaries affecting all adjoining streets and properties, including properties located on the opposite sides of adjoining streets.
- b. Any reservations, easements or other areas of public or special use which affect the subject property.
- c. Section, block and lot numbers written on the subject property and all adjoining properties, including the names of the record owners of such adjoining properties.

INFORMATION TO BE SHOWN ON THE SITE DEVELOPMENT PLAN

- a. Title of development, date and revision dates if any, north point, scale, name and address of record owner of property, and of the licensed engineer, architect, landscape architect, or surveyor preparing the site plan.
- b. Existing and proposed contours at a maximum vertical interval of two (2) feet.
- c. Location and identification of natural features including rock outcrops, wooded areas, single trees with a caliper of six (6) or more inches measured four (4) feet above existing grade, water bodies, water courses, wetlands, soil types, etc.
- d. Location and dimensions of all existing and proposed buildings, retaining walls, fences, septic fields, etc.
- e. Finished floor level elevations and heights of all existing and proposed buildings.
- f. Location, design, elevations, and pavement and curbing specifications, including pavement markings, of all existing and proposed sidewalks, and parking and truck loading areas, including access and egress drives thereto.
- g. Existing pavement and elevations of abutting streets, and proposed modifications.
- h. Location, type and design of all existing and proposed storm drainage facilities, including computation of present and estimated future runoff of the entire tributary watershed, at a maximum density permitted under existing zoning, based on a 100 year storm.
- i. Location and design of all existing and proposed water supply and sewage disposal facilities.
- j. Location of all existing and proposed power and telephone lines and equipment, including that located within the adjoining street right-of-way. All such lines and equipment must be installed underground.
- k. Estimate of earth work, including type and quantities of material to be imported to or removed from the site.
- l. Detailed landscape plan, including the type, size, and location of materials to be used.
- m. Location, size, type, power, direction, shielding, and hours of operation of all existing and proposed lighting facilities.
- n. Location, size, type, and design of all existing and proposed business and directional signs.
- o. Written dimensions shall be used wherever possible.
- p. Signature and seal of licensed professional preparing the plan shall appear on each sheet.
- q. Statement of approval, in blank, as follows:

**Approved by Resolution of the Beacon Planning Board
on the _____ day of _____, 20_____
subject to all conditions as stated therein**

Chairman, City Planning Board

Date

APPLICATION PROCESSING RESTRICTION LAW

Affidavit of Property Owner

Property Owner: 305 Beacon LLC

If owned by a corporation, partnership or organization, please list names of persons holding over 5% interest.
Douglas Ballinger

List all properties in the City of Beacon that you hold a 5% interest in:
305 Beacon LLC

Applicant Address: PO Box 268, Spencertown NY 12165

Project Address: 305 Main Street, Beacon NY 12508

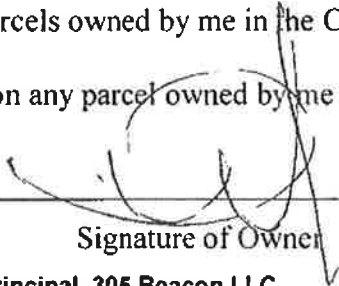
Project Tax Grid # 130200-5954-36-908866

Type of Application Special Use Permit ("SUP")

Please note that the property owner is the applicant. "Applicant" is defined as any individual who owns at least five percent (5%) interest in a corporation or partnership or other business.

I, Douglas Ballinger, the undersigned owner of the above referenced property, hereby affirm that I have reviewed my records and verify that the following information is true.

1. No violations are pending for ANY parcel owned by me situated within the City of Beacon X
2. Violations are pending on a parcel or parcels owned by me situated within the City of Beacon
3. ALL tax payments due to the City of Beacon are current X
4. Tax delinquencies exist on a parcel or parcels owned by me within the City of Beacon
5. Special Assessments are outstanding on a parcel or parcels owned by me in the City of Beacon
6. ALL Special Assessments due to the City of Beacon on any parcel owned by me are current X


Signature of Owner

Principal, 305 Beacon LLC

Title if owner is corporation

Office Use Only:

Applicant has violations pending for ANY parcel owned within the City of Beacon (Building Dept.)

NO

YES

Initial

✓

X

EB

ALL taxes are current for properties in the City of Beacon are current (Tax Dept.)

X

MB

ALL Special Assessments, i.e. water, sewer, fines, etc. are current (Water Billing)

X

MB

**CITY OF BEACON
SITE PLAN SPECIFICATION FORM**

Name of Application: Early Terrible Wine Bar

PLEASE INDICATE WHETHER THE SITE PLAN DRAWINGS SHOW THE SUBJECT INFORMATION BY PLACING A CHECK MARK IN THE APPROPRIATE BOXES BELOW.

	YES	NO
The site plan shall be clearly marked "Site Plan", it shall be prepared by a legally certified individual or firm, such as a Registered Architect or Professional Engineer, and it shall contain the following information:	X	
LEGAL DATA		
Name and address of the owner of record.	X	
Name and address of the applicant (if other than the owner).	X	
Name and address of person, firm or organization preparing the plan.	X	
Date, north arrow, and written and graphic scale.	X	
NATURAL FEATURES		
Existing contours with intervals of two (2) feet, referred to a datum satisfactory to the Planning Board.		X
Approximate boundaries of any areas subject to flooding or stormwater overflows.		X
Location of existing watercourses, wetlands, wooded areas, rock outcrops, isolated trees with a diameter of eight (8) inches or more measured three (3) feet above the base of the trunk, and any other significant existing natural features.		X
EXISTING STRUCTURES, UTILITIES, ETC.		
Outlines of all structures and the location of all uses not requiring structures. Paved areas, sidewalks, and vehicular access between the site and public streets.	X	
Locations, dimensions, grades, and flow direction of any existing sewers, culverts, water lines, as well as other underground and above ground utilities within and adjacent to the property.	X	
Other existing development, including fences, retaining walls, landscaping, and screening.	X	
Sufficient description or information to define precisely the boundaries of the property.	X	
The owners of all adjoining lands as shown on the latest tax records.	X	
The locations, names, and existing widths of adjacent streets and curb lines.	X	
Location, width, and purpose of all existing and proposed easements, setbacks, reservations, and areas dedicated to private or public use within or adjacent to the properties.		X

PROPOSED DEVELOPMENT	YES	NO
The location, use and design of proposed buildings or structural improvements.	X	
The location and design of all uses not requiring structures, such as outdoor storage (if permitted), and off-street parking and unloading areas.	X	
Any proposed division of buildings into units of separate occupancy.		X
The location, direction, power, and time of use for any proposed outdoor lighting.	X	
The location and plans for any outdoor signs.	X	
The location, arrangement, size(s) and materials of proposed means of ingress and egress, including sidewalks, driveways, or other paved areas.	X	
Proposed screening and other landscaping including a planting plan and schedule prepared by a qualified individual or firm.	X	
The location, sizes and connection of all proposed water lines, valves, and hydrants and all storm drainage and sewer lines, culverts, drains, etc.	X	
Proposed easements, deed restrictions, or covenants and a notation of any areas to be dedicated to the City.		X
Any contemplated public improvements on or adjoining the property.		X
Any proposed new grades, indicating clearly how such grades will meet existing grades of adjacent properties or the street.		X
Elevations of all proposed principal or accessory structures.	X	
Any proposed fences or retaining walls.	X	
MISCELLANEOUS		
A location map showing the applicant's entire property and adjacent properties and streets, at a convenient scale.	X	
Erosion and sedimentation control measures.		X
A schedule indicating how the proposal complies with all pertinent zoning standards, including parking and loading requirements.	X	
An indication of proposed hours of operation.	X	
If the site plan only indicates a first stage, a supplementary plan shall indicate ultimate development.		X

For all items marked "NO" above, please explain below why the required information has not been provided:

1. "Existing contours with intervals of two (2) feet, referred to a datum satisfactory to the Planning Board."

— RESPONSE: Project Site is an existing masonry structure located in a commercially-zoned, flat section of Main Street

2. "Approximate boundaries of any areas subject to flooding or stormwater overflows."

— RESPONSE: Project Site is not located in any Flood Area or within FEMA DFIRM Flood Map; stormwater is managed by municipal system

3. "Location of existing watercourses, wetlands, wooded areas, rock outcrops, isolated trees with a diameter of eight (8) inches or more measured three (3) feet above the base of the trunk, and any other significant existing natural features."

— RESPONSE: No features noted exist on the Project Site

4. "Location, width, and purpose of all existing and proposed easements, setbacks, reservations, and areas dedicated to private or public use within or adjacent to the properties."

— RESPONSE: Project Site is zoned as 'zero setback', no known easements exist within or adjacent to Project Site

5. "Any proposed division of buildings into units of separate occupancy."

— RESPONSE: Project Site will have a single occupancy and use on one habitable, conditioned level

6. "Proposed easements, deed restrictions, or covenants and a notation of any areas to be dedicated to the City."

— RESPONSE: Project Site has no known easements, restrictions, or covenants

7. "Any contemplated public improvements on or adjoining the property."

— RESPONSE: No public improvements are planned or proposed

8. "Any proposed new grades, indicating clearly how such grades will meet existing grades of adjacent properties or the street."

— RESPONSE: Project Site is accessed from existing public sidewalk at grade, and will be handicapped accessible

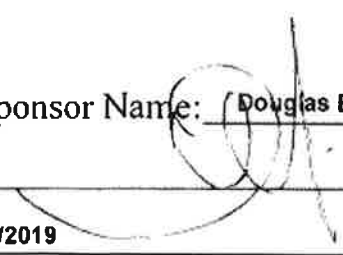
9. "Erosion and sedimentation control measures."

— RESPONSE: Not required and not applicable

10. "If the site plan only indicates a first stage, a supplementary plan shall indicate ultimate development."

— RESPONSE: Proposed design, use, and occupancy is single stage / phase only

Applicant/Sponsor Name: Douglas Ballinger

Signature: 

Date: 5/29/2019

FOR OFFICE USE ONLY

Application #

CITY OF BEACON**1 Municipal Plaza, Beacon, NY****Telephone (845) 838-5000 • <http://cityofbeacon.org/>****ENTITY DISCLOSURE FORM**

(This form must accompany every land use application and every application for a building permit or certificate of occupancy submitted by any person(s))

Disclosure of the names and addresses of all persons or entities owning any interest or controlling position of any Limited Liability Company, Partnership, Limited Partnership, Joint Venture, Corporation or other business entity (hereinafter referred to as the "Entity") filing a land-use application with the City is required pursuant to Section 223-62 of the City Code of the City of Beacon. Applicants shall submit supplemental sheets for any additional information that does not fit within the below sections, identifying the Section being supplemented.

SECTION AName of Applicant: Douglas Ballinger, Principal, 305 Beacon LLCAddress of Applicant: PO Box 268 Spencertown NY 12165Telephone Contact Information: (917) 346-0056**SECTION B.** List all owners of record of the subject property or any part thereof.

Name	Residence or Business Address	Telephone Number	Date and Manner title was acquired	Date and place where the deed or document of conveyance was recorded or filed.

SECTION B. Is any owner of record an officer, elected or appointed, or employee of the City of Beacon or related, by marriage or otherwise, to a City Council member, planning board member, zoning board of appeals member or employee of the City of Beacon ?

☐

YES

☒

NO

If yes, list every Board, Department, Office, agency or other position with the City of Beacon with which a party has a position, unpaid or paid, or relationship and identify the agency, title, and date of hire.

Agency	Title	Date of Hire, Date Elected, or Date Appointed	Position or Nature of Relationship

SECTION C. If the applicant is a contract vendee, a duplicate original or photocopy of the full and complete contract of purchase, including all riders, modification and amendments thereto, shall be submitted with the application.

SECTION D. Have the present owners entered into a contract for the sale of all or any part of the subject property and, if in the affirmative, please provide a duplicate original or photocopy of the fully and complete contract of sale, including all riders, modifications and amendments thereto.

☐

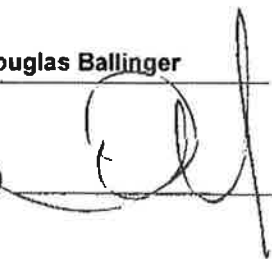
YES

☒

NO

I, Douglas Ballinger being first duly sworn, according to law, deposes and says that the statements made herein are true, accurate, and complete.

(Print) Douglas Ballinger

(Signature) 

BEACON PLANNING BOARD
ONE MUNICIPAL PLAZA - SUITE 1
BEACON, NEW YORK 12508
Phone (845) 838-5002 Fax (845) 838-5026
John Gunn, Chairman

August 19, 2019

Mayor Casale & City Council Members
One Municipal Plaza - Suite One
Beacon, New York 12508

RE: Special Use Permit – Wine and Tapas Bar
305 Main Street

Applicant: Douglas Ballinger

Dear Mayor Casale & Council Members:

At its July 9, 2019 and August 13, 2019 meetings, the Planning Board reviewed a Special Use Permit application from Douglas Ballinger to convert an existing one-story building at 305 Main Street into a wine and tapas bar with a new storefront and rear patio. The parcel is located in the Central Main Street (CMS) zoning district. The Board members discussed the proposed stone façade of the storefront, proposed positioning of the signage and awning, and the use of the rear patio. The Board recommended to the Applicant that they provide the City Council with information pertaining to available public parking in the vicinity of the proposed use since off-street parking is not feasible on this parcel. After careful review, five Board members present voted to recommend the City Council issue a Special Use Permit for the wine and tapas bar subject to the applicant returning to the Planning Board for final Site Plan Approval.

A copy of the application and Site Plan are attached for your information. If you have any questions regarding the Planning Board's action, please call me.

Yours truly,

A handwritten signature in blue ink that reads "John Gunn".

John Gunn, Chairman

EARLY TERRIBLE WINE & TAPAS BAR



EARLY TERRIBLE WINE & TAPAS BAR
305 MAIN STREET • BEACON, NY 12508



Architecture
& Planning PLLC

15 Railroad Ave. Suite 101
Kingston, New York 12401
Ph. (845) 616-8664
bwill@ashokanarchitecture.com

PLANNING BOARD
SUP SUBMITTAL SET
ADDENDA
AUGUST 13, 2019

PROJECT NO: 1904

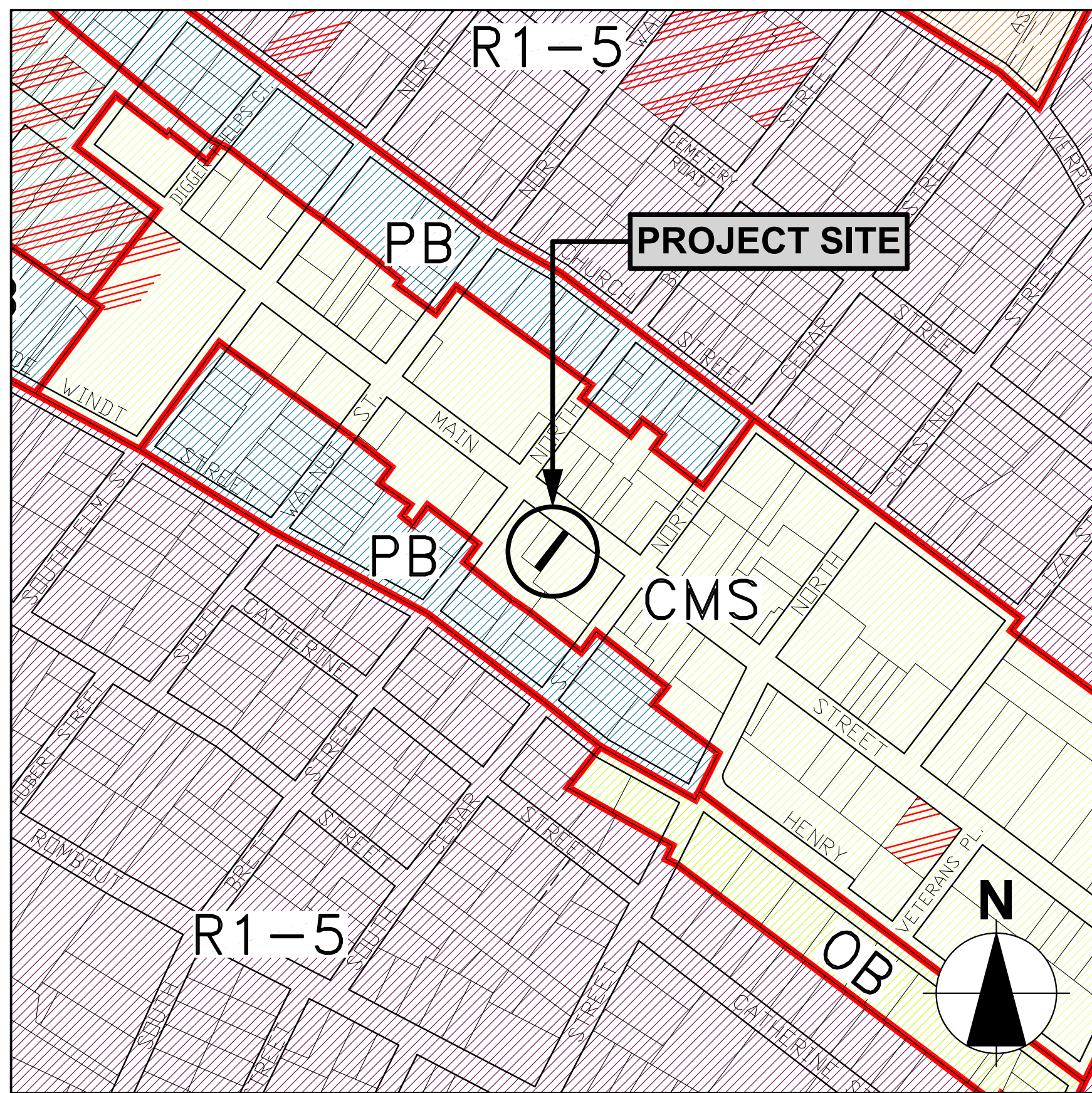
DATE: 8/13/2019

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COVER SHEET

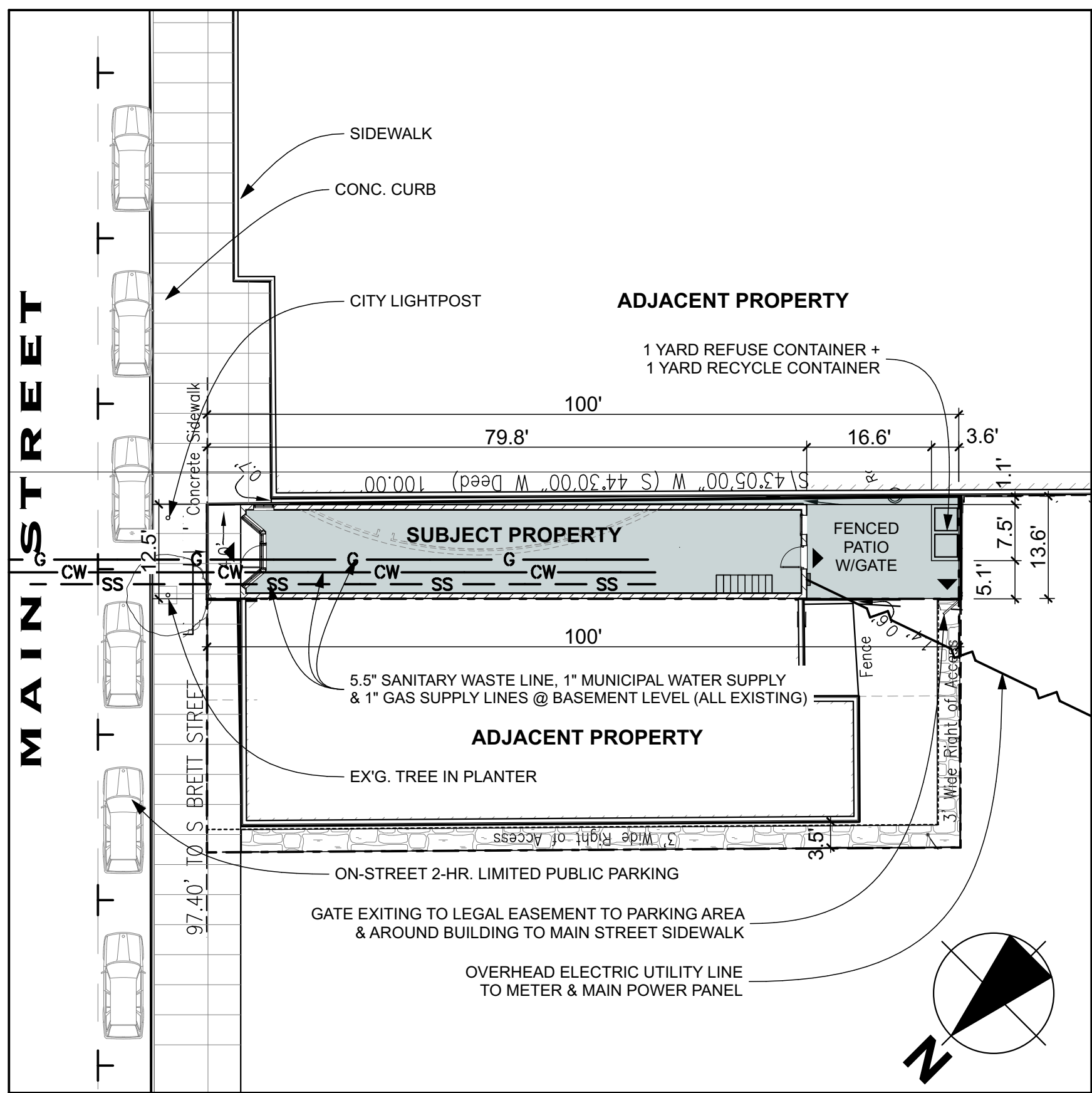
A-001



3 ZONING MAP
NOT TO SCALE



2 AERIAL VIEW OF SITE & SURROUNDINGS
NOT TO SCALE



1 SITE PLAN
SCALE: 1/16" = 1'-0"

SHEET INDEX

3D REPRESENTATIONS		
A-901	PERSPECTIVE VIEW	<input type="checkbox"/>
DETAILS		
A-501	EXTERIOR LIGHTING, FENCE & SIGNAGE	<input type="checkbox"/>
A-502	EXTERIOR CONSTRUCTION DETAILS	<input type="checkbox"/>
ELEVATIONS		
A-201	FRONT, REAR & PARTIAL SIDE ELEVATIONS	<input type="checkbox"/>
PLANS		
A-001	COVER SHEET	<input type="checkbox"/>
C-101	SITE CIVIL SURVEY	<input type="checkbox"/>

TABULAR SUMMARY

S/B/L:	130200-5954-36-908866	SETBACKS:	FRONT 0.0' / SIDE 0.3'-TO-1.1' / REAR 0.0'
ZONE:	CMS 'Central Main Street'	BUILDING HEIGHT:	FRONT: 15.5' / REAR: 10.7'
LOT AREA S.F.:	1,315	LANDSCAPED AREA WAIVED PER 41.18 E(12):	0.0 S.F.
BUILDING AREA S.F.:	939	PARKING REQUIRED: WAIVER REQUESTED PER 41.18 G(4)	
STRUCTURAL COVERAGE S.F.:	939	PARKING ONSITE:	0 SPACES
STRUCTURAL COVERAGE %:	71.4%	INDOOR SEATING OCCUPANCY:	41
OPEN SPACE S.F.:	174.7	OUTDOOR (SEASONAL) SEATING OCCUPANCY:	14
OPEN SPACE %:	13.3%	TOTAL SEATING OCCUPANCY:	55

NOTES
1. THE CITY OF BEACON BUILDING DEPARTMENT SHALL HAVE ACCESS TO VERIFY WHERE EXISTING ROOF LEADERS LEAD TO
2. PER I&I INVESTIGATION REPORT DATED 7/25/2019, "THE REMAINING PIPE THAT PREVIOUSLY SERVED TO CONNECT TO THE ROOF LEADER TO THE SANITARY SEWER SYSTEM WILL BE REMOVED," AND "THE SUMP PUMP WILL BE REMOVED AND REROUTED TO THE ROOF LEADER DISCHARGE LOCATION."



4 STREET VIEW

1. COPYRIGHT OICLE LAND SURVEYING, PC ALL RIGHTS RESERVED.

2. UNAUTHORIZED ALTERATION OR ADDITION TO A SURVEY MAP BEARING A LICENSED LAND SURVEYOR'S SEAL IS A VIOLATION OF SECTION 7209, SUB-DIVISION 2, OF THE NEW YORK STATE EDUCATION LAW.

3. ONLY BOUNDARY SURVEY MAPS WITH THE SURVEYOR'S EMBOSSED OR INKED SEAL ARE GENUINE TRUE AND CORRECT COPIES OF THE SURVEYOR'S ORIGINAL WORK AND OPINION.

4. CERTIFICATIONS ON THIS BOUNDARY SURVEY MAP SIGNIFY THAT THE MAP WAS PREPARED IN ACCORDANCE WITH THE CURRENT EXISTING CODE OF PRACTICE FOR LAND SURVEYS ADOPTED BY THE NEW YORK STATE ASSOCIATION OF PROFESSIONAL LAND SURVEYORS, INC. THE CERTIFICATION IS LIMITED TO PERSONS FOR WHOM THE BOUNDARY SURVEY MAP IS PREPARED, TO THE TITLE COMPANY, TO THE GOVERNMENTAL AGENCY, AND TO THE LENDING INSTITUTION LISTED ON THIS BOUNDARY SURVEY MAP.

5. THE CERTIFICATIONS HEREIN ARE NOT TRANSFERABLE.

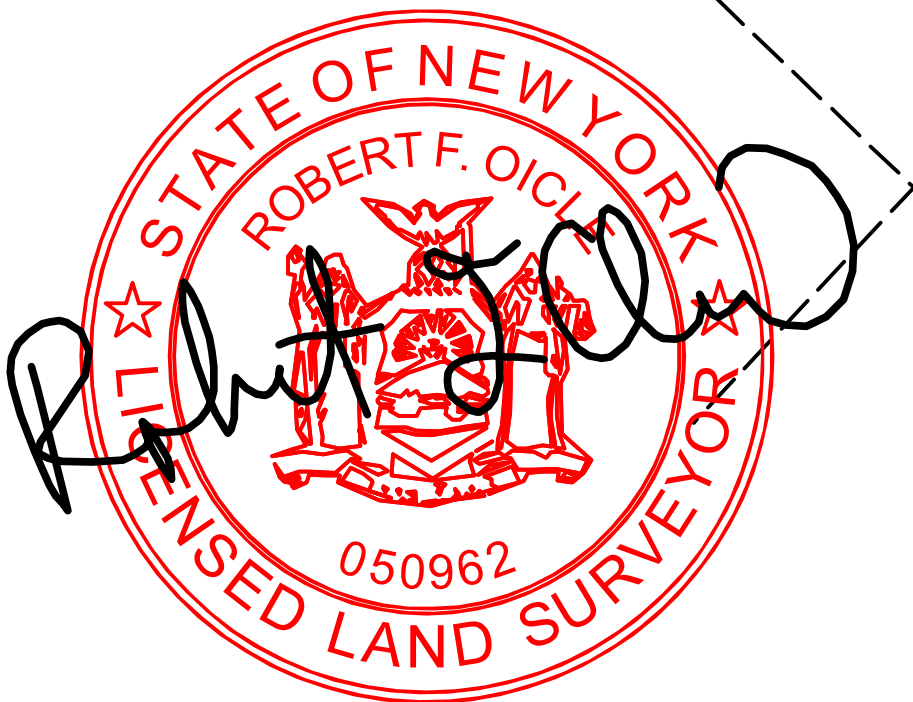
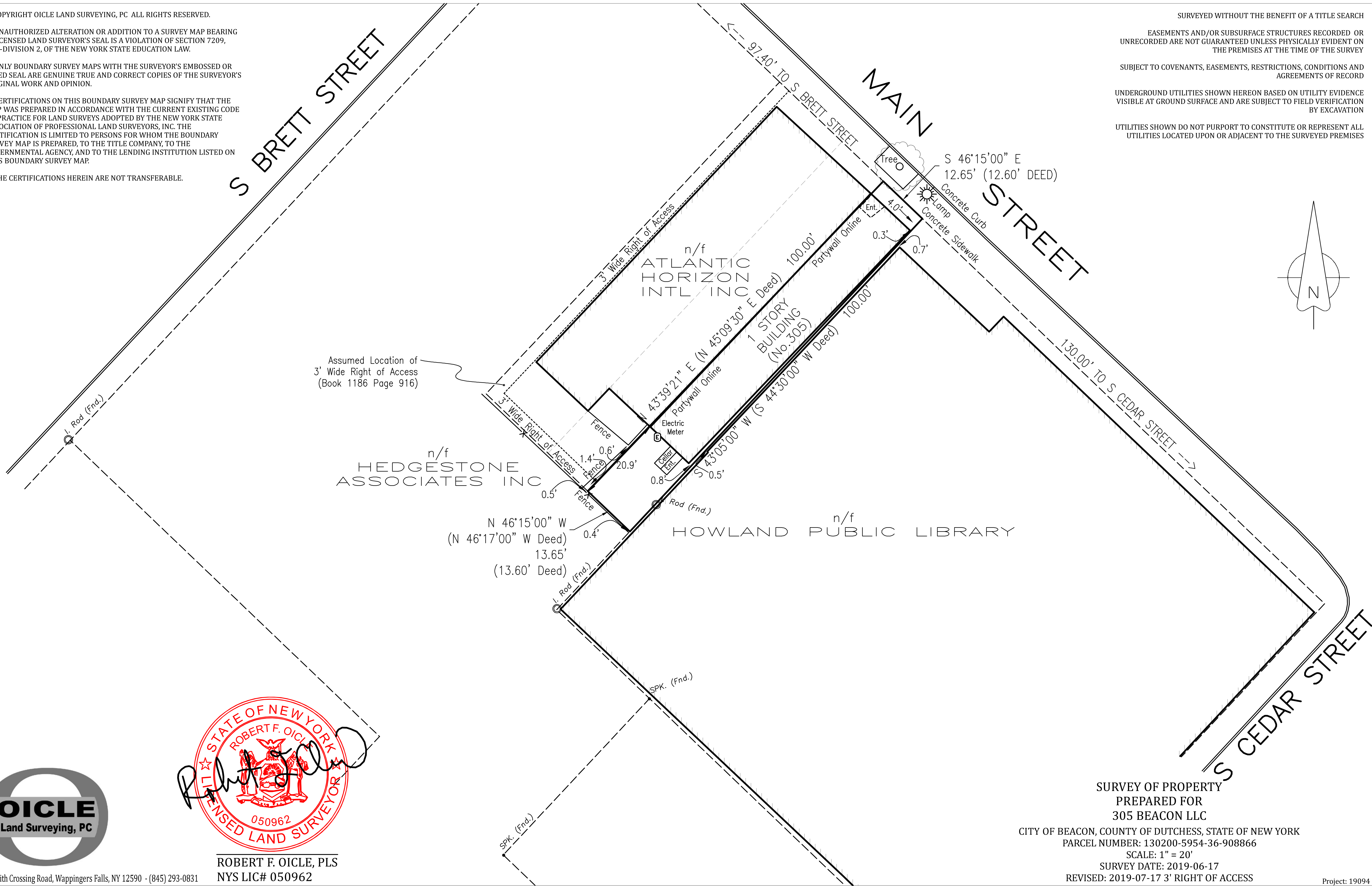
SURVEYED WITHOUT THE BENEFIT OF A TITLE SEARCH

EASEMENTS AND/OR SUBSURFACE STRUCTURES RECORDED OR UNRECORDED ARE NOT GUARANTEED UNLESS PHYSICALLY EVIDENT ON THE PREMISES AT THE TIME OF THE SURVEY

SUBJECT TO COVENANTS, EASEMENTS, RESTRICTIONS, CONDITIONS AND AGREEMENTS OF RECORD

UNDERGROUND UTILITIES SHOWN HEREON BASED ON UTILITY EVIDENCE VISIBLE AT GROUND SURFACE AND ARE SUBJECT TO FIELD VERIFICATION BY EXCAVATION

UTILITIES SHOWN DO NOT PURPORT TO CONSTITUTE OR REPRESENT ALL UTILITIES LOCATED UPON OR ADJACENT TO THE SURVEYED PREMISES



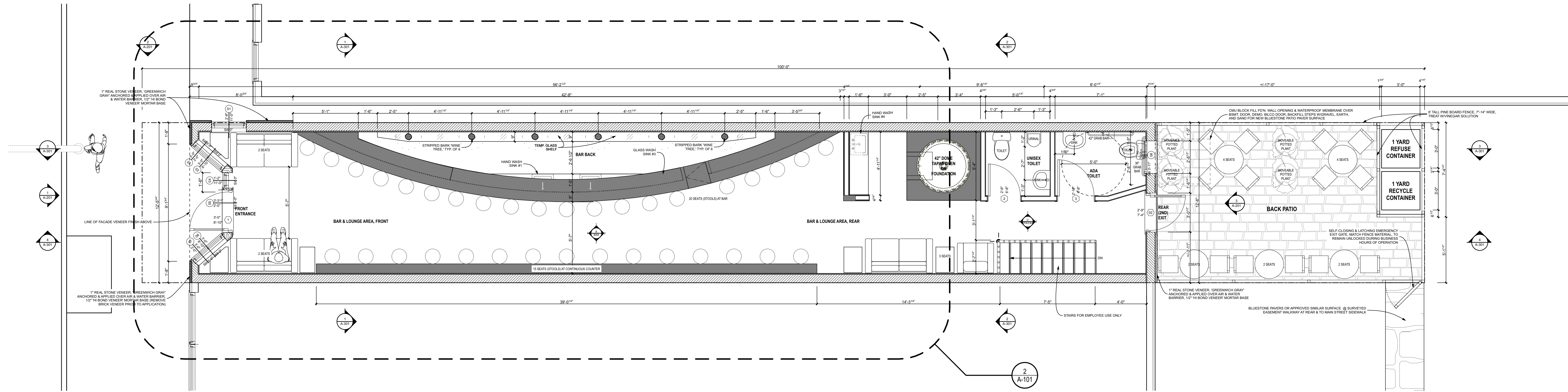
57 Smith Crossing Road, Wappingers Falls, NY 12590 - (845) 293-0831

ROBERT F. OICLE, PLS
NYS LIC# 050962

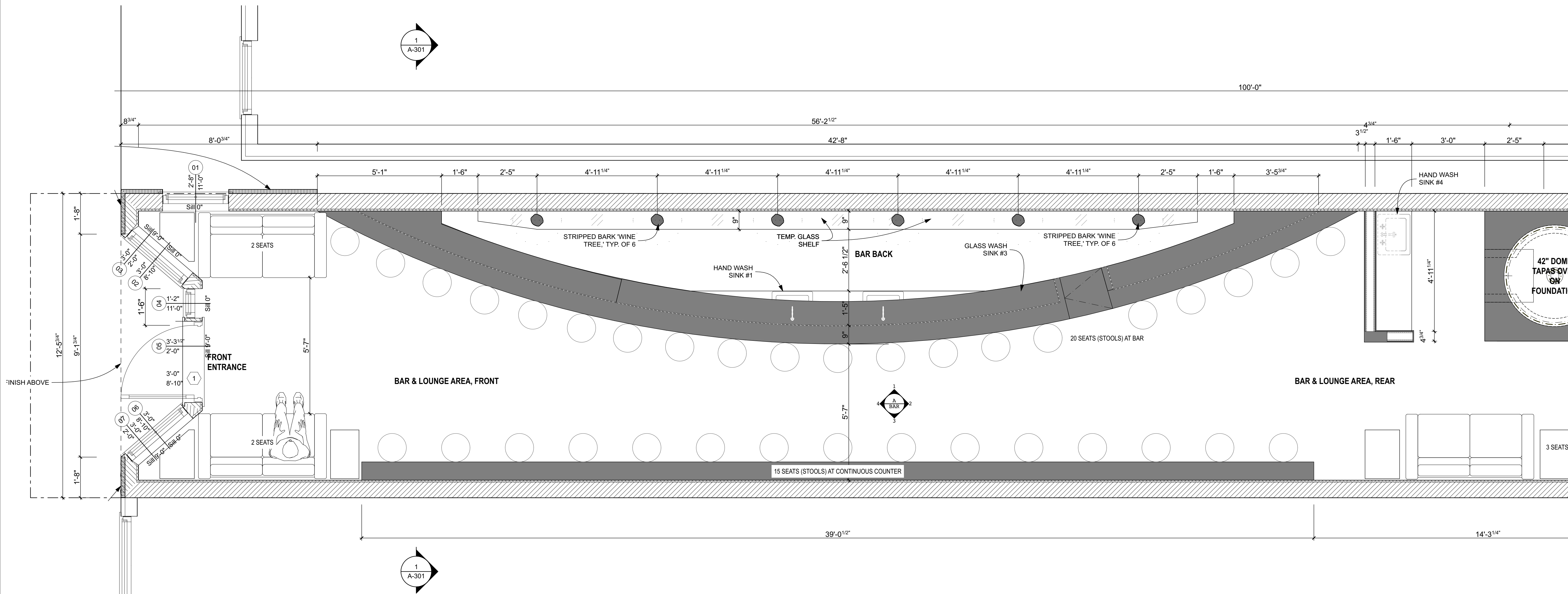
SURVEY OF PROPERTY
PREPARED FOR
305 BEACON LLC
CITY OF BEACON, COUNTY OF DUTCHESS, STATE OF NEW YORK
PARCEL NUMBER: 130200-5954-36-908866
SCALE: 1" = 20'
SURVEY DATE: 2019-06-17
REVISED: 2019-07-17 3' RIGHT OF ACCESS

Project: 19094

/Users/rudywill-MP/Dropbox/Ballinger Beacon/MODELS/Beacon Early Terrible - MASTER-v.2.pln



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



2 ENLARGED FLOOR PLAN - FRONT
SCALE: 1/2" = 1'-0"



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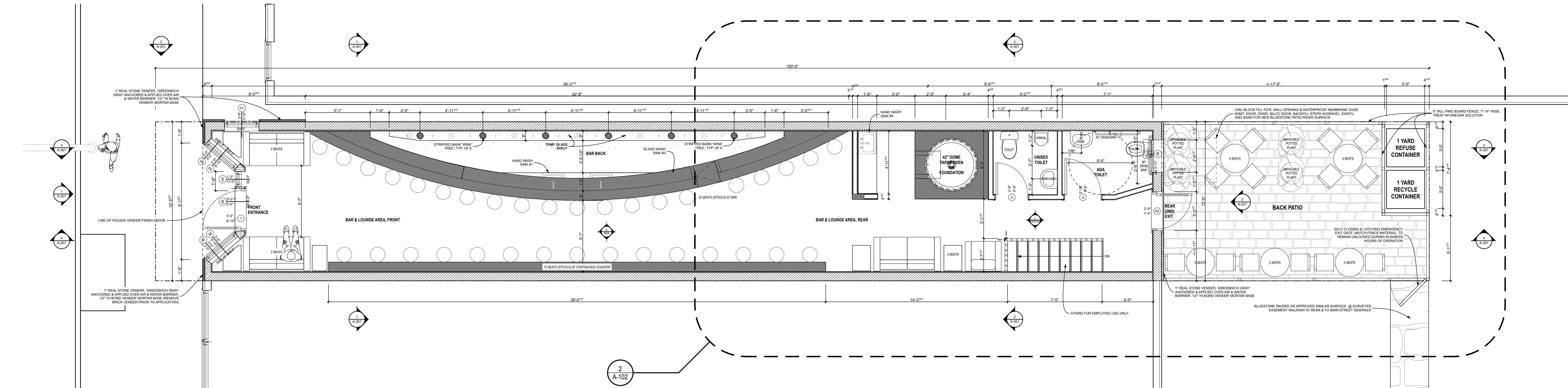
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ADDENDA
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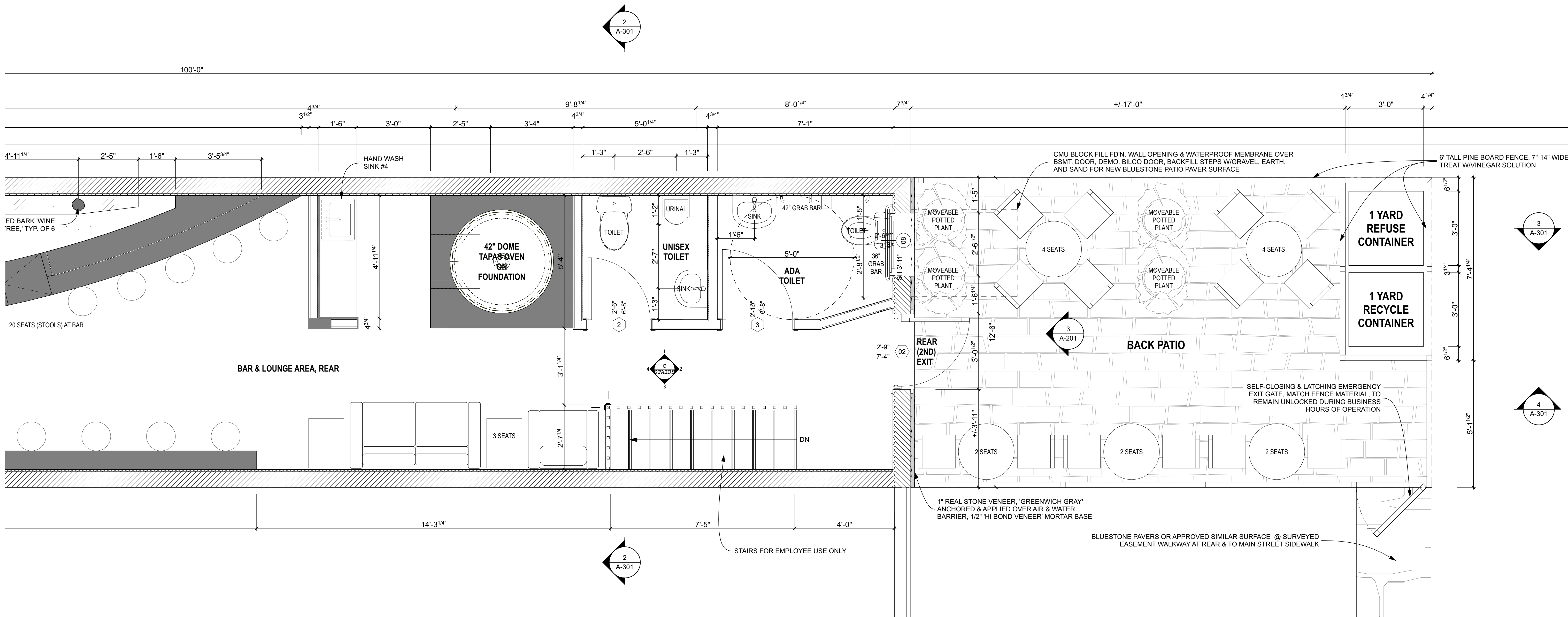
**GROUND FLOOR
PLAN + FRONT**

A-101

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



2 ENLARGED FLOOR PLAN - REAR



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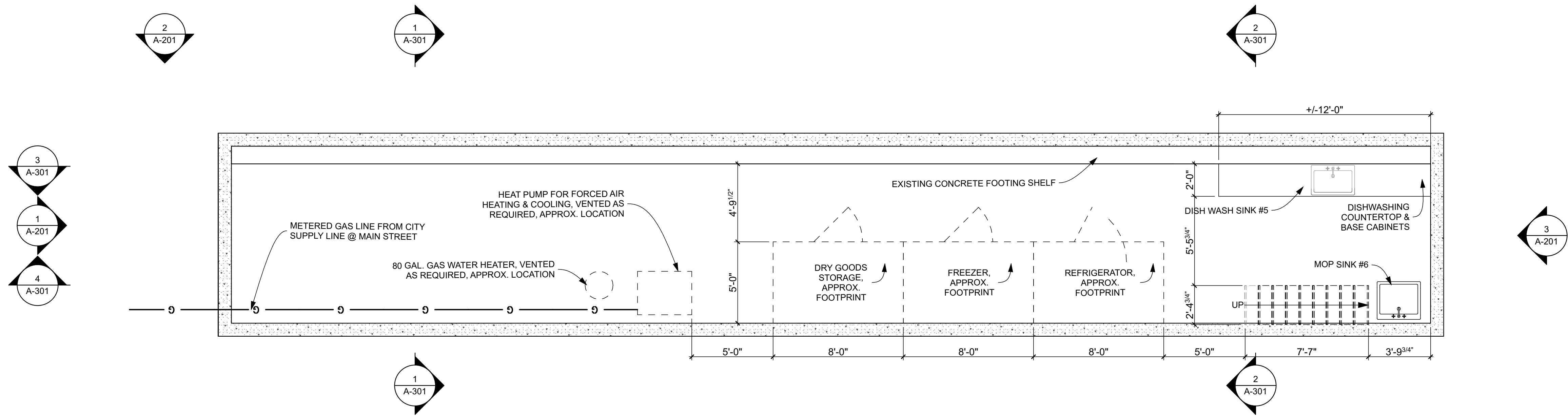
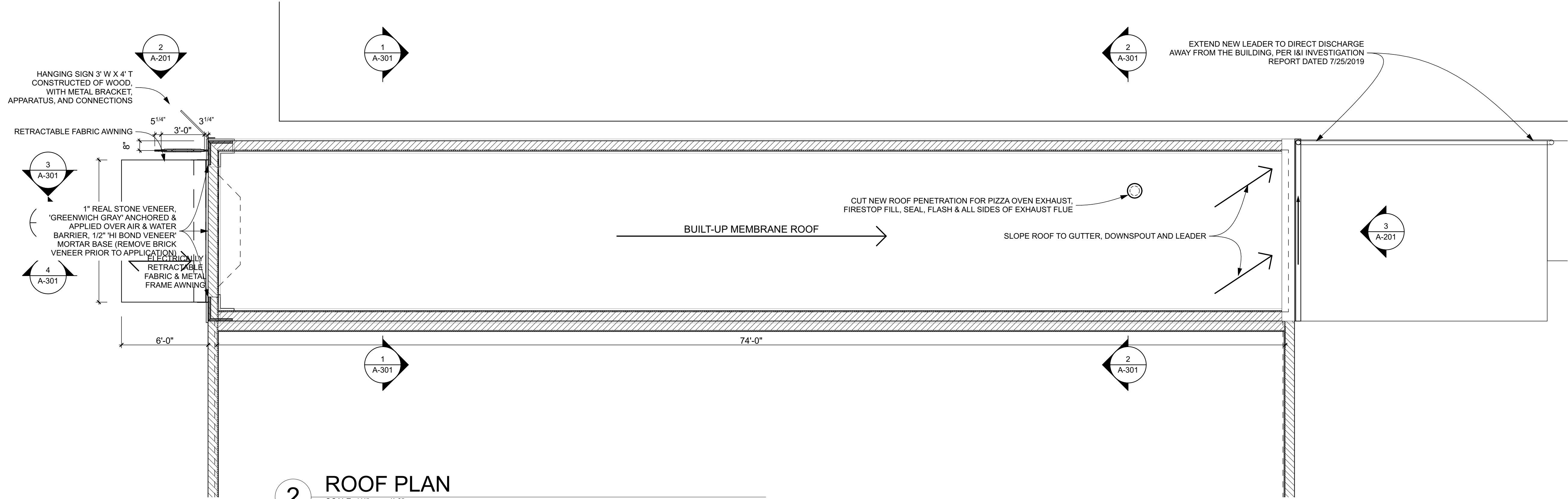
**PLANNING BOARD
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ADDENDA
AUGUST 13, 2019**

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**GROUND FLOOR
PLAN + REAR**

A-102

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**ROOF &
BASEMENT PLANS**

A-103

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PLANNING BOARD
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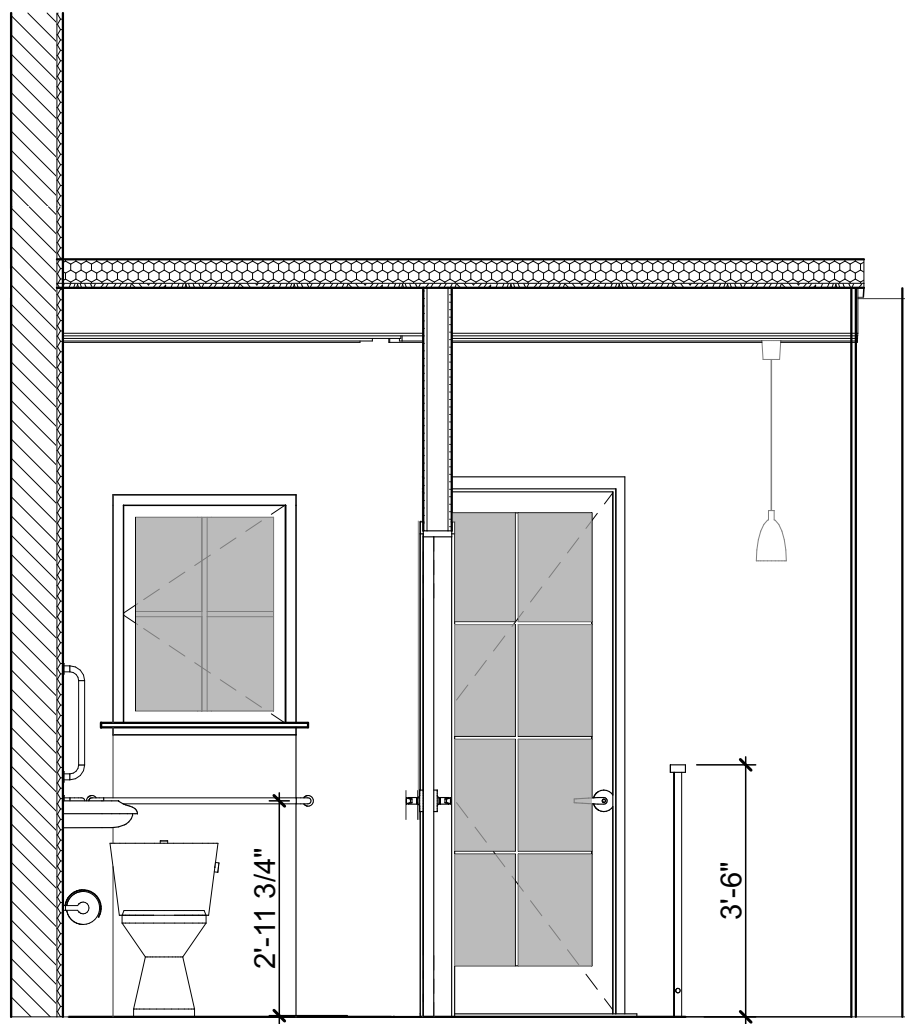
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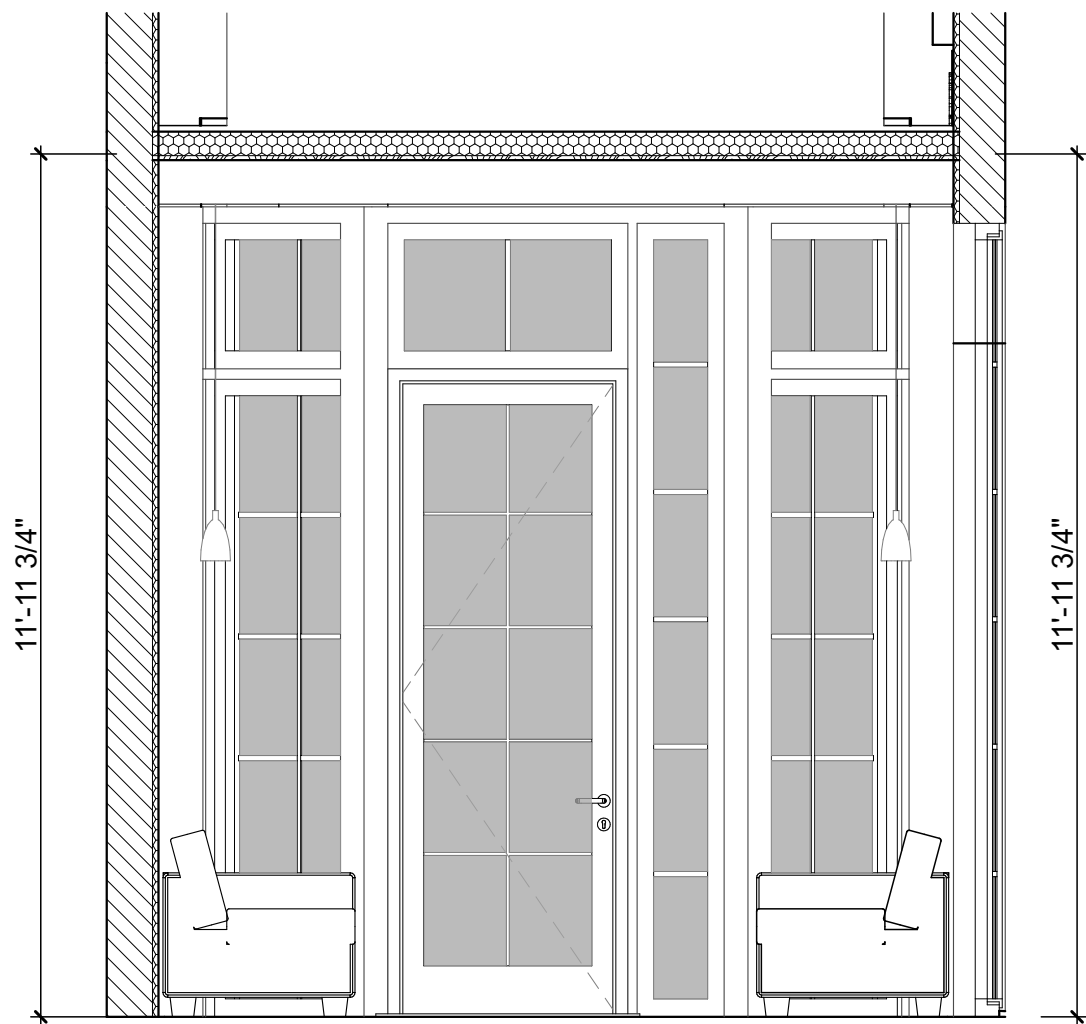
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INTERIOR
ELEVATIONS

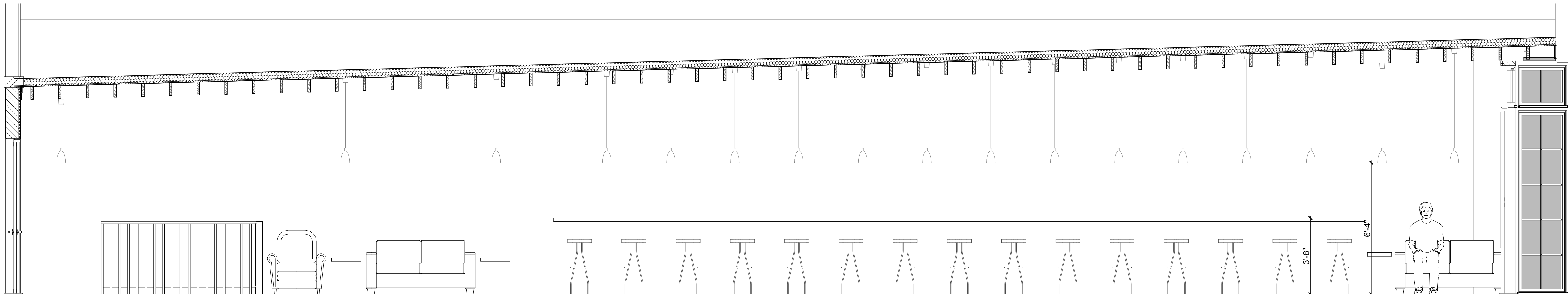
A-104



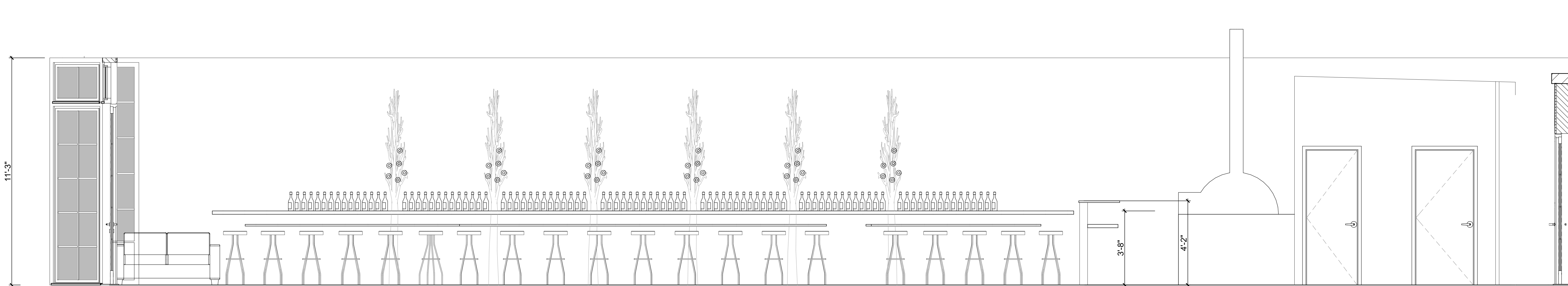
2 INTERIOR ELEVATION - ADA TOILET & HALL
SCALE: 3/8" = 1'-0"



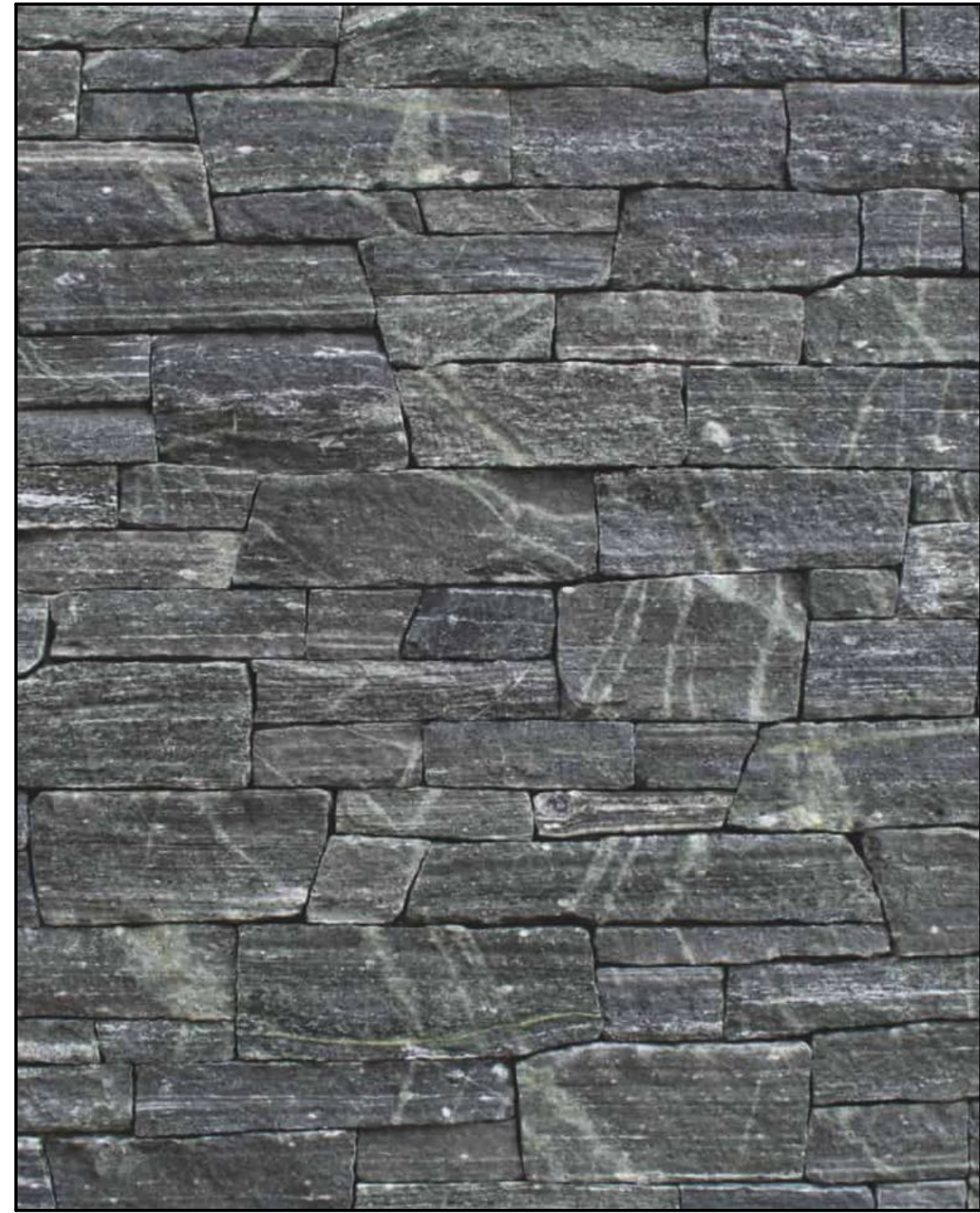
4 INTERIOR ELEVATION - BAR
SCALE: 3/8" = 1'-0"



1 INTERIOR ELEVATION - BAR
SCALE: 3/8" = 1'-0"



3 INTERIOR ELEVATION - BAR
SCALE: 3/8" = 1'-0"



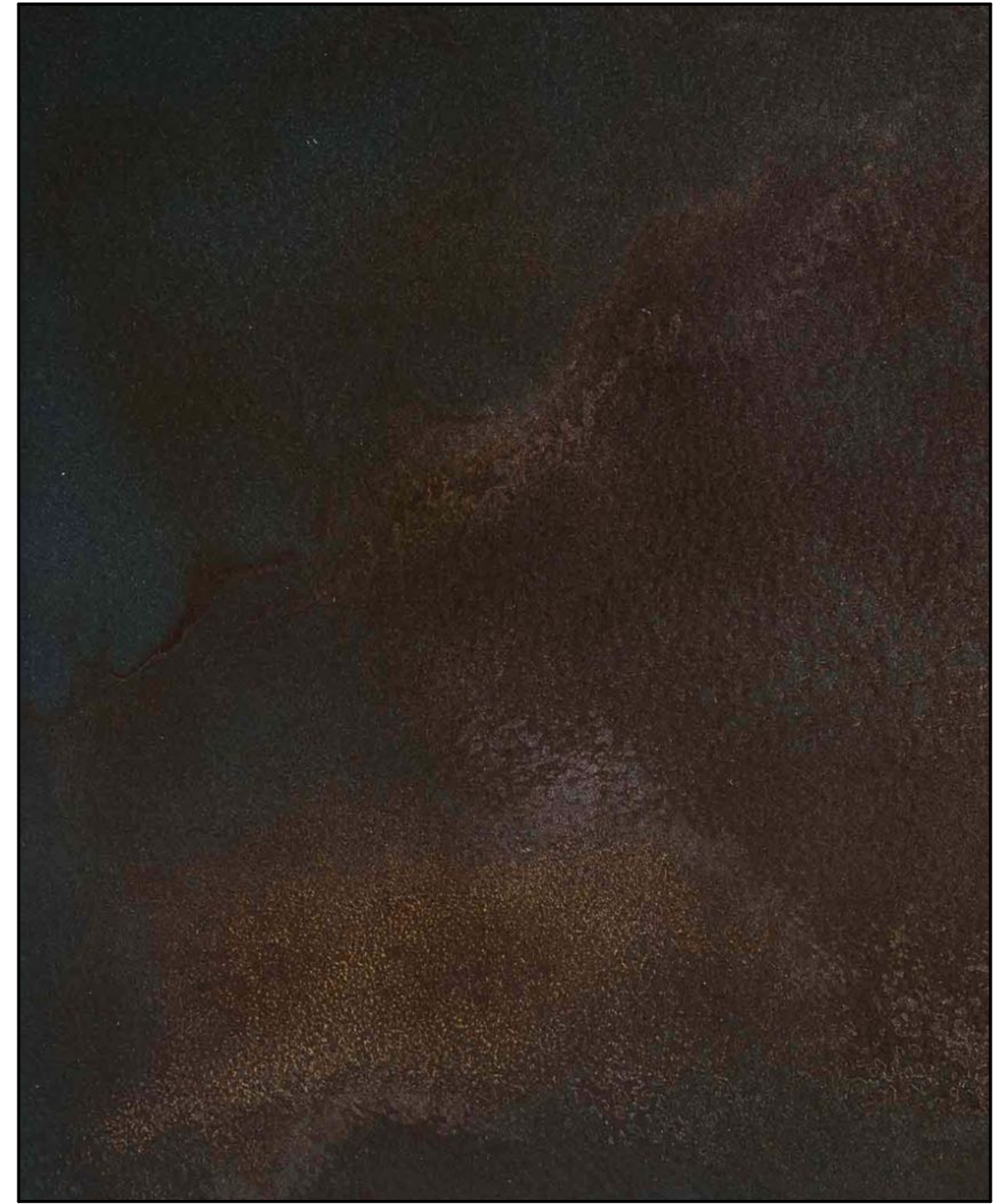
7 GREENWICH GRAY STONE VENEER
SCALE: 1:1.78



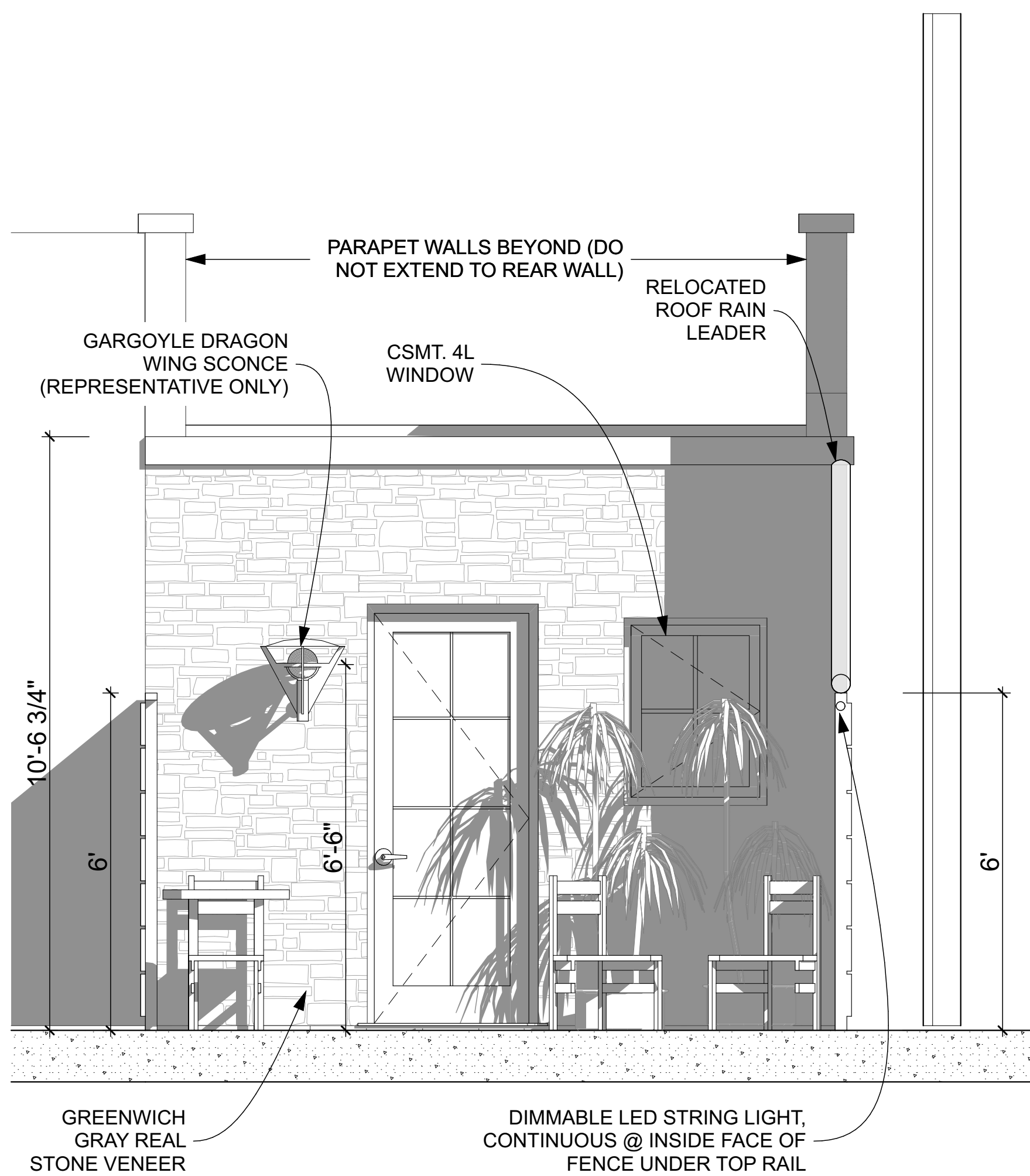
6 GARGOYLE DRAGON WING SCONCE
SCALE: 1:0.78



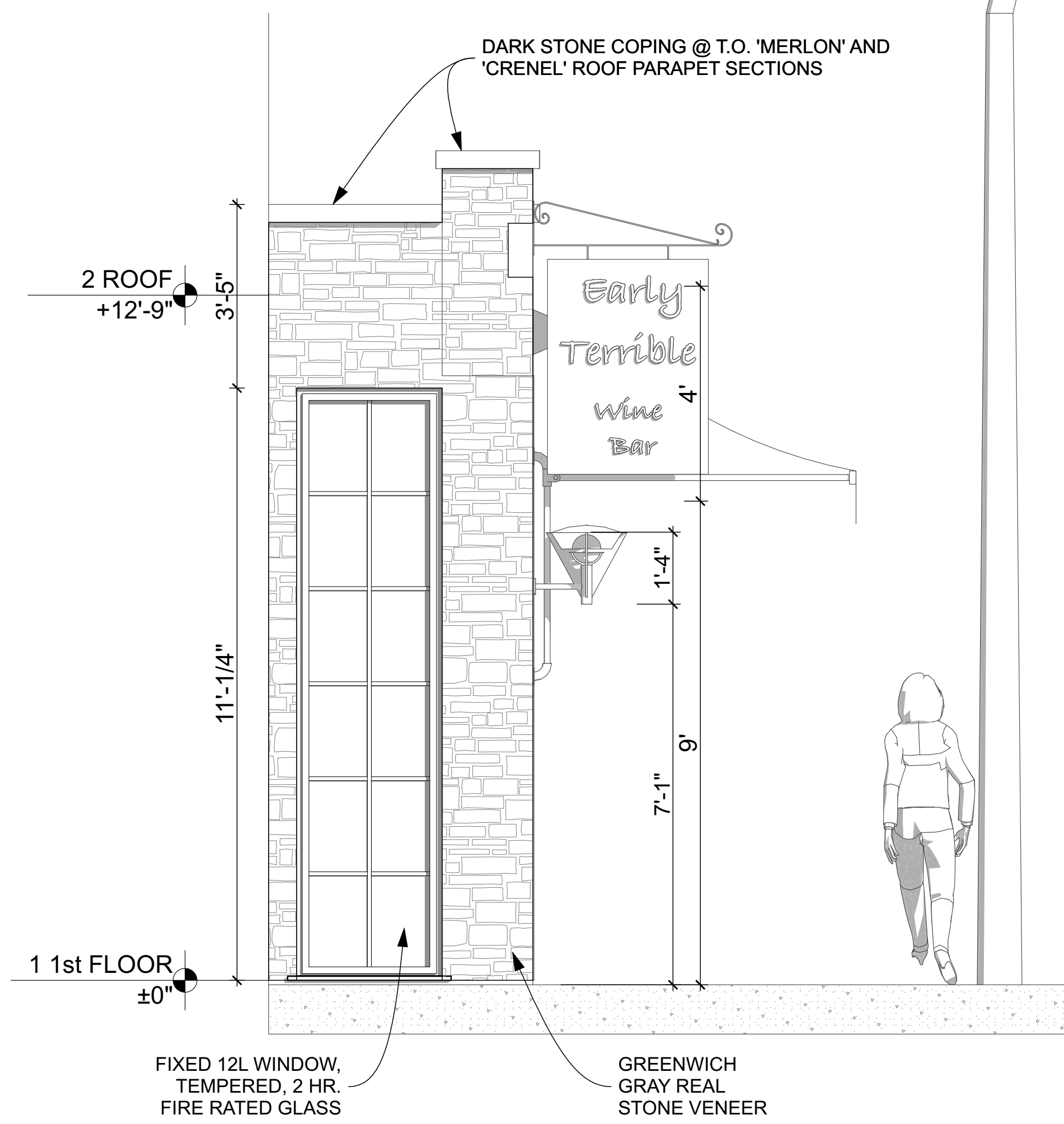
5 BEVOLO COMMANDER'S PALACE SCONCE
SCALE: 1:1.30



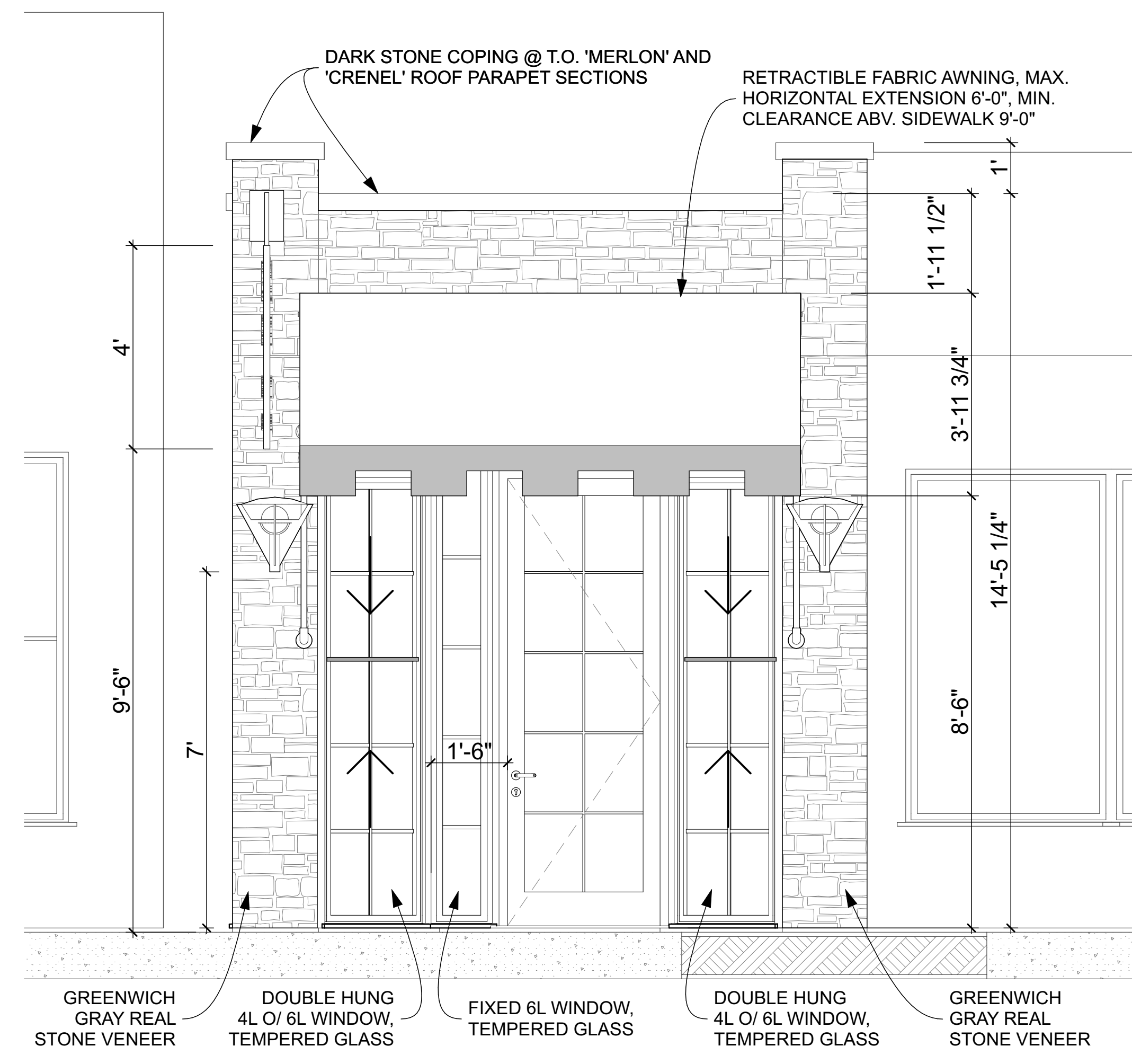
4 WINDOW SASH & DOOR FRAME FINISH
SCALE: 1:0.97



3 SOUTH (REAR) ELEVATION
SCALE: 1/2" = 1'-0"



2 EAST (PARTIAL SIDE) ELEVATION
SCALE: 1/2" = 1'-0"



1 NORTH (FRONT) ELEVATION
SCALE: 1/2" = 1'-0"



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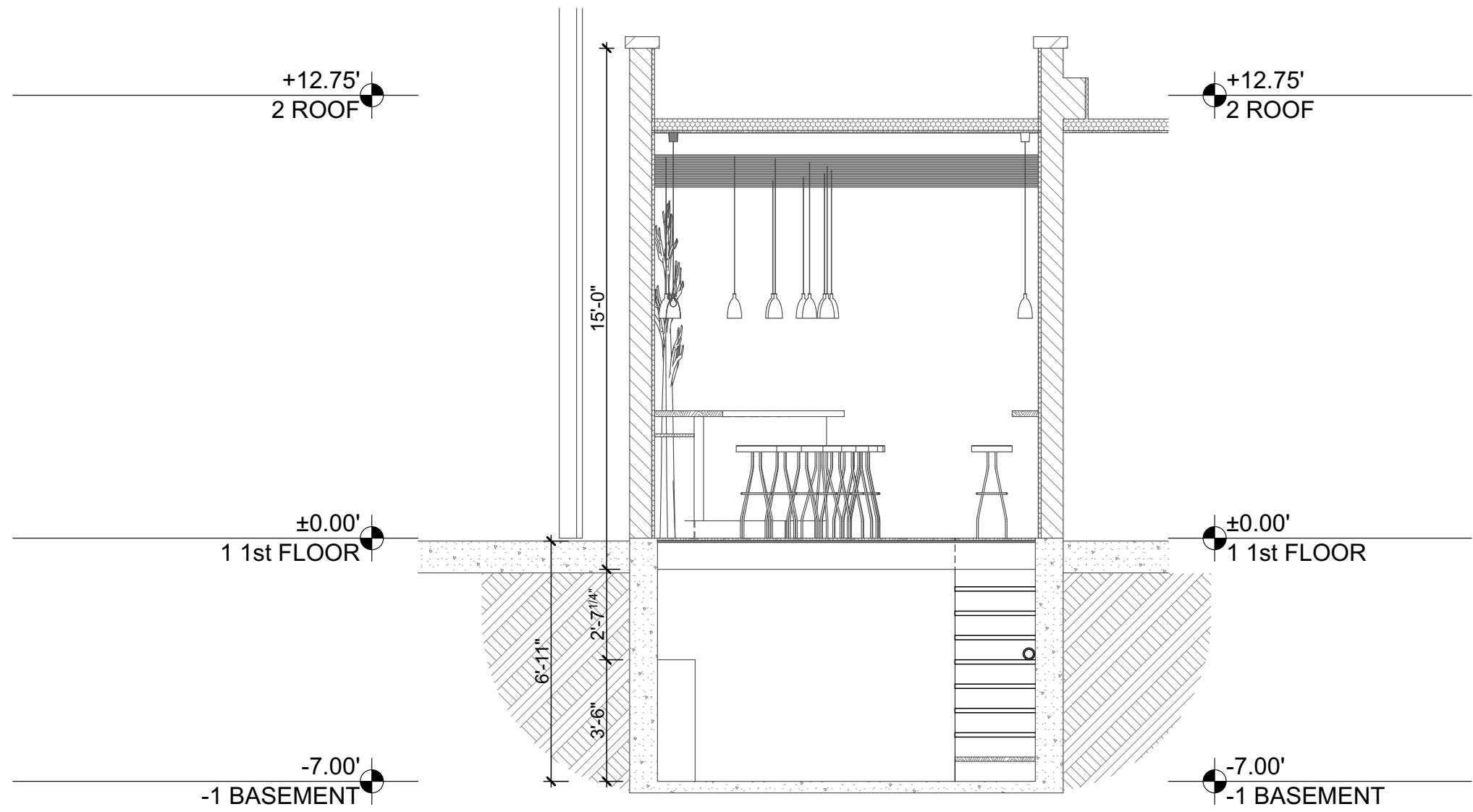
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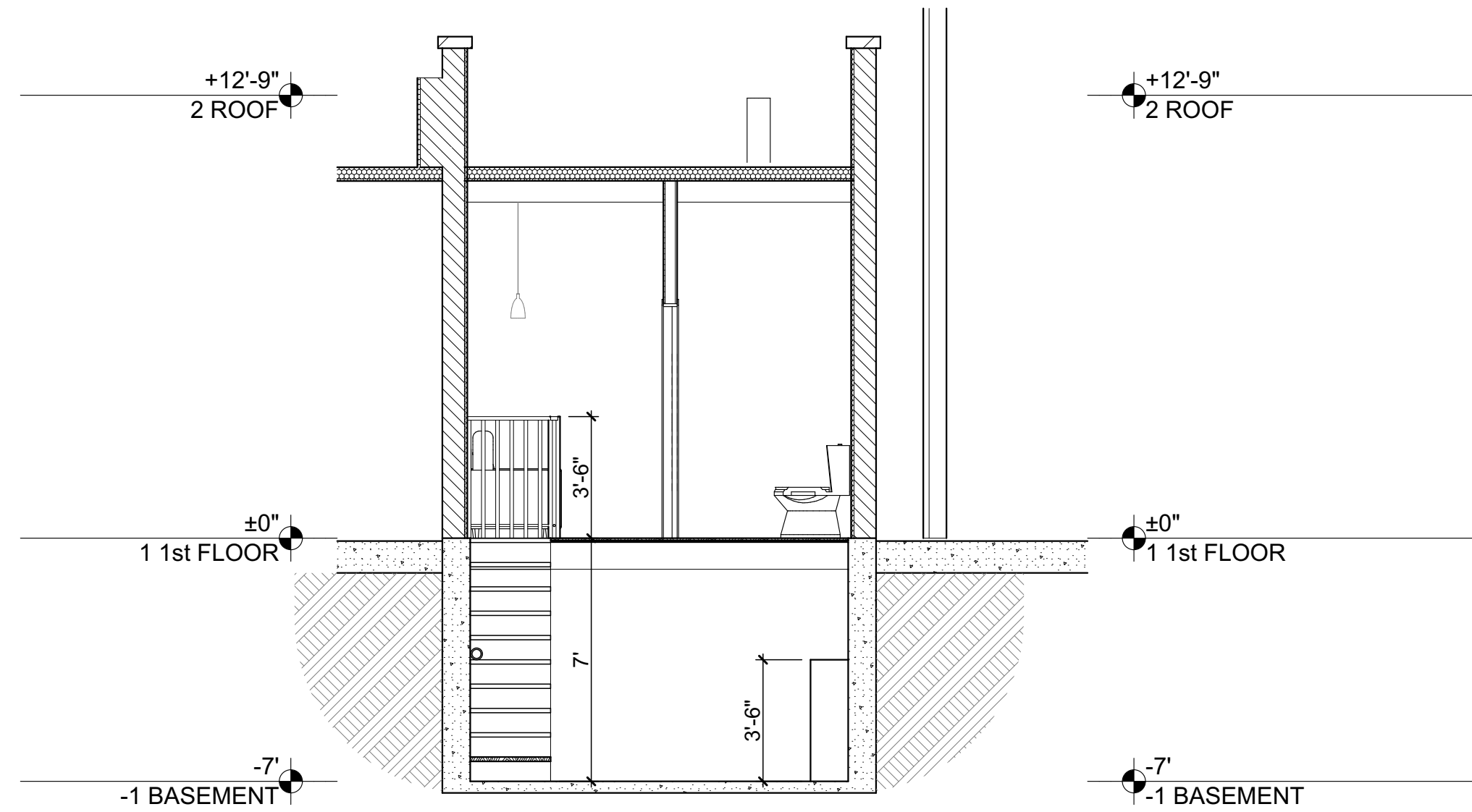
FRONT, REAR &
PARTIAL SIDE
ELEVATIONS

A-201

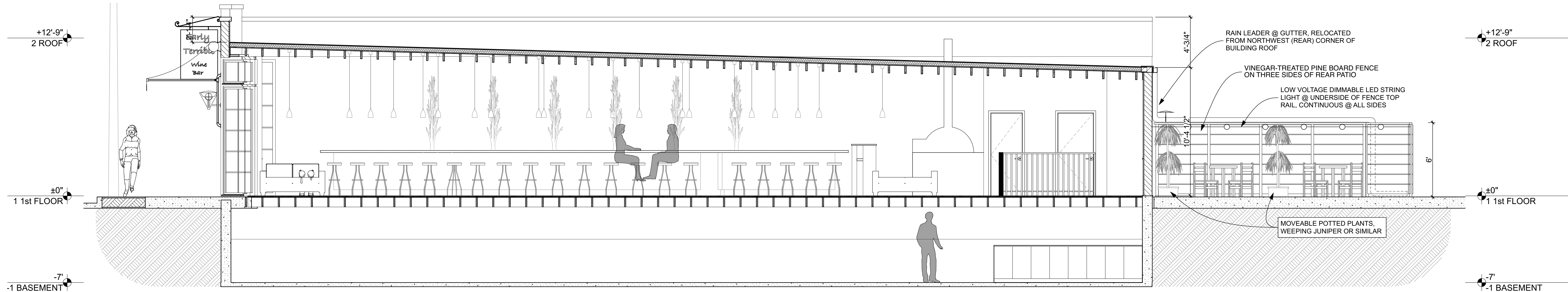
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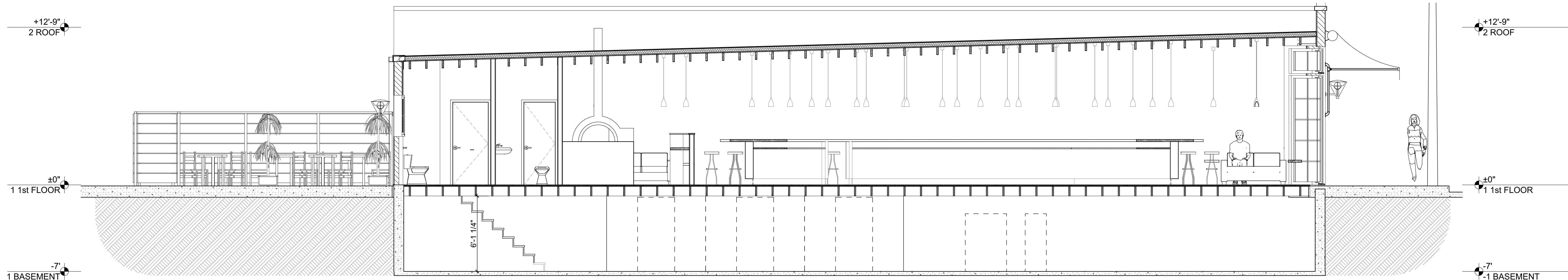
1 BUILDING SECTION
SCALE: 1/4" = 1'-0"



2 BUILDING SECTION
SCALE: 1/4" = 1'-0"



4 BUILDING SECTION
SCALE: 1/4" = 1'-0"



3 BUILDING SECTION
SCALE: 1/4" = 1'-0"



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**BUILDING
SECTIONS**

A-301

§ 223-18. Special permit uses.

- A. General provisions. The special uses for which conformance to additional standards is required by this chapter shall be deemed to be permitted uses in their respective districts, subject to the satisfaction of the requirements and standards set forth herein, in addition to all other requirements of this chapter. All such uses are declared to possess characteristics of such unique and special forms that each specific use shall be considered as an individual case.
- B. Application for a special permit. **[Amended 12-20-1993 by L.L. No. 5-1993; 12-18-2000 by L.L. No. 22-2000; 6-17-2013 by L.L. No. 12-2013; 4-21-2014 by L.L. No. 1-2014]**
 - (1) Application for required special permits shall be made to the Planning Board as agent for the City Council, and the applicant shall appear before the Planning Board prior to appearing before the City Council. All application materials, including plans, shall be submitted in electronic file format acceptable to the Building Department, in addition to at least five paper copies (or such other format or amount as determined by the Building Department), at least two weeks prior to the regular Planning Board meeting at which it will be considered. The Planning Board shall, upon receiving such application, forward a copy of the application to the City Council for the Council's use in initiating the state environmental quality review process and for otherwise processing the application. The Planning Board shall render a report to the City Council on each application, which report shall be rendered within 45 days of the date such application is received by the Board. Each report shall be submitted to both the Building Inspector and the City Engineer. The City Council shall conduct a public hearing within 62 days from the day on which a complete application is received. Public notice of said hearing shall be provided by the applicant in accordance with § 223-61.3 of this chapter. The City Council shall decide upon the application within 62 days after the hearing, provided that the SEQR process has been concluded. The time in which the City Council must render its decision may be extended by mutual consent of the applicant and the Board. The City Council may authorize the issuance of a permit, provided that it shall find that all of the following conditions and standards have been met: **[Amended 5-2-2016 by L.L. No. 7-2016]**

- (a) The location and size of the use, the nature and intensity of the operations involved in or conducted in connection with it, the size of the site in relation to it and the location of the site with respect to streets giving access to it are such that it will be in harmony with the appropriate and orderly development of the district in which it is located.
 - (b) The location, nature and height of buildings, walls and fences and the nature and extent of the landscaping on the site are such that the use will not hinder or discourage the appropriate development use of adjacent land and buildings.
 - (c) Operations in connection with any special use will not be more objectionable to nearby properties by reason of noise, fumes, vibration or other characteristic than would be the operations of any permitted use, not requiring a special permit.
 - (d) Parking areas will be of adequate size for the particular use and properly located and suitably screened from adjoining residential uses, and the entrance and exit drives shall be laid out so as to achieve maximum safety.
- (2) The decision of the City Council on the application, after the holding of the public hearing, shall be filed in the office of the City Clerk within five business days after such decision is rendered and a copy thereof mailed to the applicant.
- C. A plan for the proposed development of a lot for a permitted special use shall be submitted with an application for a special permit. The plan shall show the location of all buildings, parking areas, traffic access and circulation drives, open spaces, landscaping, topography, type and location of exterior lighting, drainage improvements in accordance with § 223-25F of this chapter, special features and any other pertinent information, including information about neighboring properties, that may be necessary to determine and provide for the enforcement of this chapter. The Planning Board, in preparing its report, as required in Subsection B, shall give particular study to the plan and shall recommend any changes that should be made in the plan to meet the conditions enumerated in §§ 223-17D and 223-18B. **[Amended 3-1-1993 by L.L. No. 2-1993; 4-5-1993 by L.L. No. 3-1993]**
- D. A current certificate of inspection issued pursuant to § 179-6 of this Code shall be submitted prior to rendering a final decision on

an application for a special permit. **[Added 7-18-2011 by L.L. No. 11-2011¹; amended 10-3-2011 by L.L. No. 12-2011]**

- E. Conditions and safeguards. The City Council shall attach such conditions and safeguards to the special permit as are necessary to assure continual conformance to all applicable standards and requirements.
- F. Expiration of special permits. **[Amended 10-18-1993 by L.L. No. 4-1993; 12-21-1998 by L.L. No. 16-1998; 4-18-2016 by L.L. No. 6-2016]**
 - (1) A special permit shall be deemed to authorize only the particular use or uses specified in the permit and shall expire if:
 - (a) A bona fide application for a building permit is not filed within one year of the issuance of the special permit; or
 - (b) If all required improvements are not made:
 - [1] For special permits that do not include construction of a new building or addition, within one year from the date of the issuance of the building permit.
 - [2] For special permits that include construction of a new building or addition, within two years from the date of issuance of the building permit.
 - (c) Said use or uses shall cease for more than six months for any reason.
 - (2) The City Council may grant one or more extensions, of up to six months each, to:
 - (a) Complete the conditions of approval for the special permit use, upon a finding that an applicant is working toward completion of such conditions with due diligence and has offered a reasonable explanation of its inability to complete such improvements and file a bona fide application for a building permit within one year of the issuance of the special permit. No further extensions may be granted if the conditions are not completed within two years following the issuance of the special permit; and

1. Editor's Note: This local law also provided for the redesignation of former Subsections D through I as Subsections E through J, respectively.

- (b) Complete construction of the improvements, upon a finding that an applicant is prosecuting construction with due diligence and has offered a reasonable explanation of its inability to complete the project. No such extensions shall be granted unless the City Council finds that all appropriate erosion control measures to protect surrounding properties are in place.
- (3) The City Council may impose such conditions as it deems appropriate upon the grant of any extension. The granting of an extension of time under this section shall not require a public hearing.
- G. Existing violations. No permit shall be issued for a special use for a property where there is an existing violation of this chapter.
- H. ² In the event that the improvements set forth in the special permit have commenced prior to the expiration date, but are not completed by that time, the applicant shall pay a daily fine of \$25 until a certificate of occupancy has been issued by the Building Department. **[Added 8-1-1994]**
- I. Revocation. The Building Inspector may revoke a special permit where it is found that the use of the premises does not conform with the limitations and conditions contained in the special permit. **[Added 5-2-1994]**

2. Editor's Note: Former Subsection H, Notice of hearing, added 10-18-1993 by L.L. No. 4-1993, was repealed 6-17-2013 by L.L. No. 12-2013. This local law also provided for the redesignation of former Subsections I and J as Subsections H and I, respectively.

B. Uses by special permit.

- (1) The following uses are allowed by special permit from the City Council, upon a finding that the proposed use is consistent with the City of Beacon Comprehensive Plan Update, will enhance the architectural character of the street and will benefit the urban, pedestrian-friendly qualities of Main Street and East Main Street, and that the conditions and standards in § 223-18B(1)(a) through (d) have been met:

 - (a) A public garage, as defined in this chapter, containing facilities used for repair of motor vehicles, but not for the sale of motor fuel. Such repair facilities shall not front on or be visible from Main Street or East Main Street.
 - (b) A bar in which the primary product is alcoholic beverages and food service is incidental. Any establishment that serves alcoholic beverages and is open later than 1:00 a.m. on any night shall be presumed to be a bar for purposes of this section.
- (2) In considering the appropriateness of the proposed use, the City Council shall consider impacts on shadows, traffic, and parking and may impose traffic and parking mitigation measures. When making a decision on a special permit, the City Council shall follow the regulations in § 223-18 of this chapter.

City of Beacon Workshop Agenda
8/26/2019

Title:

The View Offer of Dedication

Subject:

Background:

ATTACHMENTS:

Description	Type
Memorandum from City Attorney Regarding The View	Cover Memo/Letter
Irrevocable Offer of Dedication of Lighting System	Backup Material
Existing Pedestrian Walkway Easement	Backup Material
Amended Pedestrian Walkway Easement	Backup Material


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

■ **New York City Office**
505 Park Avenue
New York, NY 10022
Phone 646.794.5747

MEMORANDUM

TO: Mayor Randy Casale and Beacon City Council Members

FROM: Keane & Beane, P.C. 

RE: The View - Amended Pedestrian Walkway Easement & Dedication of Lighting System

DATE: August 15, 2019

A. Amended Pedestrian Walkway Easement

The approved Site Plan for “The View” at 26 Beekman Street includes an easement to be conveyed to the City for public use of the walkway extending from Beekman Street toward Wolcott Avenue (Route 9D). In the future, the proposed walkway was to connect to another future walkway to be constructed on the parcel that is now West End Lofts.

A Pedestrian Walkway Easement was recorded in the Dutchess County Clerk’s Office on August 30, 2017 which identified a certain easement area on the parcel for “The View” within which the walkway was anticipated to be constructed. At the time the easement was recorded the precise location for the walkway’s connection with the West End Lofts parcel was unknown. The connection point is now further south than originally anticipated and accordingly the easement area needs to be modified to match the as-built location of the walkway.

The proposed Amended Pedestrian Walkway Easement modifies the metes and bounds description of the easement area to reflect the as-built location of the walkway on “The View” parcel. All other provisions of the easement negotiated and recorded in August 2017 remain in full force and effect.

If the City Council wishes to authorize the Mayor or City Administrator to execute the Amended Pedestrian Walkway Easement, a resolution to that effect will be prepared for the next available regular City Council meeting.

B. Dedication of Lighting System

During the negotiation of the Pedestrian Walkway Easement in 2017, the City Council and the developer agreed that the developer will pay for the capital costs of the lighting system for the walkway and will offer the lighting system for dedication to the City after installation, whereupon the City’s acceptance of the lighting system will not be unreasonably withheld. The recorded Pedestrian Walkway Easement

includes an easement to allow the City access to maintain, repair and replace the lighting fixtures.

The developer submitted an Irrevocable Offer of Dedication and a Bill of Sale for the lighting system. The City Building Inspector confirmed that the lighting system has been installed properly. It is recommended that the City's acceptance of the lighting system should be conditioned upon (1) the developer providing a one year maintenance guaranty in an amount to be approved by the City Engineer and/or City Building Inspector, and (2) payment of any and all outstanding escrow monies due and owing to the City of Beacon for professional review fees.

If the City Council wishes to accept dedication of the lighting system, a resolution to that effect will be prepared for the next available regular City Council meeting.

IRREVOCABLE OFFER OF DEDICATION OF LIGHTING SYSTEM

This IRREVOCABLE OFFER OF DEDICATION made as of the ____ day of _____, 2019, is by and between DMS CONSOLIDATORS, LTD, having an address at 108 Village Square PMB 403, Somers, New York, 10589 (hereinafter the "Grantor"), and the CITY OF BEACON, a municipal corporation organized and existing under the laws of the State of New York, with its principal office located at One Municipal Plaza, Suite One, Beacon, New York (hereinafter the "Grantee").

In consideration of Ten Dollars (\$10.00) paid by the City to the Owner and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, it is covenanted and agreed as follows:

1. The Owner herein delivers to the City a Bill of Sale for certain lighting system to be conveyed and accepted, which are more fully described in Exhibit A annexed hereto, said delivery constituting a formal Irrevocable Offer of Dedication to the City, to be held by the City until the acceptance or rejection of such Irrevocable Offer of Dedication by the City.
2. The Owner agrees that such formal Irrevocable Offer of Dedication is irrevocable and can be accepted by the City at any time.
3. The execution and delivery of this Irrevocable Offer of Dedication shall impose no obligation by the City to accept such Irrevocable Offer of Dedication.
4. This Irrevocable Offer of Dedication shall run with the land and be binding upon the Owner and the City, and their respective successors and assigns.
5. This Irrevocable Offer of Dedication was executed on behalf of the Owner pursuant to a resolution of the City Council of the City of Beacon duly adopted on May __, 2019.

IN WITNESS WHEREOF, the Owner has executed and delivered this Irrevocable Offer
of Dedication on the day and year set forth above.

GRANTOR:

DMS CONSOLIDATORS LTD.



Don Strauch

ACKNOWLEDGEMENT

STATE OF NEW YORK)
) ss:
COUNTY OF WESTCHESTER)

On 14th day July, 2019, before me, the undersigned, personally appeared Don Strauch, personally known to me or proved to me on the basis of the satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which individual, or the person upon behalf of which the individual acted, executed the instrument.

BART LANSKY
NOTARY PUBLIC-STATE OF NEW YORK
No. 02LA6185616
Qualified in Westchester County
My Commission Expires April 21, 2022



Notary Public

EXHIBIT A

Description of lighting system

A lighting system, including light fixtures, wiring and all rights to maintain such system, installed on property located at 30 Beekman Street, Beacon, New York 12508 (Parcel ID 5954-26-660924) within the Easement Area created by the Pedestrian Walkway Easement Agreement between DMS Consolidators Ltd and the City of Beacon, dated August, 7, 2017, and recorded in the Office of the Dutchess County Clerk on August 30, 2017 under document # 022076583 and thereafter amended as per an Amended Pedestrian Walkway Easement Agreement, dated ___, 2019, and recorded in the Office of the Dutchess County Clerk on _____, 2019 under Document # _____.

BILL OF SALE

Know all men by these presents,

THAT DMS CONSOLIDATORS, LTD

whose address is 108 Village Square PMB 403, Somers, New York, 10589.

herein referred to as the Transferor/Seller, for and in consideration of the sum of **\$10.00** (ten United States dollars) paid to the Transferor/Seller, at or before the ensealing and delivery of these present by

CITY OF BEACON

whose address is One Municipal Plaza, Suite One, Beacon, New York

herein referred to as the Transferee/Purchaser, and for the good and valuable consideration, the receipt whereof is hereby acknowledged, sells, transfers, sets over and assigns to the said Transferee/Purchaser, free of all liens and/or encumbrances, the lighting system alongside stairs / walkway within the Easement Area created by the Pedestrian Walkway Easement Agreement between DMS Consolidators Ltd and the City of Beacon, dated August 7, 2017, and recorded in the Office of the Dutchess County Clerk on August 30, 2017 under Document #022076583 and thereafter amended as per an Amended Pedestrian Walkway Easement Agreement, dated ____, 2019, and recorded in the Office of the Dutchess County Clerk on ____, 2019 under Document #____ at property located at 30 Beekman Street, Beacon, New York 12508, identified as Parcel ID 5954-26-660924,

including the light fixtures, wiring, and all rights to maintain such systems.

TO HAVE AND TO HOLD the same unto the Transferee forever, subject to and the Transferor covenant and agrees, to and with the Transferee to warrant and defend the sale of said business and business assets hereby sold, unto the Transferee against all every person and persons whomsoever.

The terms, covenants and agreements herein contained shall bind and inure to the benefit of the respective parties hereto, and their respective legal representatives, successors and assigns.

The gender and number used in the instrument are used as a reference term only and shall apply with the same effect whether the parties are of the masculine or feminine gender, corporate or other form, and the singular shall like wise include the plural.


IN WITNESS WHEREOF, the Transferor has signed and sealed these presents
this ____ day of May, 2019,

Signed, Sealed and Delivered }
in the Presence of }



SIGNATURE

DMS CONSOLIDATORS LTD.



SIGNATURE / President

State of New York }

SS:

County of Putnam }

DONALD STRAUCH individually and for DMS CONSOLIDATORS LTD.,
being duly sworn, deposes and says,

That he is the Transferor named in the foregoing Bill of Sale.

That Transferor is the sole and absolute owner of the property described in the
foregoing bill of sale and has full right and authority to sell and transfer the same.

That the said property and each and every part thereof, is free and clear of any and
all liens, mortgages, security interests, levies, debts, taxes or other claims or
encumbrances.

Sworn to before me this

19th day of May 2019

see

B. Langky
Notary Public

Donald Strauch
Donald Strauch

BART LANGKY

NOTARY PUBLIC-STATE OF NEW YORK

No. 02LA6185616

Qualified in Westchester County

My Commission Expires April 21, 2012

“Existing Easement”



Dutchess County Clerk Recording Page

Record & Return To:

KEANE & BEANE PC
445 HAMILTON AVE

WHITE PLAINS, NY 10601

Date Recorded: 8/30/2017
Time Recorded: 2:45 PM

Document #: 02 2017 6583

Received From: VANDEWATER & VANDEWATER

Grantor: DMS CONSOLIDATORS LTD
Grantee: BEACON CITY

Recorded In: Deed
Instrument Type: EASE

Tax District: City of Beacon

Examined and Charged As Follows :

Recording Charge: \$110.00
Transfer Tax Amount: \$0.00
Includes Mansion Tax: \$0.00
Transfer Tax Number: 826

Number of Pages: 13

*** Do Not Detach This Page
*** This Is Not A Bill

Red Hook Transfer Tax:

RP5217: N
TP-584: Y

County Clerk By: Nic
Receipt #: 29625
Batch Record: 221

Bradford Kendall
County Clerk



0220176583

C/B 12P
108
6
110

PEDESTRIAN WALKWAY EASEMENT

PEDESTRIAN WALKWAY EASEMENT dated the 7th day of August, 2017 (the "Easement"), made by DMS CONSOLIDATORS, LTD, having an address at 108 Village Square, PMB 403, Somers, New York 10589 (the "Grantor"), to the CITY OF BEACON, a municipal corporation having its offices at One Municipal Plaza, Suite One, Beacon, New York 12508 (the "Grantee").

WITNESSETH:

WHEREAS, Grantor is the owner of the real property known as 26 Beekman Street in the City of Beacon, Dutchess County, New York and designated as Tax Map No. 5954-26-660924 and Tax Map No. 5954-26-641931 on the Tax Map of the City of Beacon (the "Premises"); and

WHEREAS, Grantor wishes to grant to Grantee, and Grantee wishes to accept, an easement and right-of-way for pedestrian ingress and egress only on, over, across and through the portion of the Premises described in Schedule A attached hereto (the "Easement Area") upon the terms and conditions contained herein. The Easement Area is shown on the map attached hereto as Schedule B.

NOW, THEREFORE, in consideration of one dollar (\$1.00) and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties agree as follows:

1. **Grant of Easement.** The Grantor hereby grants and releases unto the Grantee an easement and right of way for the limited purposes of pedestrian ingress and egress only on, over, across and through the Easement Area. The pedestrian walkway shall be illuminated by lighting fixtures and equipment to be designated by the Building Inspector after consultation

with the Grantor whose consent shall not be unreasonably withheld if the means of illumination do not adversely impact Grantor's housing project.

2. **Prohibited Use/Access.** Uses permitted pursuant to this Easement shall be limited to pedestrian ingress and egress on, over, across and through the Easement Area only (the "Permitted Use"). Uses other than the Permitted Use shall be prohibited. Prohibited uses of the Easement Area shall include, without limitation, the following: (i) loitering; (ii) use or riding of bicycles or skateboards; (iii) dumping or storage of any items including but not limited to trash, cigarettes, ashes, waste, sewage, garbage or other refuse, hazardous, toxic or offensive materials; (iv) the consumption of alcohol or carrying of open containers thereupon; (v) the use of illegal substances or any illegal conduct thereupon; or (vi) engaging in any conduct in violation of any federal, state or local law or regulation.

3. **Grantor Covenants.** The Grantor covenants that:

a. Grantor shall not construct any improvements in the Easement Area other than what is shown on the approved plans entitled, "The View," prepared by M.A. Day Engineering, P.C. and approved by the City of Beacon Planning Board on August 9, 2016 and on file in the City of Beacon Building Department, or otherwise obstruct or interfere with the Grantee's rights conferred herein; provided, however, that Grantor shall have the right, in its sole discretion, to widen or otherwise modify the pedestrian walkway (including the Easement Area) without Grantee's consent, subject to the issuance of all applicable permits from the City of Beacon, so long as the Permitted Use is not materially adversely affected.

b. Grantor may construct and maintain, at its sole expense, fencing, approved by the Grantee's Building Inspector, along the southern most boundary (running along South 41-16-37 West 25.00 feet) and the northern most boundary (running along North 62-10-00-East 21.18

feet) of the Easement Area. Said fencing will be removed by Grantor at such time as a pedestrian walkway is constructed on the abutting property currently owned by the City of Beacon as described in Liber 1945, Page 119, which would connect to the walkway within the Easement Area and allow pedestrian access to Route 9D (Main Street).

c. Grantor shall at its sole cost and expense repair and maintain the Easement Area so that it can be utilized for the Permitted Use, except as otherwise set forth hereinafter in paragraph 4(d).

4. **Grantee Covenants.** The Grantee covenants that:

a. Grantee shall not use, or permit the public to use, the Easement Area for any purpose other than the Permitted Use;

b. Grantee shall not use, or permit the public to use, any portion of the Premises outside of the Easement Area for any purpose whatsoever, and

c. Grantee shall not obstruct the Easement Area or in any way block access by residents of the Premises.

d. Grantor shall pay for the capital costs of illumination of the Easement Area as a private improvement. After installation, the Grantor shall offer for dedication the lighting fixtures, the acceptance of which shall not be unreasonably withheld by the Grantee. Subsequent to dedication, this Easement shall include a right of the Grantee, or its agents or contractors, to access the lighting fixtures. After dedication, Grantee shall be solely responsible to maintain, to repair, and to replace the lighting fixtures, and for all costs associated therewith. After dedication, Grantee shall pay the costs of energy for the lighting fixtures.

5. **Indemnification.** Grantee releases and also shall defend, indemnify and hold Grantor harmless, from and against all claims, damages, demands, losses, expenses, fines, causes of

action, lawsuits, judgments or any other liabilities (including all reasonable attorneys' fees, consequential and punitive damages), for personal injuries and/or property damages arising out of or resulting from, any use of the Easement Area, the maintenance and use of dedicated lighting fixtures or from Grantee's breach of any of the covenants contained herein, to the extent not caused by Grantor's negligence or willful misconduct. The duty to defend shall be limited to available liability coverage of the City for the claim. The City shall have no duty to defend claims excluded by standard insurance endorsements, such as intentional torts. Limitations on defense shall not be triggered by disclaimer due to late notice by the City to the insurer or by cancellation of liability insurance coverage due to fault of the City including, but not limited to non-payment of premiums.

6. **Insurance.** Grantee and Grantor shall each furnish to the other a certificate of insurance evidencing commercial general liability coverage (including coverage of the City's contractual defense and indemnity set forth in Section 5) of at least \$1,000,000.00 combined single limit per occurrence, and not less than \$2,000,000.00 general aggregate coverage for bodily injury and property damage, naming the other party hereto as an additional insured. Grantee and Grantor shall also provide a minimum of \$5,000,000.00 excess liability coverage, naming the other party hereto as an additional insured which shall also be evidenced on the certificate of insurance. For so long as this Easement shall remain in effect, the Grantee and Grantor shall maintain such insurance coverage, adjusted every ten (10) year anniversary of the date hereof i (each, an "Adjustment Date") based on the Consumer Price Index for All Urban Consumers (CPI-U); U.S. City Average; all items, not seasonally adjusted, 1982-1984=100 reference base, published by the Bureau of Labor Statistics, United States Department of Labor. The CPI-U used for such adjustments shall be the CPI-U last officially published prior to the last day of the month

immediately preceding the Adjustment Date, as applicable, whether such CPI-U has been published on a quarterly, semi-annual, annual, monthly or other basis.

7. **Run with the Land.** This Easement shall run with the land and shall be binding upon the Grantor and the Grantee and their respective successors, heirs and assigns.

8. **Non-Exclusive.** Subject to the terms and conditions hereof, the Easement granted hereby shall be non-exclusive.

9. **Notices.** (a) Any notice, approval, consent, bill, statement or other communication required or permitted to be given, answered or made by either party hereto to the other shall be in writing and shall be deemed to have been properly given or sent: (1) if intended for the Grantor, either by hand delivery or overnight express mail, or by registered or certified mail with the postage prepaid, in each case addressed to the Grantor, DMS CONSOLIDATORS, LTD., 108 Village Square, PMB 403, Somers, New York 10589, with a copy to Van DeWater & Van DeWater, LLP, 85 Civic Center Plaza, Suite 101, PO Box 112, Poughkeepsie NY 12601-0112, at the same address; (2) if intended for the Grantee, either by hand delivery or overnight express mail, or by registered or certified mail with the postage prepaid, in each case addressed to the Grantee, City of Beacon, One Municipal Plaza, Suite One, Beacon, New York 12508, Attention: City Administrator, with a copy to Keane & Beane, P.C., 445 Hamilton Avenue, Ste 1500, White Plains, NY 10601, Attention: Nicholas M. Ward-Willis, Esq..

(b) Each party may designate a different address to which any notice, demand, request or communication may hereafter be so given, served or sent, by notice to the other party. Each notice, demand, request or communication to be delivered to the Grantor or the Grantee, in the manner aforesaid, shall be deemed sufficiently given, served or sent for all purposes hereunder at

the time such notice, demand, request or communication is mailed or hand delivered as described in paragraph (a) above.

10. **Severability**. If any portion or portions of this Easement is or are declared illegal or invalid, all other portions shall, to the maximum extent possible, remain in full force and effect.

11. **Headings**. The headings used in these provisions are for convenience only and shall not be used in interpreting these provisions.

12. **Entire Agreement**. This Easement contains the entire agreement between the parties hereto as to the matters set forth herein and may not be changed, modified, altered or in any way amended, except by agreement amongst the parties (their successors and/or assigns) in a duly acknowledged writing and recorded in the Dutchess County Clerk's Office.

13. **Non-Waiver**. The waiver by either party of a breach of any provision of this Easement by the other party shall not operate or be construed as a waiver of any subsequent breach by either party.

14. **Counterparts**. This Easement may be executed in any number of counterparts and by different parties hereto on separate counterparts, each complete set of which, when so executed and delivered by all parties, shall be an original, but all such counterparts shall together constitute one and the same instrument.

15. **Governing Law**. This Easement shall be governed by and construed in accordance with the laws of the State of New York, without regard to the conflicts of laws principles thereof. Disputes shall be venued in Supreme Court, Dutchess County. The parties waive any right to jury trial.

[Signature Page Follows]

IN WITNESS WHEREOF, the Grantor and the Grantee have executed this instrument as of the date first set forth above.

Grantor:

DMS CONSOLIDATORS, LTD

By: Donald E. Strauch

Name: Donald E. Strauch

Title: President

Grantee:

CITY OF BEACON

By: Anthony Ruggiero

Name: Anthony Ruggiero

Title: City Administrator

STATE OF NEW YORK)

COUNTY OF) ss:

On the 28 day of Aug, 2017, before me, the undersigned, a notary public in and for said state, personally appeared Donald E. Strauch, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

John R. Fanning

DAWN M. FANNING
Notary Public, State of New York
Registration #01FA6091579
Qualified in Westchester County
Commission Expires April 28, 2019

STATE OF NEW YORK)

COUNTY OF DUTCHESS) ss:

On the 28 day of August, 2017, before me, the undersigned, a notary public in and for said state, personally appeared Anthony Ruggiero, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Iola C. Taylor

IOLA C TAYLOR
Notary Public - State of New York
NO. 01TA6154600
Qualified in Dutchess County
My Commission Expires 10.23.2019

Record and Return to:
Nicholas M. Ward-Willis, Esq.
Keane & Beane, P.C.
445 Hamilton Avenue
White Plains, New York 10601

Schedule A

Legal Description of Easement Area
[See Attached]

Gary R. LaTour
NEW YORK STATE LICENSED LAND SURVEYOR
License No. 049457
273 East Main Street
Beacon, New York 12508-3516
Phone/Fax: 845 831-8556
E-Mail: GARYLALS@aol.com

August 12, 2016

**PEDESTRIAN WALKWAY EASEMENT
DMS CONSOLIDATORS, LTD TO THE CITY OF BEACON**

All that certain tract or parcel of land situate in the City of Beacon, County of Dutchess and State of New York bounded and described as follows:

Beginning at a point in the southerly line of Beekman Street, said point being the northeast corner of a parcel of land conveyed by Anthony Ruggiero as City Administrator of the City of Beacon to DMS Consolidators LTD as described in Document # 02-2015-4533, and the most westerly corner of Parcel No. 19 as described in a deed from the People of the State of New York to the City of Beacon (Document #02-2002-1117), and running from thence along the easterly line of said lands of DMS Consolidators, running through the former location of Beekman Street, South 47-03-30 East 38.75 feet to the most northerly corner of Lot 1 as shown on a map entitled "Final Subdivision Plat Prepared for Beacon Ridge Associates, Inc." and filed in the Dutchess County Clerk's Office on June 7, 1994 as Map # 9899; thence along the westerly lines of Lot 2 as shown on said map, being now or formerly lands of the City of Beacon (Liber 1945 page 119), South 35-00-00 East 135.06 feet and South 41-16-37 West 25.00 feet; thence running through said Lot 1 on Filed Map 9899 and through lands of DMS Consolidators as described in Document #02-2015-4533, North 48-43-23 West 51.145 feet, North 26-40-00 West 99.56 feet and North 47-03-30 West 34.09 feet to a point in the southerly line of Beekman Street; thence along the same, North 62-10-00 East 21.18 feet to the point of beginning.

Containing 4,962 square feet of land.

Being a portion of the premises conveyed by Anthony Ruggiero as City Administrator of the City of Beacon to DMS Consolidators LTD by deed dated July 6, 2015 and recorded in the Dutchess County Clerk's Office on July 28, 2015 as Document #02-2015-4533, together with a portion of the premises conveyed by Beacon Ridge Associates, Inc. to DMS Consolidators LTD by deed dated April 16, 2015 and recorded in the Dutchess County Clerk's Office on April 28, 2015 as Document #02-2015-2498 (Lot 1, Filed Map #9899).



Schedule B

Map of Easement Area
[See Attached]

AMENDED PEDESTRIAN WALKWAY EASEMENT

AMENDED PEDESTRIAN WALKWAY EASEMENT (this "Amended Easement") made as of the ____ day of July, 2019, by DMS Consolidators Ltd. having an address at 108 Village Square, PMB 403, Somers, New York 10589 (the "Grantor") to the CITY OF BEACON, a municipal corporation having its offices at One Municipal Plaza, Suite One, Beacon, New York 12508 (the "Grantee").

WITNESSETH:

WHEREAS, Grantor is the owner in fee simple of certain real property known as 26 Beekman Street in the City of Beacon, Dutchess County, New York and designated as Tax Map No. 5954-26-660924 and Tax Map No. 5954-26-641931 on the Tax Map of the City of Beacon (the "Premises"); and

WHEREAS, Grantor granted a Pedestrian Walkway Easement in favor of the City of Beacon on August 7, 2017 which was recorded in the Dutchess County Clerk's Office on August 30, 2017 as Document # 02 2017 6583, hereinafter the "Existing Easement"; and

WHEREAS, Grantor desires to extinguish / terminate the easement description set forth on Schedule A and Schedule B on the Existing Easement and replace same with the easement descriptions provided on the attached "Schedule A - Amended Easement Area" and "Schedule B - Map of Amended Easement Area"; and

WHEREAS, Grantee does not object to this change in the Easement Area; and

NOW THEREFORE, Grantor and Grantee do hereby agree to subject the Premises to the following:

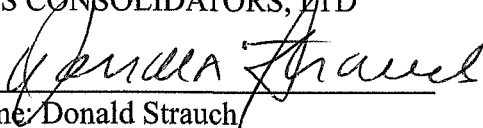
1. The provisions of the preamble are hereby incorporated herein by this reference and made a part of this Amended Easement.

2. The metes and bounds description in "Schedule A - Amended Easement Area" attached hereto shall replace the metes and bounds descriptions attached to the Existing Easement, referenced therein as "Schedule A – Legal Description of Easement Area".
3. The map of the easement area attached hereto as "Schedule B - Map of Amended Easement Area" shall replace the map of the easement area attached to the Existing Easement, referenced therein as "Schedule B - Map of Easement Area"
4. All provisions of the Existing Easement shall remain in full force and effect except as modified herein to amend the location of the easement area. The rights of way, easements, and other rights created herein shall run with the land and shall be binding upon and shall inure to the benefit of the parties herein and their successors and assigns.
5. This Amended Easement shall be governed and construed under and in accordance with the laws of the State of New York.
6. This Amended Easement can only be modified in writing in such form as required to record a modification hereto in the Office of the Clerk of the County of Dutchess, and signed by the City. No modification, waiver or consent with respect to this Agreement shall be binding unless it is in writing and signed by the party against whom such modification, waiver, or consent is sought.

IN WITNESS WHEREOF, Declarant has executed this Amended Easement as of the date first appearing above, intending the same to be recorded in the Office of the Dutchess County Clerk.

Grantor:

DMS CONSOLIDATORS, LTD

By: 

Name: Donald Strauch

Title: President

Grantee:

CITY OF BEACON

By: _____

Name: Anthony Ruggiero

Title: City Administrator

STATE OF NEW YORK)
COUNTY OF DUTCHESS) ss:

On the 19th day of July in the year, 2019, before me the undersigned, personally appeared DONALD E. STRAUCH, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, he executed the instrument.



BART LANSKY
NOTARY PUBLIC-STATE OF NEW YORK
No. 02LA6185616
Qualified in Westchester County
My Commission Expires April 21, 2012

STATE OF NEW YORK)
COUNTY OF DUTCHESS) ss:

On the _____ day of July in the year, 2019, before me the undersigned, personally appeared ANTHONY RUGGIERO, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, he executed the instrument.

“Schedule A - Amended Easement Area”

Gary R. LaTour
NEW YORK STATE LICENSED LAND SURVEYOR
License No. 049457
273 East Main Street
Beacon, New York 12508-3515
Phone/Fax: 845 831-8556
E-Mail: GARYLALS@aol.com

January 28, 2019

**REVISED PEDESTRIAN WALKWAY EASEMENT
DMS CONSOLIDATORS, LTD TO THE CITY OF BEACON**

All that certain tract or parcel of land situate in the **City of Beacon**, County of Dutchess and State of New York bounded and described as follows:

Beginning at a point in the southerly line of Beekman Street, said point being the northeast corner of a parcel of land conveyed by Anthony Ruggiero as City Administrator of the City of Beacon to DMS Consolidators LTD as described in Document # 02-2015-4533, and the most westerly corner of Parcel No. 19 as described in a deed from the People of the State of New York to the City of Beacon (Document #02-2002-1117), and running from thence along the easterly line of said lands of DMS Consolidators, running through the former location of Beekman Street, South 47-03-30 East 38.75 feet to the most northerly corner of Lot 1 as shown on a map entitled "**Final Subdivision Plat Prepared for Beacon Ridge Associates, Inc.**" and filed in the Dutchess County Clerk's Office on June 7, 1994 as **Map # 9899**; thence along the westerly lines of Lot 2 as shown on said map, being now or formerly lands of the City of Beacon (Liber 1945 page 119), South 35-00-00 East 135.06 feet and South 41-16-37 West 84.00 feet; thence running through said Lot 1 on Filed Map 9899 and through lands of DMS Consolidators as described in Document #02-2015-4533, North 44-30-00 West 23.83 feet, North 01-00-00 West 55.48 feet, North 12-00-00 East 30.00 feet, North 26-40-00 West 73.00 feet and North 47-03-30 West 34.09 feet to a point in the southerly line of Beekman Street; thence along the same, North 62-10-00 East 21.18 feet to the point of beginning.

Containing 7,883 square feet or 0.181 acres of land.

Being a portion of the premises conveyed by Anthony Ruggiero as City Administrator of the City of Beacon to DMS Consolidators LTD by deed dated July 6, 2015 and recorded in the Dutchess County Clerk's Office on July 28, 2015 as Document #02-2015-4533, **together with a portion of** the premises conveyed by Beacon Ridge Associates, Inc. to DMS Consolidators LTD by deed dated April 16, 2015 and recorded in the Dutchess County Clerk's Office on April 28, 2015 as Document #02-2015-2498 (Lot 1, Filed Map #9899).



“Schedule B - Map of Amended Easement Area”

NORTH
SCALE 1"=30'

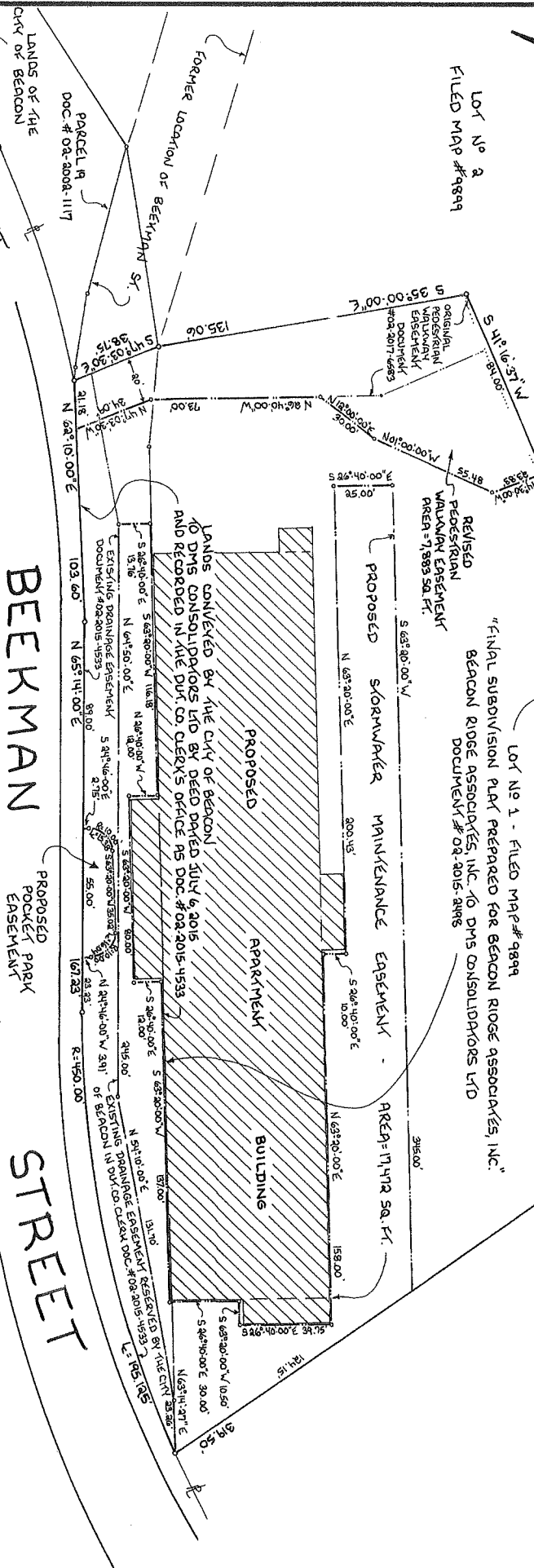
LANDS OF
THE CITY OF BEACON
LIBER 1945 PAGE 119

N/L
PROTESTANT
REFORMED
DUTCH
CHURCH
OF
FISHKILL
LANDING
LIBER 191 PAGE 692

LOT N° 2
FILED MAP # 9899

"FINAL SUBDIVISION PLAT PREPARED FOR BEACON RIDGE ASSOCIATES, INC."
BEACON RIDGE ASSOCIATES, INC. TO DMS CONSOLIDATORS LTD
DOCUMENT # 02-2015-2498
REVISOR
PEDESTRIAN
WALKWAY EASEMENT
AREA = 7,893 SQ. FT.

LOT N° 1 - FILED MAP # 9899



BECKMAN

STREET

BECKMAN STREET
AS RELOCATED IN
THE LATE 1970'S
BY THE
BEACON URBAN RENEWAL PROJECT

NOTE: THE TWO PARCELS OF LAND CONVEYED TO DMS CONSOLIDATORS LTD
BY DEEDS RECORDED IN THE DUTCHESS COUNTY CLERK'S OFFICE AS DOCUMENTS
#02-2015-2498 AND 02-2015-1533 WERE CONSOLIDATED INTO ONE TAX PARCEL BY
DEED DATED OCTOBER 21, 2015 AND RECORDED IN THE DUTCHESS COUNTY CLERK'S
OFFICE ON OCTOBER 22, 2015 AS DOCUMENT # 02-2015-6789.

CERTIFIED TO:

DMS CONSOLIDATORS LTD
STEWART TITLE INSURANCE CO.
THE CITY OF BEACON
SAUSSEUR BANK & TRUST, ITS SUCCESSORS
AND/OR ASSIGNS

PREPARED BY:

GARY R. LATOUR, L.S.
273 EAST MAIN ST.
BEACON, NEW YORK



ADDITIONAL EASEMENTS TO BE
GRANTED BY
DMS CONSOLIDATORS LTD TO THE
CITY OF BEACON

CITY OF BEACON, DUTCHESS COUNTY, NEW YORK SCALE 1" = 30' PUGUST 12, 2016 REV. 10/17/16 (GEOGRAPHIC NORTH, 65M)