

February 24, 2021

Donald J. Poland, PhD, AICP Goman + York Planning and Design 1137 Main Street East Hartford, CT 06108

Re: Zoning Change, Site Plan and Special Permit Application Review

404 Berlin Turnpike

Dear Mr. Poland:

We are in receipt of your review comments dated February 1, 2021, regarding the project noted above. Our responses are indicated below in *bold italic* text and are as follows:

## SECTION I – THE PROPOSED APPLICATION

1. The proposed mixed-use development includes all associated site improvements, including 534 parking spaces. The application, as submitted, is comprehensive and appears complete.

Response: Acknowledged.

# SECTION II - THE ZONE CHANGE APPLICATION

## Comprehensive Plan of Zoning

2. The purpose of BTD zone is to promote mixed use development, provide for a variety and diversity of housing opportunity, provide for affordable housing opportunities, encourage walkable commercial development, while ensuring high-quality design and offering open spaces and other public amenities to the community. In my professional opinion, the proposed application meets the intent and purpose of the BTD zone. In addition, it is important to note that three of the four individual uses proposed in the mixed-use development are allowed, individually, in the BT-1 zone. The multi-family residential use is the only use that is need to the area. Therefore, the change to the BTD zoning designation is not substantially changing the uses allowed at this location, it is simply allowing for these uses to be assembled into a comprehensive application and mixed-use development that includes multi-family residential development. Based on the



review and the above discussion, I find that the proposed zone change application is consistent with the Comprehensive Plan of Zoning.

Response: Acknowledged.

## Plan of Conservation and Development

3. Based on my review of the Berlin 2013 Plan of Conservation and Development, the BT-1 and BTD zoning districts, and the proposed application, I believe the answer to both questions is yes. While the POCD did not conceptualize this specific development, the Berlin Turnpike Corridor was conceptualized for further development. In addition, and more specifically, the Target Economic Development site number five conceptualized this location as a future sewer service area, which implies future development, density, and intensity. Regarding the second questions, the proposed zoning change application and mixed-use development does not simply forward the economic development aims of the POCD, the application also forwards the conservation aims of the POCD by providing preserved open space, passive recreations, and public access. Therefore, I find that the proposed zone change (and mixed-use development) forwards the goals and objectives of the Plan of Conservation and Development.

Response: Acknowledged.

## SECTION III – THE SITE PLAN APPLICATION

I find that the proposed site plan application complies with the dimensional requirements and site design standards set forth in the Zoning Regulations for the requested BTD zone. This determination is based on the information presented in the Zoning Information (Table) provided on Sheet SP-O (Overall Site Plan) of the application and my subsequent review of the dimensions shown on the site plan and associated documents. Even though the application complies with the dimensional requirements and site design standards, I believe there are aspects of the site design that raise some degree of concern related to public health, safety, and welfare, or the aesthetics and functionality of the site that warrant further consideration by the Planning and Zoning Commission. Those considerations are presented below by phase.

#### Phase 1 – Convenience Store Gas Station

4. Regarding vehicle circulation and pedestrian safety, the lack of parking near the store front (other than the two accessible spaces) creates a circumstance where customers will need to walk across vehicle travel lanes or through the filling station area to access the store. Therefore, the Commission may want to consider having the applicant provide pedestrian crosswalks from the parking areas to the storefront. In addition, the seven parking spaces south of the storefront may better serve the store than the spaces along the frontage. Therefore, the seven spaces south of the store may be suitable for designation for the store and spaces along the frontage could be designated for use by the conservation area.

Response: It is anticipated that much of the convenience store traffic will come from those utilizing the gasoline pumps and will park at the pumps to fill up and then enter



the store to make a purchase. In response to your comment, pedestrian crosswalks have been added to the plan connecting the frontage parking spaces as well as the 7 spaces south of the building. The spaces south of the building are designated for shared use by both the convenience store and the conservation area.

# Phase 2 – Residential Apartments

5. Regarding vehicle circulation and pedestrian safety, the Commission may want to consider having the applicant provide pedestrian crosswalks from the two southern residential buildings across the parking area and travel lane to the trash receptacles. This may require the removal of a few parking spaces (see discussion of parking requirements in Section IV).

Response: Pedestrian crosswalks have been added to the Site Plan connecting the two southern residential buildings to the dumpster locations.

6. The site plan and parking area designs do not appear to provide for loading areas to accommodate tenants moving in and out. Without such designated areas, it is likely that moving related vehicles may double park, potentially blocking access to parking spaces and constraining the travel-way. Therefore, the Commission may want to consider having the applicant provide loading areas for each of the five buildings. Providing loading areas may require the removal of some parking spaces (see discussion of parking requirements in Section IV).

Response: Acknowledged, dedicated loading areas have been added to the revised Site Plan. There are two loading areas approximately 24'x24' for both the north and south rows of residential buildings. They are located between buildings D and C and between buildings C and B in the north row, and to the west of building F and east of building E in the south row.

- 7. Structured Parking Under the Buildings:
  - a. On Sheet A101, there appears to be a space between Stair 2 and parking space number 4 that is not numbered. Is this intended to be a parking space? If not a parking space, the Commission may want to consider having the applicant stripe and sign the area for no parking.

Response: Phase Zero Design, Inc. (Architect) has reconfigured the Stair #2 area and is now providing direct access from outside (exterior parking) to inside (structured parking) area. Additionally, paint striped area is provided for pedestrian safety.

b. There does not appear to be any accessible spaces in the structured parking areas under the building or in car ports. I am not sure on the specifics of how ADA applies to these parking areas and if accessible spaces are required in these structured areas. Therefore, the Commission may want to have the applicant verify the requirements of ADA and their compliance with ADA.



Response: All required ADA accessible spaces are being provided on-grade at the front each building with access to the main lobby area.

c. Based on the configuration of the overall parking area and the location of walls within the structured parking areas, it appears that spaces 3, 15, & 21 may have some degree of obstructed views when vehicles are backing out of the parking spaces. Therefore, the Commission may want to have the applicant provide signage informing the driver to watch for traffic or some similar language.

Response: Applicable signage will be installed within the garage parking area for advanced warning of view obstruction.

d. Based on the configuration of the overall parking area and the location of the end wall next to parking space 14, it appears that a vehicle may have difficulties backing out of space 14 due to the wall and limited turn radius. The Commission may want to have the applicant verify that an adequate turn radius exists for a vehicle (i.e., mid-size SUV) backing out of space 14.

Response: Parking spaces provided within the garage parking area are 9'-0" wide. A 24'-0" drive aisle is provided. These are standard parking structure and surface lot design parameters and will not pose any additional maneuvering complications.

- 8. Unit Design One-Bedroom Units w/Den:
  - a. There are number of units that are one-bedroom units designed with a den. Based on prior experiences with similar designs, I have encountered circumstances where dens have been utilized as an informal (or illegal) second bedroom. Therefore, the Commission may want to consider having the applicant redesign the doorways to the dens as larger than standard door width so that a tenant cannot easily hang a temporary door and use the space as a second bedroom. Another design approach is to redesign the wall as a half-wall. [Please note, I am in favor of the oversized-one-bedroom units with dens, as I believe they are desirable in the market and will increase in desirability in the post-pandemic era. Therefore, I am not recommending the removal of units with dens. I am simply seeking to mitigate the potential for an unintended use of the dens.] (See sheets A102, A103, A104, and A105).

Response: The one-bedroom plus den layout has been modified and included as part of the presentation material for 02.25.2021 P+Z Hearing.

# Phase 3 Retail Building

9. The left turn into the parking area may create an obstruction and stacking that could back into the roadway if multiple vehicles are stacked at the traffic light exiting the site. Therefore, the Commission may want to have the applicant verify that adequate space exists for vehicles to pass a left turning vehicle on the right or to provide a turn lane into the retail building parking area.



Response: The driveway has restriped to provide two exiting lanes, striped for a right turn lane and a left turn lane. The entering lane provides 18 feet of pavement width, capable of allowing a by-pass capability for entering traffic to proceed into the site if a vehicle is waiting to execute a left turn into the parking lot in front of the retail building.

Phase 4 – Hotel

Hotel Circulation and Parking Considerations:

10. Hotel guests utilizing the shared parking at the retail site to the south will need to walk across the travel area of the main entrance and exit to the site. This area will likely experience the highest vehicle traffic volumes on the site. Therefore, the Commission may want to have the applicant provide pedestrian crosswalks between the hotel and the retail site parking area. Providing crosswalks may require the removal of some parking spaces (see discussion of parking requirements in Section IV).

Response: A crosswalk and pedestrian curb ramp system has been added connecting the hotel to the phase 3 retail area. These additions have resulted in a net loss of 2 parking spaces.

11. The one-way circulation on the north side of the hotel creates a dead end for vehicles traveling clockwise around the hotel. Based on arriving vehicles already facing west, I am concerned that the predominant circulation pattern around the hotel will be clockwise and as a result, the dead end created by the counterclockwise one-way driveway may be problematic. Therefore, the Commission may want to have the applicant reverse the direction of the one-way flow to clockwise. Another alternative the Commission may want to consider; if parking reductions are a viable option (see discussion in Section IV), have the applicant remove the six parking spaces and open that one-way drive to two-way traffic.

Response: The directional flow of the one-way aisle behind the hotel has been revised as suggested, to reflect a counterclockwise flow. Do not enter signs have been added on the easterly side of the one-way drive aisle. The parking spaces located on the one-way drive aisle are desired by the applicant and are proposed to remain.

## <u>SECTION IV – PARKING AND SITE DESIGN</u>

12. While I recognize and respect the applicants aim to meet the standards provided in the regulations, it is surprising to me to realize that the applicant did not request to utilize the above two provisions allowing reductions in the required parking. It is my professional opinion that a safer, functional, and more aesthetically pleasing overall site design can be achieved if the applicant were to requestion, and the Commission were willing to approve reductions in the required parking.



Response: We concur that there is plenty of parking provided on site. In response to many of the pedestrian accessibility comments above, minor revisions to the plan have resulted in a decrease in the number of parking spaces to a total of 478 parking spaces.

13. The applicant, based on the site plans provided, has demonstrated they can meet the minimum parking requirements in the Zoning Regulations. This, I believe this is the first step to the Commission considering reductions in parking. As the Commission, you now know the requirements can be met. In addition, as the Commission you can request the site plan be modified to show areas available for future parking (if needed), while allowing reductions in parking. Therefore, the Commission may want to consider requesting the applicant provide an alternative site plan with revised site design and reduced parking for the Commission's consideration.

Response: Acknowledged.

## SECTION V – THE SPECIAL PERMIT APPLICATION

The application can and will meet all three criteria.

## SECTION VI – THE HOUSING AFFORDABILITY PLAN

14. Section III. Pro-Rata Construction and Dispersions. The proposed pro-rata construction is good. However, I believe there should be a more detailed explanation of the dispersion of the affordable units. It is common for planning and zoning commissions to require that the affordable units be identified on the plans and that a table be provided in the Housing Affordability Plan that identifies the affordable units. In addition, the dispersion of units should be equal across all buildings, floors, unit type (number of bedrooms), size (square feet), and ADA accessible units. Furthermore, based on the three types of parking provided (i.e., structured under building, structured carport, and surface), if parking is allocated to units (for a fee or not), then the parking should also be equally dispersed.

Response: Phase Zero Design has prepared more detailed affordable unit designation information and has been included as part of the presentation material for 02.25.2021 P+Z Hearing.

15. Section IV Nature of Construction of Mixed Income Units. Same comments as Section III above.

Response: Phase Zero Design has prepared more detailed affordable unit information and has been included as part of the presentation material for 02.25.2021 P+Z Hearing. The visible appearance of affordable unit finishing will be same as market rate units

16. Section V. Entity Responsible for Administration and Compliance. It is common for planning and zoning commissions to require the 'Administrator' of the affordable units -



the entity that conducts the income qualifications of an applicant - not be the developer, owner, or property management firm. Typically, a third-party is contracted with to provide the income qualification and yearly reporting services. For example, the Berlin Housing Authority would be a good candidate for this role. If the Housing Authority is not available to perform this service, other qualified firms or non-profits could be utilized.

Response: The Town of Berlin Housing Authority has unanimously voted to accept the proposed Moderate Housing Plan, and has agreed to act as the Administrator for affordable units.

17. Section. VI. Resident Eligibility. This is a question for the attorneys, does this 'special consideration' for Town employees comply with Fair Housing laws?

Response: This section has been revised, please refer to the attached Housing Affordability Plan last revised February 24, 2021.

- 18. Section. IX. Maximum Rental Price. I agree with the January 12, 2021 letter submitted by Doug Truitt, Director of Social & Youth Services. The affordability calculations provided by the applicant do not comply with the requirements of CGS 8-30g. The calculations in Exhibit 2 (attached to the Doug Truitt letter) provides the proper calculations utilized by the State to determine qualified affordable rents.
  - a. Line 9 Calculation: To account for the estimated monthly expenses for heat and utility cost, the Connecticut Department of Housing, Section 8 Housing Choice Voucher Program provides a Utility Allowance Schedule that is commonly used to estimate monthly utility costs when calculating affordability for compliance with CGS 8-30g. The most recent Utility Allowance Schedule is for 2019-2020. The Schedule provides utility service estimates by unit types and number of bedrooms. I suggest that the 'Heating for Highrise Apartment' type be used by bedroom and all the applicable utilities listed that are not included in the rent (i.e., electric, cold water, sewer, trash, refrigerator, range/stove, etc.) be calculated. (Utility Allowance Schedule link: https://portal.ct.gov/-/media/DOH/S8-UtilitySchedule062020.pdf).

Response: Acknowledged, the calculation will be updated as recommended to include cost of utilities.

b. It is common for planning and zoning commissions to interpret equal dispersion of affordable units to be a generalized statement applied to all aspects of the affordable units. Therefore, my interpretation of equal dispersion is also generalized. As a result of this generalized interpretation, I suggest that parking should be included if parking spaces are to be assigned with any units (market rate or affordable) or if any fees are to be charged for parking - especially the structured parking under the buildings and in the carports - then the location and allocation of parking spaces should be equally dispersed. In addition, if additional fees are charged for parking spaces, those fees (costs) should be accounted for in the affordability calculations along with the utility costs.



Response: All under building parking and car port parking will have parking fees. Both mixed income tenants and market rate income tenants will have the opportunity to rent these spaces. Mixed income Tenants will be able to rent these spaces at 80% of the current market rate prices when the spaces are available.

19. Section XI. Change of Income or Qualifying Status of Resident. The applicant, as discussed above, should identify the affordable units to be permanently qualified and occupied by income qualified households. Therefore, the language of this section should be revised to reflect the changes.

Response: The affordable units have been identified, please refer to Schedule D in the attached Housing Affordability Plan last revised February 24, 2021.

# APPENDIX - STAFF QUESTIONS

20. Item 1. Staff ask that I review the 10-acre minimum lot size required in the BTD zone and the possibility of conflicting language in Section VIII.H.3 (assemblage of parcels) and Section VIII.H.11 (minimum lot size). This included answering if the parcels in the master plan can be divided to lots less than 10 acres. Specifically, this related the gasoline filling station and convenience store parcel to accommodate the land donation to the Berlin Land Trust and possible future division of hotel area into a lot to accommodate industry's standard of ownership. To best answer these questions, I provided my answers in the form of scenarios.

My professional opinion is that the minimum lot size in the BTD zone should be two-acres since the BTD is an overlay zone, and the underlying BT-1 minimum lot size requirement is two-acres. The 'eligibility' requirement to establish a BTD zone can remain 10-acres.

Response: Acknowledged, will be discussed at the 2/25/2021 planning and zoning commission hearing.

21. Item II. Staff asked for my interpretation of the gasoline filling stations criteria in Section XI.R. Specifically, the questions focused on two areas of potential concern: the allowable size of the convenience store and the separation distance required for automotive uses. However, I do not believe that reasonable threats are posed by proximate automotive uses or that the role of zoning (or Commission) is to regulate consumer markets or business competition. In addition, the clustering of similar businesses, especially in the retail sector, is common and businesses reap the benefits of economic agglomeration, where two or more similar and proximate businesses create a great draw than one such business located on its own. Therefore, believe it is best to remove (or at the very least, reduce) such separation distance provisions for automotive uses.

Response: Acknowledged, will be discussed at the 2/25/2021 planning and zoning commission hearing.



22. Item III. Staff noted an error in my original report regarding my interpretation of uses permitted in the BT-1 zoning district. I recognized this was an error on my part and the language in the report has been addressed to correct the error.

Response: Acknowledged, will be discussed at the 2/25/2021 planning and zoning commission hearing.

23. Item IV. Staff asked that I better address the phasing of the project and the suitability of the mixed-use requirement of the BTD zone to adequately address the proposed phasing plan for the mixed-use development. In addition, staff asked if the Commission has the authority to place conditions the proposed phasing plan.

Based on the phrase, the distribution of and relationship between uses and structures, I believe the Commission has the authority to place reasonable conditions on the approval on the phasing plan proposed by the applicant. Therefore, if the Commission seeks to condition the approval with some form of pro-rata approach to the commercial and residential development, I suggest that phases one, two, and three are reasonable for such a pro-rata consideration. Phase IV, the proposed hotel, is the volatile of the asset classes due to the economic impacts of the pandemic. Therefore, it likely that the proposed hotel will be the most challenging and slowest real estate leasing deal to secure, and conditioning other development phases and asset classes on the hotel may be detrimental to the completion of the phases.

Response: Acknowledged, will be discussed at the 2/25/2021 planning and zoning commission hearing.

24. Item V. Staff asked that I review and address the non-conforming landlocked parcel that is contained within the application site and the proposed lot line revision plan that shows the non-conforming landlocked parcel to remain, but to be "shifted" as to location.

Based on the reasons above, my professional interpretation is that the non-conforming conditions of the landlocked parcel—the lack of lot frontage and the required minimum lot size do not change with the lot line revision. Therefore, the non-conforming aspects of the lot are not increased or changed and the lot line revision is acceptable.

Response: Acknowledged, will be discussed at the 2/25/2021 planning and zoning commission hearing.

We trust these responses address your concerns. Should you require additional information, please feel free to contact me at 860-760-1933.

Sincerely,

Matthew J. Bruton, P.E.

Matthew & Buton

Regional Manager



February 24, 2021

Stephen R. McDonnell, P.E. Wengell, McDonnell & Costello, Inc. 87 Holmes Road Newington, CT 06111

Re: Zoning Change, Site Plan and Special Permit Application Review 404 Berlin Turnpike

Dear Mr. McDonnell:

We are in receipt of your review comments dated February 16, 2021, regarding the project noted above. Our responses are indicated below in *bold italic* text and are as follows:

## SITE PLANS

1. We note our office takes no exception to the proposed zone change request from BT-1 to BTD, the mixed-use development or the Lot Line Revision Plan.

Response: Acknowledged.

2. We suggest labeling the residential buildings for ease of designation when discussing logistics of the site.

Response: All 5 residential apartment buildings have been labeled as such and have letter codes on the Site Plans to help identify each individual building.

- 3. WMC Consulting Engineers previously generated comments during the Inland Wetland & Watercourse Commission (IWWC) review in which BL Companies responded in letter dated April 3, 2020. It was indicated the majority of the comments would be addressed or incorporated into the design plans as the project moved forward into Planning & Zoning and permit approvals phases. The following comments have yet to be addressed in the current plan submission:
  - a. It was requested that the wetland flag numbers and locations be depicted on the plans along with the date in which they were field located by Tighe & Bond. The previous response letter by BL Companies indicated the flag numbers would be added to the plans and that the Wetlands were located by Tighe & Bond on January 30, 2020. We



note the flag numbers are not yet updated and General Note No. 40 on Sheet GN-1 indicates they were flagged on July 26, 2017. Clarification is required.

Response: Bl Companies will coordinate with the wetland scientist to confirm wetland flagging date as well as wetland flag numbering. Wetland flag numbers will be indicated on the plans in future submissions.

b. A large amount of fill, complex retaining walls, stormwater management systems and associated infrastructure are required to construct the proposed development. We recommend a detailed phasing and grading plan be provided demonstrating how the site will be constructed and how erosion control measures will implemented throughout the construction duration.

Response: Phased Sediment and Erosion Control Plans will be developed to illustrate the progression of grading and erosion control devices as construction advances.

i. The phasing plan provided is generic in nature and does not detail how Phase 1 is integrated into the existing topography, especially pertaining to the Stormwater Management Basin. We do not recommend the SMB be utilized as a temporary sediment basin while Phase 1 is operational, this would lead to 'clean' stormwater mixing with heavily sediment laden runoff from future phases.

Response: Acknowledged, the phased Sediment and Erosion Control Plans will be more detailed and indicate phase grading as required. The area of the proposed stormwater management basin will not be used for settling of sediment laden water to maintain infiltration potential of the underlying soils.

ii. Depict the specific utility limits to be constructed in each phase.

Response: Phase utility limits will be included on the Phase Plan sheets PH-1.

c. Temporary Sediment Traps (TST) will be required to control runoff and the transportation of sediments due to the overall land area disturbed. A Temporary Sediment Trap detail is shown on Sheet DN-1; however, the locations of these sediment traps should be depicted on the plans and appropriately designed. Consideration may need to be given to locating these TSTs outside footprint of the development area (where possible), in the upland review areas, with diversions swales directing flow accordingly. The locations of the TST can then be restored to grade, planted and reseeded upon completion.

Response: The phased Sediment and Erosion Control Plans will indicate the locations of proposed temporary sediment traps.



i. Phase 2 appears to be the most critical as the site is raised to meet proposed grades. Temporary Sediment Traps should be designed by the engineer and not left up to the Contractor to resolve with a site of this size and complexity.

Response: The phased Sediment and Erosion Control Plans will indicate the locations of proposed temporary sediment traps.

d. The roof leaders should be clearly depicted on the plans to ensure stormwater is directed to the appropriate stormwater management facility. It is suggested that they be directed to a suitable infiltration areas (where possible) or the nearest inlet structure to reduce icing concerns.

Response: The Grading and Drainage Plans will be updated to depict building rood leaders and their connections to underground stormwater drainage systems. No downspouts will discharge directly to grade on impervious areas, or other areas that may create an icing hazard.

i. Roof leaders should be connected to the drainage system in a manner that matches the contributing watershed depicted in the Stormwater Management Report.

Response: Acknowledged, the Stormwater Management Report and watershed map will be updated to account for any deviations from the contributing watershed map.

e. The applicant is advised to initiate discussions with CTDOT regarding Encroachment Permitting for both the curb cuts and drainage connections. Should any plan changes be made as a result of Hydraulics and Drainage review, the Commission/Town should be made aware to determine if further review is warranted.

Response: Our office has had preliminary discussions with OSTA staff on the viability of the proposed signal and median break on the Berlin Turnpike. The OSTA staff suggested that we make an application for their review. Subsequently we met with the Police Commission and presented the plan to them. The recommended that we pursue the proposed median break and signal as the preferred means of access for the site.

i. Please provide correspondence from CTDOT they have reviewed the plan proposal along with H&D comments or concerns have been appropriately addressed and necessary revisions incorporated into the design plans. We note failure to address comments could delay the construction schedule.

Response: An OSTA Step 1 application has been made for the approval of traffic volumes. Subsequent to the approval of the traffic volumes, a Step 2 application will be made for the project. It is at that point that we will receive the first review comments from OSTA.



f. The 30" inlet and outlet pipe in the vicinity of HDS-10 only has limited cover. It is unclear if this unit can be constructed or function as designed with the given inverts and relative top of frame elevation in accordance with the detail provided. Assign elevations on the detail to demonstrate its adequacy.

Response: The proposed finished grade in the area of HDS-10 will be revised to provide the greatest depth of cover possible. A detail with elevations will be provided as requested.

i. Additionally, the 30" outlet pipe will have no cover before it transitions to a culvert end section. Consideration should be given to installing a headwall or revising the grading accordingly.

Response: The proposed finished grade in the area of HDS-10 will be revised to provide the greatest depth of cover possible, a headwall will be utilized if necessary.

g. Specify catch basin types on the Grading and Drainage Plans.

Response: Acknowledged, the callouts for all proposed catch basins on the Grading and Drainage Plans will be updated to indicate the type of catch basin to be installed.

h. Specify required storm drainage manhole diameters on the Grading and Drainage Plans.

Response: Acknowledged, the callouts for all proposed manholes on the Grading and Drainage Plans will be updated to indicate diameter of the manhole to be installed.

i. Ensure OCS-40 will function as designed with the resultant tailwater elevation created by USDS-1 during the design storm event.

Response: Calculations have been provided in the Stormwater Management Report indicating the peak water elevation impounded within USDS-1 by OCS-40. In the 100-year storm there is approximately 0.8' of freeboard to the top of chambers and 1.4' in the 25-year storm. These calculations take into account the OCS orifice elevation and dimensions, the weir wall elevation, and the outlet pipe diameter from OCS-40. A hydraulic analysis of the state owned CTDOT drainage system will be performed as part of the encroachment permit process, tailwater impacts of the manhole connection to the state system at DMH-40 will be addressed at that time.

j. The riprap apron designs associated with FES-20 and FES-31 do not apply at locations of steep slopes. Provide adequate erosion control protection via riprap



swale and locate any such aprons on level terrain at the bottom of the water quality basin.

Response: The riprap aprons will be relocated to the level bottom portions of the stormwater management basin. Riprap channels will be provided connecting the FES units to the riprap aprons. These changes will be reflected on the revised Grading and Drainage Plans.

k. Consideration should be given to installing a trash rack at the inlet end of the 24" discharge pipe within the water quality basin.

Response: A trash rack will be provided and called out on the updated Grading and Drainage Plan. Details of the trash rack will be provided as necessary.

i. No Trash Rack was called for or detailed on the plans. We recommend consideration be given to installing an outlet control riser structure at this location in addition to a formal emergency spillway for the basin due to the size and height of embankment required to retain stormwater.

Response: A trash rack will be provided and called out on the updated Grading and Drainage Plan. Details of the trash rack will be provided as necessary. Additionally, provisions will be made to install an outlet control structure and emergency spillway for flows exiting SWMB-1. These changes will be reflected on the revised Grading and Drainage Plans and the updated Stormwater Management Report.

1. We recommend an impervious core material be used for the large embankment proposed to surround the Stormwater Management Basin.

Response: Acknowledged, a stormwater management basin cross section detail will be provided indicating specific information regarding impervious core material.

i. No core material was called for or detailed on the plans. We recommend a full cross section of the Stormwater Management Basin be provided and/or embankment detail.

Response: Acknowledged, a stormwater management basin cross section detail will be provided indicating specific information regarding impervious core material.

m. We recommend the erosion control bond estimate, inclusive of landscaping or plantings associated with the Stormwater Quality facilities, be submitted for review as part of this application.



Response: A \$70,000 erosion control bond is currently in place with the Town of Berlin for the project parcel. This bond will continue to be in place for the current application.

n. We recommend the Town direct the Applicant to provide as-builts of the stormwater management facilities constructed and provide an engineer's certification that all aspects were built per the approved design plans.

Response: Acknowledged, as-built records and an engineer's certification can be provided to the Town by the Applicant.

o. The plans and Stormwater System Operation and Maintenance Plan indicate inspections will be performed by a qualified professional. We recommend bi-weekly and measurable event reports be sent to the Town during construction.

Response: Erosion control inspections are to be performed on a weekly basis or after a storm event of 0.25 inches or greater, as noted in Sediment and Erosion Control Note #7 on sheet EC-2. This note will be updated to include a condition that inspection reports are to be shared with Town Staff during construction, and that the inspector shall be a licensed professional per CTDEEP requirements.

i. It was noted the erosion control inspections would be performed as part of the CTDEEP permitting and Stormwater Pollution Prevention Plan; we want to reinforce these inspections should be done by a professional and not conducted by the Contractor of record responsible for the maintenance during construction.

Response: Erosion control inspections are to be performed on a weekly basis or after a storm event of 0.25 inches or greater, as noted in Sediment and Erosion Control Note #7 on sheet EC-2. This note will be updated to include a condition that inspection reports are to be shared with Town Staff during construction, and that the inspector shall be a licensed professional per CTDEEP requirements.

ii. The O&M Plan submitted should be updated to specify mowing frequency at the Stormwater Management Basin and Water Quality Swale. In addition, the removal of any woody vegetation growth should be removed in these areas along with specifying at the riprap outfall areas.

Response: The O&M Plan will be updated with the requested information. Mowing of the water quality swale and stormwater management basin will occur semi-annually in accordance with the 2004 CT Stormwater Quality Manual. Provisions for the removal of woody vegetation from the swale, basin, and riprap apron areas will also be given in the updated O&M and will occur on an annual basis.



4. A discussion on how snow removal is warranted. Snow plows are naturally going to windrow snow obstructing the car ports or vehicles parked adjacent to the residences. Fencing and guide rail will border the western development limits and we note the Stormwater Management Basin should not used for snow storage or disposal. Without heavy excavation equipment it is unclear how or where snow removal will occur and there will be concern with operating plows and machinery in close proximity to all the parked vehicles.

Response: Snow will be plowed and collected using an on site loader and hauled to designated snow storage areas. The residential building areas will operate a resident vehicle relocation plan following snow storms to aid in clean up operations and avoid conflicts between vehicles and machinery.

5. Consideration should be given to providing additional refuse and recycling areas. There are currently no locations in proximity to the retail building or the hotel.

Response: Dumpster enclosure areas have been provided for both the hotel and the retail building areas on the revised Site Plans.

6. We suggest dumpster pads should be expanded to accommodate minimally the front wheels of the service trucks to prevent tire rutting, especially in the non-commercial pavement areas.

Response: The Site Plans have been updated to indicate the concrete pavement pads for trash enclosures shall extend 10' beyond the limit of the dumpster area for service truck tire interaction with rigid pavement structure.

7. We recommend guide rail be installed along the western retaining wall.

Response: Acknowledged, R-B 350 metal beam guide rail along the western retaining wall has been included on the revised Site Plans.

8. The water quality swale at the northwest corner of the development should be designed and constructed in accordance with 11-P5-1 of the CT Stormwater Quality Manual. Provide further detail.

Response: The swale in the northwest corner is intended to function as a wet swale, rather than a formal dry water quality swale. The discharge into the swale will have the required 80% TSS removal per the 2004 CT SQM by the implementation of a regular sweeping schedule of impervious areas, deep sump catch basin with hoods, and the hydrodynamic separator unit. Even though there will be additional stormwater pollution renovation from the Wet Swale, to be conservative no additional TSS removal from the swale is accounted for in the site treatment train calculations. The swale was added to the site design to incorporate LID measures into the design to the greatest extent practical at the request of the Town Wetland Commission.



9. We recommend fencing around the Stormwater Management Basin.

Response: Acknowledged, 6' high black vinyl coated chain link fence, including a 12' wide double leaf swing gate for entry, has been included around the proposed stormwater management basin on the revised Site Plans.

10. There is no defined Stormwater Management Basin maintenance access. We recommend removing the 2 parking spaces north of HDS-20 (next to the southern carport) and designating access at this location.

Response: Access to the stormwater management basin will possible be through the 12' wide double leaf swing gate located north of the convenience store.

11. The subsurface stormwater collection system should be updated to reflect a minimum pipe size of 15 inches per section 2:01 of the Subdivision Regulations.

Response: Acknowledged, the Grading and Drainage Plans and Stormwater Management Report will be updated to reflect a minimum pipe size of 15" for all stormwater conveyance piping, with the exception of roof leader systems.

12. Consideration should be given to converting DMH-20 to a Type 'C' Catch Basin and shifting it to the west along the curbline to shorten the travel path of runoff and reducing icing concerns.

Response: DMH-20 can be converted to a Type CL catch basin and relocated to be inline with the low point of the drive aisle between the retail/bank building and residential apartment building. This will allow for capture of runoff flowing north to south down the drive aisle and reduce icing potential. The updated Grading and Drainage Plans will detail this revision.

13. Consideration should be given to installing additional catch basin(s) east of CB-10 to reduce the watershed and reduce potential icing concerns. The single catch basin collects runoff in multiple directions extending up to the hotel, north of the retail building and adjacent to the residential building.

Response: An additional Type CL catch basin can be installed at the bottom of the driveway between the hotel building and residential apartment building B to collect runoff from the driveway and hotel parking area, allowing CB-10 to collect runoff from the residential building parking area only. The updated Grading and Drainage Plans will detail this revision.

14. The existing 15" RCP onsite directing flow south toward the sanitary pump station is proposed to remain with additional fill placed to meet proposed grades. We recommend this pipe be inspected to ensure the joints are tight and aligned.



- Response: Acknowledged, a general note to this effect will be included on the revised Grading and Drainage Plans.
- 15. There are sanitary mains shown on Plan Sheet GD-2 that is not shown on Sheet SU-2 at the main entrance (northern curb cut) and the access drive west of the retail building. There is also a SMH depicted northwest of DMH-22 on Sheet GD-1 that is not shown on SU-1. Please coordinate utilities on all sheets and clarify discrepancies.
  - Response: All discrepancies mentioned above will be resolved in future complete plan set submissions.
- 16. We recommend sanitary manhole junctions be provided at the sewer ends where the hotel is connected and northwestern most residential building in lieu of cleanouts.
  - Response: The hotel sewer service will be shown connecting to the sewer main end with a manhole rather than a cleanout. This change will be depicted on the revised Site Utility Plans.
- 17. There appears to be a utility conflict north of Sanitary MH-2 with the storm drainage crossing. Review and ensure all utility crossings have adequate separation.
  - Response: Acknowledged, the conflict can be resolved by lowing the elevation of the sanitary sewer piping. This change will be depicted on the revised Site Utility Plans.
- 18. The Berlin Water Control Authority indicated they have concerns with providing water service off their 20" concrete pressure pipe and is considering replacement. Is there any update to the discussion of possible cost sharing and will this infrastructure improvement impact the construction schedule or phasing aspect?
  - Response: In the most recent correspondence with the Town of Berlin, the Town has expressed that they will be pursuing a water main replacement project along the parcel frontage in Summer 2021. As part of this replacement project, adequate provisions will be made and coordinated for development water service connections to the new main.
- 19. Has the Fire Marshal reviewed the plans and determined the site provides ample turning radii to allow for emergency access around the site?
  - Response: Yes, the Fire Marshal has been provided with fire truck turning movement plans for their review, coordination is ongoing.
- 20. No Site Lighting Plans were submitted for review although they are called out on the Table of Contents on the Cover Sheet.
  - Response: Site Lighting Plans have been prepared and will be included in future complete plan set submissions.



21. No Sight Signage was called out or detailed on the plans.

Response: The locations of 3 tentative site signs are indicated on the revised Site Plans. The signs will be dedicated to the hotel building the phase 3 retail building, and the gas station building. Specific details of the sign dimensions and content are in progress and will be submitted to the Town for sign permit approval prior to construction.

## STORMWATER MANAGEMENT REPORT

1. The Stormwater Management Basin as proposed does not meet any design criteria within the 2004 Stormwater Quality Manual (SQM) as a Primary Treatment Practice of a stormwater pond. Test results should be shown that demonstrates the basin will drain within 24 hrs and the seasonal high groundwater is greater than 2 ft below the bottom elevation of the basin. The concern is the underlying soils adjacent to the wetlands will allow for limited infiltration combined with a high groundwater level adjacent to the river. If this is the intent to maintain a wet bottom basin, which we suggest, the design should adhere to the SQM.

Response: Additional geotechnical investigation will be performed in the area of the proposed stormwater management basin to confirm groundwater elevation and infiltration rate. Previous geotechnical investigation on site indicated potential groundwater at a depth of 20 feet below existing grade in the general vicinity of the stormwater basin (existing grade at boring of approximately 48' B-2026). Given the approximate depth of groundwater, the intent is to allow the entire water quality volume infiltrate to groundwater in a maximum of 48 hours to prevent mosquito breeding concerns in close proximity to residential and public use walking trails. The required 80% TSS removal per the 2004 CT SQM is achieved by regular sweeping of impervious areas, deep catch basin sumps, and a hydrodynamic separation unit prior to discharge into the basin. The basin is designed for retention of the site water quality volume only, not for peak flow mitigation. No additional TSS removal qualities of the basin are accounted for in the site treatment train calculations. Given that basin is not intended to function as a wet basin, all requirements set forth in the 2004 SQM for wet basin do not apply.

2. Without demonstrating and ensuring the Stormwater Management Basin will adequately drain, the HydroCAD analysis of the basin would not be applicable. The model assumes a dry basin to Elevation 34.0 and assumes nearly 20,000 c.f. of storage before releasing any flow at the 24" discharge pipe at Elevation. 37.0. We suggest further testing be conducted in conjunction with incorporating sediment forebays within the basin to contain the Water Quality Volume and release the higher flows without resuspension of sediments.



Response: Additional geotechnical investigation will be performed in the area of the proposed stormwater management basin to confirm groundwater elevation and infiltration rate. At that time, the HydroCAD model will be updated accordingly and calculations can be provided indicating basin drain times per design storm.

3. Demonstrate the drainage system within the State right-of-way is adequately designed and in functional condition to accept the stormwater discharge being proposed. A pipe capacity and hydraulic grade line analysis using the Rational Method should be provided. We suggest this system be cleaned and video inspected to the outfall to ensure all joints are tight and aligned.

Response: A hydraulic analysis of the state drainage system will be performed as part of the CTDOT encroachment permitting process. This analysis will be shared upon completion.

4. A detailed analysis of the stormwater collection system should be provided demonstrating it is designed to accommodate the 25-yr storm event. This analysis should include gutter flow, pipe capacity and hydraulic grading lines using the Rational Method. Ensure all design elevations and inverts match the plans. Watershed maps for individual catch basins should be provided.

Response: A hydraulic analysis of the site drainage system will be performed prior to submission of a building permit. This analysis will be shared upon completion.

5. A detailed analysis of the closed subsurface drainage systems should be provided that accounts for the tailwater elevation created by the Stormwater Management Basin and underground detention system.

Response: A hydraulic analysis of the site drainage system will be performed prior to submission of a building permit and tailwater elevation impacts will be addressed at that time. This analysis will be shared upon completion.

6. Confirm the hydrodynamic separators specified, are designed and equipped to bypass the 25-yrstorm event internally or provide external bypass structures to avoid the resuspension of sediments. If these units are located in groundwater, provide applicable design details to counter buoyance concerns.

Response: Each hydrodynamic separator will be analyzed and detailed in depth by the manufacturer to ensure bypass of the 25-year storm peak flows. Details for each unit will be provided prior to submitting for a building permit and will be shared upon receipt.

7. We note the 2004 CT Stormwater Quality Manual designates Hydrodynamic Separators as Secondary Treatment Practices which is contradictory to the Treatment Train Efficiency Worksheets in Appendix E of the Stormwater Management Report. We suggest at least one Primary Treatment practice be used at each outfall location



discharging stormwater offsite in conjunction with Secondary Practices and/or Low Impact Development (LID) design methods where feasible.

Response: In accordance with Section 6.3.2 of the 2004 CT SQM for Innovative/Emerging Technologies in "Their use as stand-alone treatment devices (i.e., primary treatment practices) should be evaluated using consistent and technically rigorous protocols. This section describes recommended criteria for evaluating new or emerging stormwater treatment technologies. New or emerging technologies that meet these criteria may be acceptable as primary treatment practices." As such, the technology was emerging 17 years ago when the SWM was published. There have been significant strides in the hydrodynamic separator technology and testing which we believe allow it to be considered a primary treatment practice.

8. We suggest consideration be given to redirecting Drainage Area PDA-112 to the Stormwater Management Basin rather than the water quality swale. It is our opinion an appropriately designed basin can provide better filtration and sediment removal capability. Redirecting CB-14 to DMH-22 can easily achieve this revision and would eliminate a very deep drainage structure and pipe under the retaining wall to the north.

Response: This revision will be investigated; it is agreed that the basin may have the ability to handle the added runoff and the pipe under wall connection should be avoided if possible.

## ARCHITECTURAL

- 1. We recommend the Architectural Elevations associated with the Residential Buildings be updated to show the calculation of the actual building heights in accordance with the Zoning Regulations.
  - Response: Phase Zero Design, Inc. has prepared a typical multi-family building cross section depicting typical floor to floor heights. Roof line composition and HVAC equipment placement as part of presentation material for 08.25.2021 P+Z Hearing.
- 2. We note there were not Mechanical, Electrical or Plumbing Plans (MEP) submitted as part of the application.
  - Response: MEP+FP design and engineering is being prepared on a design/build execution. Fully MEP+FP design/engineering documents will be submitted as part of the building permit application process.
- 3. Will there be a need for any drainage structures under the buildings where the carports are located? Any drainage needs under the buildings should be connected to the storm drainage system and shown on the plans.



Response: Floor drains are not anticipated as being needed in the carport structures. The typical multi-family building parking area will be provided with general collection floor drains and gas/oil separator. Internal storm drainage will be tied into storm water management system.

# **ZONING COMPLIANCE**

1. It would be helpful to provide a density calculation on the plans to ensure compliance with Section H.6.d.iii of the Zoning Regulations. According to this regulation, 25.0 acres are required to achieve the 200 eight (8) dwelling units per whole acre. Please clarify.

Response: Acknowledged, this topic will be discussed at the 2/25/2021 planning and zoning commission public hearing.

## GEOTECHNICAL

1. In reference to Welti Geotechnical Report dated July 25, 2019 "9.0 It is recommended that additional test borings and test pits be taken to better evaluate the depth and character of the existing fills and foundation requirements at each of the structures. The field investigation should include (1) at least 4 borings at the apartment and hotel structures, (2) at least 2 borings at each of the smaller structures, (3) one boring at the proposed fueling station tanks and one boring at the canopy. The boring locations should be staked located by surveyor with grade elevations." Have these additional borings been conducted?

Response: Three phases of test borings have previously been conducted on site. Additional test borings will be performed prior construction as necessary.

a. We note there were no borings conducted at the western most buildings or club house.

Response: Additional test borings will be performed prior construction as necessary.

b. Boring B102 indicates very soft yielding and organic material up to 10 ft under the proposed Convenience Store. How will this be addressed?

Response: The Applicant, Engineer, and Contractor will coordinate with the geotechnical engineer to determine proper procedures for correcting any underlying soil issues presented by existing organic material on site.

1. The boring locations should be accurately depicted on the plans to assign the existing grade elevations such that particular unsuitable soil layers or groundwater levels can be evaluated and incorporated into the design where applicable.



Response: This condition was evident in one small area, where we will excavate the unsuitable soil and install structural fill in 12-inch lifts. All other test pits showed suitable soils within footing areas. If additional testing requires additional treatment, we will coordinate with the geotechnical engineer to determine proper procedures for correcting any underlying soil issues

2. It appears cofferdams will be required for installation and construction at the gas station. We suggest showing the approximate location of the cofferdam limits and where dewatering methods are to be directed. Dewatering discharge areas should not be directed discharged to the wetlands or collection system without filtering out sediment.

Response: There does not appear to be any standing water issues in the area of the gas station building that would require the installation of cofferdams. Conditions will be monitored and cofferdam provisions can be included if deemed necessary.

3. It is unclear on the plans what is to occur with the unsuitable, soft yielding or organic matter discovered by the borings. How much additional excavation will occur under the buildings and how will that material be disposed of and/or replaced?

Response: Any required additional excavation for unsuitable soils will occur per the geotechnical engineer's recommendation. Unsuitable soil will be properly disposed of on site.

4. What is the expected volume of fill required for the entire site and anticipated source of material?

Response: An earthwork volume plan can be developed to indicate the required volume information. This plan will be included in the plan set for future submissions. Fill source information will be supplied by the contractor and can be submitted for approval prior to construction.

#### TRAFFIC/PARKING/PEDSTRIAN ACCESS

1. The traffic study was not reviewed in detail as the Office of the State Traffic Administration (OSTA) will conduct a thorough review as this development is designated as a Major Traffic Generator.

Response: Acknowledged.

2. There are 534 parking spaces proposed for this development which is above and beyond the required parking required per the zoning regulations by approximately 80 spaces. Consideration should be given to scaling back the parking or potentially approving the spaces but holding a portion "in reserve" which could be constructed should the actual demand be met once the development is fully constructed and operational.



Response: Through revisions required for pedestrian access improvements and other site plan updates, the total parking provided on site has been reduced by 56 spaces to a total of 478 spaces. It is our opinion that this reduction balances the requested down scaling and the parking needs of the developer.

3. The ratio of handicap parking spaces appears adequate in relation to the overall number of parking spaces proposed. Will there be any need for handicap parking under the buildings?

Response: All required handicap parking for each building is being provided on-grade at the front of the building by the main lobby entrance.

4. Consideration should be given to providing 2-way traffic around the hotel or reversing the one-way direction and placing a "Do Not Enter" sign east of the hotel upon entry into the site from the Berlin Turnpike.

Response: The traffic circulation around the hotel has been changed to a clockwise rotation, rather than counterclockwise.

5. Consider revising the 'jog' in the access drive between the hotel and the northeastern most residential building. This appears to be a location with multiple points of conflict, sightline restrictions and decision making needs by drivers. Consider a stop sign at this location for a vehicle travelling south.

Response: The Site Plans have been revised per these suggestions, the jog has been removed from the driveway to the west of the hotel building and stop signs and stop bars have been added on all approaches.

6. Consider the potential need for speed humps, textured pavement or other method to slow traffic as it circulates around the residential buildings.

Response: Textured pavement and speed humps have been determined to be unwarranted at this time.

7. There are 42 parking spaces designated in the vicinity of the gas station convenience store in addition to the 10 gas pump stations. We suggest consideration be given to reconfiguring the parking layout such that 7-8 spaces can be provided along the immediate store front to limit the number of patrons from navigating across circulating vehicles.

Response: Due to constraints of the existing wetland and floodway areas to the west of the gas station building, the development cannot be widened further to provide parking spaces directly in front of the storefront. The revised Site Plan has been updated to include a pedestrian cross walk connection the 7 spaces located directly south of the building, this will allow for pedestrians to access the building without the need to



traverse main travel aisles. A stop sign and stop bar have been added to the drive thru lane in advance of the crosswalk.

8. We note there is a limited sightline for a vehicle exiting the southwest building parking from beneath and the driver must look almost 180 degrees. We suggest some sort of advanced warning sign for a vehicle maneuvering southeast around that corner.

Response: Acknowledged, advanced warning of the blind driveway has been added to the southbound lane approaching the corner southwest of the building. Signs F and G will indicate drivers are approaching the blind drive and which direction it intersects the main drive aisle.

- 9. There appears to be an overall disconnect with pedestrian access throughout the site and suggest a more contiguous network of sidewalks, ramps and pedestrian movements be implemented. We note the following observations and considerations for improvement:
  - a. Consider providing designated crosswalks from the residential buildings to the carports across the access drives.

Response: Crosswalks have been added as suggested, please refer to the updated Site Plans.

b. The eastern most residential building sidewalks terminate and provide no connecting access to the retail or convenience store.

Response: Sidewalk and crosswalk connections to both the retail store and convenience store have been included on the revise Site Plans. The northeast residential building remains terminated since no viable connection location to the rear of the hotel is present.

c. The pedestrian crosswalk west of the retail building terminates at a landscaped island.

Response: A sidewalk connection to this crosswalk from the southeast residential building has been included on the revised Site Plans. This will allow continuous pedestrian flow between the retail building and the residential area.

d. The sidewalk terminates east of the southeastern most carport with no link to additional parking or sidewalk network to the residential buildings.

Response: A sidewalk connection to this crosswalk from the southeast residential building has been included on the revised Site Plans. This will allow continuous pedestrian flow between the convenience store building and the residential area.

e. There is no crosswalk for parking across the access road opposite the hotel.



Response: A sidewalk connection and crosswalk connecting the retail building and the hotel has been included on the revised Site Plan. Pedestrians parking in the spaces opposite the hotel will be able to utilize the crosswalk to access the hotel area.

f. Anyone patronizing the convenience store at the gas station must walk through the parking lot and navigate circulating vehicles.

Response: Additional sidewalk and crosswalk connections have been added to the gas station parking lot area to reduce the number of pedestrians crossing unchannelized through vehicular travel ways.

g. The site plan lacks loading and unloading areas for both residential and commercial uses.

Response: Loading areas have been included for all residential buildings. These areas are approximately 24'x24' in size and are located near the lower level parking structure entrance for ease of loading and unloading.

h. The passive recreation walkway at the southwest corner of the residential development provides no direct pedestrian access from any of the buildings and requires users to walk in the roadway.

Response: A sidewalk and crosswalk system connecting the southwestern residential building and the trail system has been included on the revised Site Plans.

We trust these responses address your concerns. Should you require additional information, please feel free to contact me at 860-760-1933.

Sincerely,

Matthew J. Bruton, P.E.

Matthew & Buten

Regional Manager



February 24, 2021

Michael S. Ahern, P.E., Public Works Director/Town Engineer Public Works/Engineering Department Town of Berlin 240 Kensington Road Berlin, CT 06037

Re: 404 Berlin Turnpike – Mixed Use Development

Dear Mr. Ahern:

We are in receipt of your review comments dated February 17, 2021, regarding the project noted above. Our responses are indicated below in *bold italic* text and are as follows:

1. Easements — BWCC and Town engineering staff met with the Applicant's planning and engineering team on a number of issues on November 11, 2020. One of the requests from the Town was for the Applicant to provide a summary of the proposed/revised easements involved in the easement "swap" noted above. The request, at that time, was for an outline of the various easements conceptually discussed with the Town. This summary has not yet been provided. Considering where this project is in the approval process, Staff are now requesting draft easement language and associated draft casement mapping for BWCC and Corporation Counsel review. One element of the easement discussion is to allow periodic use of the internal roadway(s) by the BWCC for future work on the pump station, which will require the use of a crane and other equipment.

Response: Draft Easements for the Sewer Pump Station are completed and will be entered into the record. If the Commission is inclined to act, it can place a condition of approval that the final easements shall be subject to town engineer and town attorney approval.

2. Odors – The sanitary pump station operation has associated odors in its vicinity. It may be advisable for the Applicant's team to evaluate the odor impact on the proposed development.

Response: The applicant/developer is aware of this issue, having owned the property for many years. The nature of the filling station and convenience store most proximate to the area, make this less of a concern. If the commission deems it appropriate, a note



# can be added to the plans indicating the potential for possible odors being emitted from the pump station.

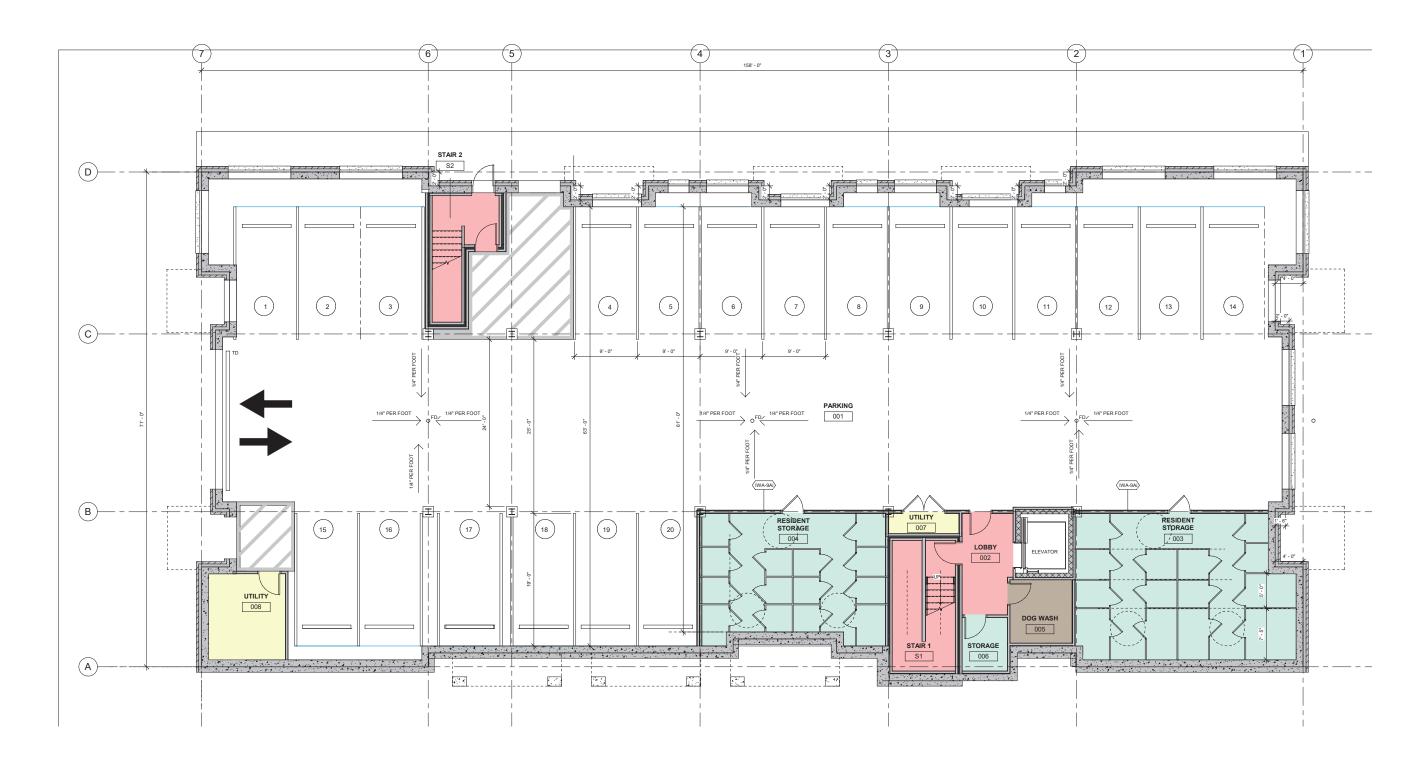
We trust these responses address your concerns. Should you require additional information, please feel free to contact me at 860-249-2200.

Sincerely,

Matthew J. Bruton, P.E.

Matthew J Buton

Regional Manager





PARKING: 20 - SPACES

**STORAGE: 28 - INDIVIDUAL UNITS** 









**DWELLING UNITS: 4 LEVELS** 

10 - UNITS/ FLOOR

40 - UNITS TOTAL

(8) - STUDIO

(16) - 1 BEDROOM

(8) - 1 BED W/ DEN

(8) - 2 BEDROOM











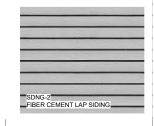






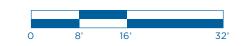


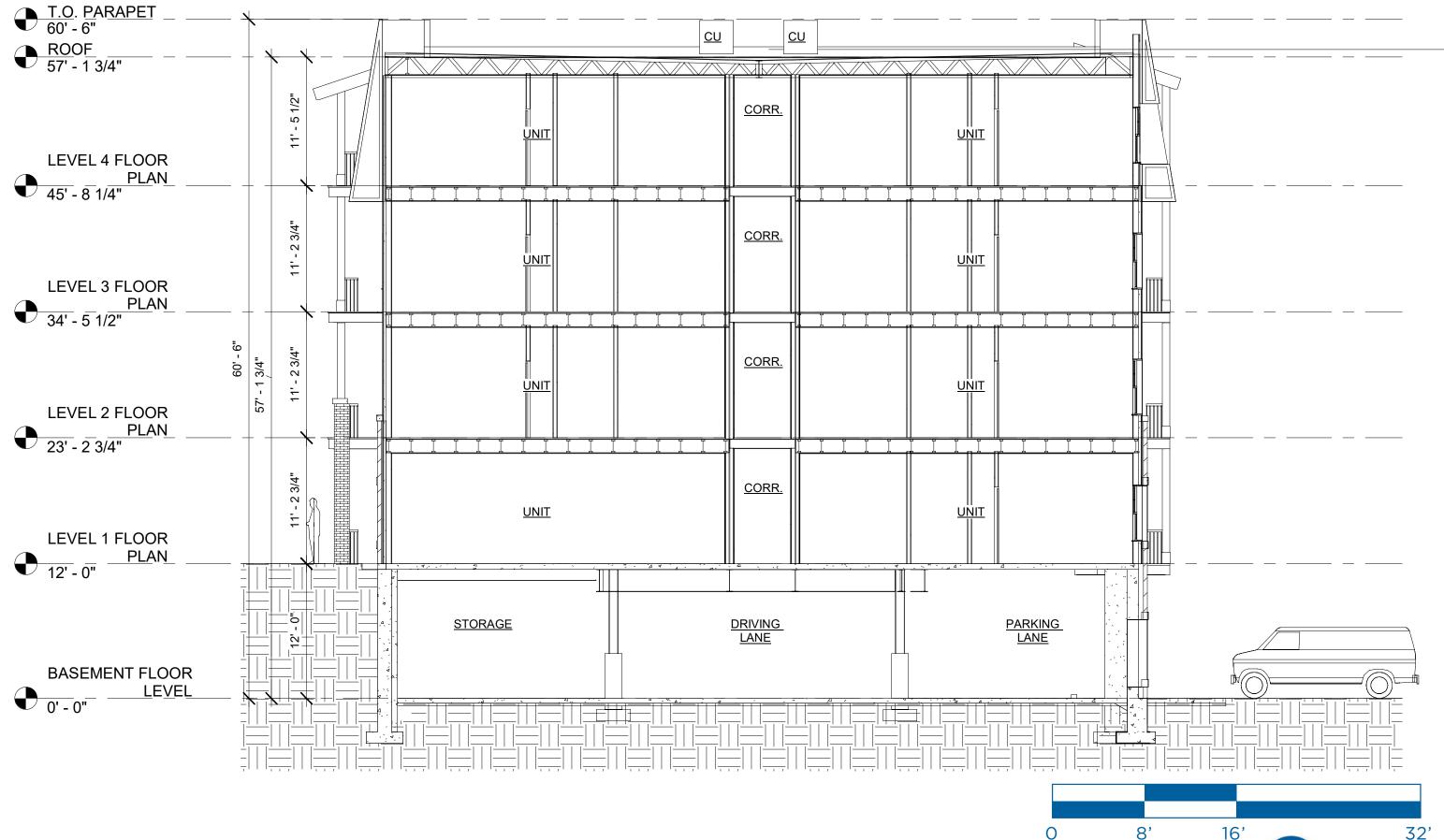
























#### 404 Berlin Turnpike Berlin, Connecticut

#### Housing Affordability Plan as provided by Section VIII-H-8 of the Zoning Regulations of the Town of Berlin

Submission Draft October 22, 2020 Revised November 20, 2020 Revised February 24, 2021

### **Submitted by BT 2008, LLC** to the Berlin Planning and Zoning Commission

PREPARED BY:
BT 2008, LLC
156 New Britain Avenue
Rocky Hill, CT 06067
and
Alter & Pearson, LLC 701 Hebron Avenue
P.O. Box 1530 Glastonbury, CT 06033

#### **Introduction**

BT 2008, LLC submits this Housing Affordability Plan ("Plan"), as provided by Section VIII.H.8 of the Zoning Regulations of the Town of Berlin, Connecticut ("Regulations"), to the Berlin Planning and Zoning Commission (the "PZC" or "Commission"), in support of an application for overlay zone change, special permit and site plan approval for a proposed mixed use, multi-family, residential community including two hundred (200) rental apartment units, located on property known as 404 Berlin Turnpike in Berlin, Connecticut ("Community").

As required by Section VIII.H.8 of the Regulations, the Plan provides that twenty percent (20%) of the residential rental units shall be "affordable housing" units. Specifically, twenty percent (20%), or forty (40) dwellings, of the Community will be designated as affordable units for which persons or families pay thirty percent (30%) or less of income, where income is less than or equal to eighty percent (80%) of the median income as defined by C.G.S. §8-30g. This Plan complies with Section VIII.H.8.b of the Regulations, and further describes how the affordable housing apartment homes will be administered.

#### I. <u>Apartment Homes Designated as Mixed Income Units.</u>

Twenty percent (20%) of the residential rental units in the Community, or forty (40) units, will be designated as affordable housing. The initial designation of the number and bedroom types for the affordable housing to be called "Mixed Income Units" in the proposed residential community, is provided in **Schedule A** attached hereto.

#### II. Perpetuity.

The Mixed Income Units in the Community shall be designated as affordable housing units in perpetuity in accordance with Section VIII.H.8.a.

#### III. <u>Pro-Rata Construction and Dispersion.</u>

The Mixed Income Units shall be built and offered for rent on a pro rata basis as construction proceeds. It is the intent of this Plan that for every five (5) total units, one (1) Mixed Income Unit will be built and offered for rental within the time that four (4) market-rate units are completed and offered for rental, in accordance with Section VIII.H.8.e.

#### IV. Nature of Construction of Mixed Income Units.

The Mixed Income Units shall be constructed in substantial conformance with the site plans and floor plans approved in the zoning applications and permits for the Community, as may be modified based on the requirements of the Berlin Building Inspector or other Town staff in signing off on administrative permits or approvals. Affordable units shall be of comparable size, quality, and level of finish as the overall development and shall be completed and occupied on a proportional basis in accordance

#### V. Entity Responsible for Administration and Compliance.

This Plan will be administered by The Berlin Housing Authority (the "Housing Authority"), who will aid BT 2008, LLC, or its successors and assigns (the "Administrator"). The Administrator hereby represents that its staff has the experience necessary to administer this Plan. The Administrator will work jointly with the Housing Authority to confirm that an Applicant is eligible for a Mixed Income Unit in accordance with the Plan. The principal point of contact under this Plan shall be Peter D'Addeo or his assigned rental supervisor.

The Administrator shall submit annually a written status report to the Berlin PZC, the Housing Authority or its designee. The role of Administrator may be transferred or assigned to another entity, provided that such entity has the experience and qualifications to administer this Plan. In the event of any assignment of the role of Administrator, BT 2008, LLC, or the Housing Authority, or, its successors, will provide prior written notice to the PZC.

#### VI. Resident Eligibility.

Eligibility of applicants to lease a Mixed Income Unit in the Community shall be determined by the Administrator in accordance with this Plan. The Administrator will seek to include eligible employees of the Town of Berlin. **Application Process.** 

A person seeking to rent one of the Mixed Income Units ("Applicant") must complete an application to demonstrate eligibility. The Administrator shall interview an Applicant upon submission of a completed application. Specifically, the Administrator shall, during the interview, undertake the following:

- 1. Review with the Applicant all the information provided on the application.
- 2. Verify that all sources of income and assets have been listed in the application.
- 3. Request the Applicant to sign the necessary release forms to be used in verifying income.
- 4. Inform the Applicant of what verification and documentation must be provided before the application is deemed complete.
- 5. Inform the Applicant that a decision as to eligibility cannot be made until all items on the application have been verified.

Where it is evident from the application form provided by the Applicant that the Applicant is not eligible, the Administrator shall use its best efforts to verify the Applicant's reported income.

If applicable, the Applicant shall provide the documentation listed on <u>Schedule B</u>, attached hereto, to the Administrator. This list is not exclusive, and the Administrator may require any other verification or documentation as the Administrator deems necessary.

A sample rider to the lease agreement for Mixed Income Units is attached hereto as **Schedule C**.

#### VII. Prioritization of Applicants for Initial Rental.

In the event that the number of qualified Applicants exceeds the number of Mixed Income Units, then the Administrator shall compile a waiting list, from which Applicants will be selected on a first-come, first-served basis. For purposes of this section, an application shall be considered received when a completed and signed application form is submitted with the applicable application fee.

#### VIII. Maximum Rental Price.

Calculation of the maximum rental price ("Maximum Rental Price") for a Mixed Income Unit, so as to satisfy Section VIII-H-8-a of the Regulations, shall be calculated as follows (a studio apartment is calculated as a one-bedroom unit):

	NTAL UNIT FOR FAMILY EARNING LESS THAN <u>80</u> <u>CCENT</u> OF STATEWIDE MEDIAN INCOME	SAMPLE COMPUTATIONS BASED ON FY 2021 DATA
1.	Determine lower of relevant year (2021) area median income for Hartford-West Hartford-East Hartford, CT HMFA (\$97,400) or statewide median income (\$99,700)	\$97,400
2.	Calculate 80 percent of Item 1	\$77,920
3.	Calculate 30 percent of Item 2, representing maximum portion of a family's income that may be used for housing	\$23,376
4.	Divide Item 3 by 12 to determine maximum monthly housing expense	\$ 1,948
5.	Subtract reasonable estimated monthly expenses for heat and utility costs excluding telephone and cable television but including any fee required for all tenants (tenant responsible for such expenses)	\$ 150
	1 /	\$1,798

#### IX. Requirement to Maintain Condition.

All Residents are required to maintain their units. The Resident shall not destroy, damage or impair the unit, allow the unit to deteriorate, or commit waste on the unit. When a Mixed Income Unit is offered again for rental, the Administrator shall cause the unit to be inspected.

#### X. Change of Income or Qualifying Status of Resident.

In the event that a Resident's income changes so as to exceed the qualifying maximum, or if the Resident otherwise becomes disqualified, such Resident must provide notice to the Administrator within seven (7) days of the disqualification. When a resident becomes disqualified, the Administrator shall require the Resident to vacate the Mixed Income Unit within sixty (60) days. The Administrator (or owner, if the Administrator is not the owner) in his sole discretion may elect to move the Resident to a market rate apartment unit if the Resident satisfies the Administrator's (or owner's) normal criteria for such unit, or the Resident may remain in the current Unit and the rent will be adjusted to market rent, as long as the Administrator retains forty (40) units or twenty percent (20%) of the project as always rented to qualifying residents. Each initial Mixed Income Unit is identified in **Schedule D**, and the Administrator will use its best efforts to keep the initially identified Mixed Income Units continuously occupied by qualified Residents in accordance with the Plan.

#### XI. Enforcement.

A violation of this Affordability Plan shall not result in a forfeiture of title. The PZC has the authority, at any reasonable time, to inspect the property and to examine the books and records of the Administrator to determine compliance of Mixed Income Units with this Affordability Plan. Such records are confidential and not subject to disclosure under the Freedom of Information Act.

#### **SCHEDULE A**

#### **DESIGNATION OF MIXED INCOME UNITS**

#### **Total Number of Units:**

Market-Rate Units	160
Mixed Income Units	_40
Total	200

#### **Number of Market Rate and Mixed Income Units by Number of Bedrooms:**

	Studio	One Bedroom (1 BD + Den, 1BD Large, 1 BD Small)	<u>Two</u> <u>Bedrooms</u>
Market-Rate Units	32	96 (32, 16, 48)	32
Mixed Income Units	8	24 (8, 4, 12)	8
Total	40	120	40

The Mixed Income Units will be dispersed throughout the community.

#### SCHEDULE B DOCUMENTATION OF INCOME

The following documents shall be provided, where applicable, to the Administrator to determine income eligibility:

#### 1. <u>Employment Income.</u>

Verification forms must request the employer to specify the frequency of pay, the effective date of the last pay increase, and the probability and effective date of any increase during the next twelve (12) months. Acceptable forms of verification (of which at least one must be included in the Applicant file) include:

- (a) An employment verification form completed by the employer.
- (b) Check stubs or earnings statement showing Applicant's gross pay per pay period and frequency of pay.
- (c) W-2 forms if the Applicant has had the same job for at least two years and pay increases can be accurately projected.
- (d) Notarized statements, affidavits or income tax returns signed by the Applicant describing self-employment and amount of income, or income from tips and other gratuities.

#### 2. <u>Social Security, Pensions, Supplementary Security Income, Disability Income.</u>

- (a) Benefit verification form completed by agency providing the benefits.
- (b) Award or benefit notification letters prepared and signed by the authorizing agency. (Since checks or bank deposit slips show only net amounts remaining after deducting SSI or Medicare, they may be used only when award letter cannot be obtained.)
- (c) If a local Social Security Administration ("SSA") office refuses to provide written verification, the Administrator should meet with the SSA office supervisor. If the supervisor refuses to complete the verification forms in a timely manner, the Administrator may accept a check or automatic deposit slip as interim verification of Social Security or SSI benefits as long as any Medicare or state health insurance withholdings are included in the annual income.

#### 3. <u>Unemployment Compensation.</u>

(a) Verification form completed by the unemployment compensation agency.

(b) Records from unemployment office stating payment dates and amounts.

#### 4. Government Assistance.

- (a) All Government Assistance Programs. Agency's written statements as to type and amount of government assistance the Applicant is now receiving, including but not limited to assistance under the federal Section 8 program, and any changes in such assistance expected during the next twelve (12) months.
- (b) Additional Information for "As-paid" Programs: Agency's written schedule or statement that describes how the "as-paid" system works, the maximum amount the Applicant may receive for shelter and utilities and, if applicable, any factors used to ratably reduce the Applicant's grant.

#### 5. Alimony or Child Support Payments.

- (a) Copy of a separation or settlement agreement or a divorce decree stating amount and type of support and payment schedules.
- (b) A letter from the person paying the support.
- (c) Copy of latest check. The date, amount, and number of the check must be documented.
- (d) Applicant's notarized statement or affidavit of amount received or that support payments are not being received and the likelihood of support payments being received in the future.

#### 6. Net Income from a Business.

The following documents show income for the prior years. The Administrator must consult with Applicant and use this data to estimate income for the next twelve (12) months.

- (a) IRS Tax Return, Form 1040, including any: Schedule C (Small Business) Schedule E (Rental Property Income) Schedule F (Farm Income)
- (b) An accountant's calculation of depreciation expense, computed using straight-line depreciation rules. (Required when accelerated depreciation was used on the tax return or financial statement.)
- (c) Audited or unaudited financial statement(s) of the business.
- (d) A copy of a recent loan application listing income derived from the business during the previous twelve (12) months.

(e) Applicant's notarized statement or affidavit as to net income realized from the business during previous years.

#### 7. <u>Recurring Gifts.</u>

- (a) Notarized statement or affidavit signed by the person providing the assistance. Must give the purpose, dates and value of gifts.
- (b) Applicant's notarized statement or affidavit that provides the information above.

#### SCHEDULE C

#### SAMPLE LEASE RIDER FOR MIXED INCOME UNITS

#### 2021 RIDER TO THE LEASE AGREEMENT FOR AFFORDABLE HOUSING UNITS (80%)

#### 1. TERM AND PROVISIONS

The annexed Lease Agreement for an affordable residential rental unit is for a term of at least (1) year.

This unit is being rented as an affordable housing unit, and is to be rented at or below, to a Tenant that has income that is the lesser of 80 percent of the area median income for the Town of Berlin, Connecticut, or 80 percent of the State Median Income as determined by the U.S. Department of Housing and Urban Development ("HUD"). (determined on an annual basis.) This development has been approved by the Berlin Planning and Zoning Commission based in part on the condition that a defined percentage of residential rental units will be rented as affordable housing apartment homes. The Landlord is required by law to strictly enforce these restrictions.

#### 2. **INCOME LIMITS**

Prior to the commencement of the lease term, resident must provide Landlord with a copy of his or her most recently filed Federal Income Tax Return (Form 1040 or 1040A) or any other proof requested or allowed by law for the purpose of verifying income. Resident must certify that such proof is true and accurate and that the total annual income of all the members of Resident's family who will occupy the unit subject to this lease does not exceed the amount set forth below which

#### applies to the number of persons in Resident's family who will be residing in the subject unit: FAMILY SIZE: 1 2 \$\_\_\_ (amounts to be completed during lease signing) 3. **MAXIMUM RENTS** Notwithstanding anything in the Lease Agreement to the contrary, the total rent for the affordable housing residential rental units shall not exceed the amounts set forth below: a. Studio maximum rent = \$\_\_\_\_\_ b. One Bedroom maximum rent = \$ c. Two Bedroom maximum rent = \$\_\_\_\_\_

#### 4. CERTIFICATION OF INCOME

Prospective residents will be required to fill out an application form containing detailed instructions for calculating their income and allowing the Administrator to verify the information. Applicants will be required to sign a verification of their review and understanding of the income maximums, the penalties for false information, and the applicable procedures in the event that their income increases at some future time above the allowable maximum.

Applicants will also be required to provide appropriate documentation to verify their income. Incomes of resident(s) in each affordable unit will be re-verified annually at the time of the lease renewal.

This Agreement shall terminate and the Resident may be evicted for failure to qualify, if the Resident has falsely certified income. Such false certification constitutes material noncompliance under the Lease Agreement. Resident is obligated to provide such subsequent re-certification of income as the Landlord shall require.

The Town of Berlin will be entitled to inspect the income statements of the residents of the affordable units upon which the Administrator bases the certification.

#### 5. RESTRICTIONS ON USE

No portion of the unit may at any time during the term of this Agreement be used on a transient basis, for example, as a hotel, motel, dormitory, fraternity house, sorority house, rooming house, hospital, nursing home, sanitarium, or rest home.

#### 6. INTERPRETATION

Unless otherwise indicated, the terms used herein shall have the same meaning ascribed to them in the main body of this Lease Agreement. This rider shall control any conflict between terms herein and the Lease Agreement.

#### 7. PROCEDURES FOR INITIAL DESIGNATION AND LEASING OF AFFORDABLE UNITS

Attached to this Lease Agreement is the developer's initial designation of the types of units that shall be rented as affordable units. For the initial rental, all units shall be eligible to be rented pursuant to this Plan provided the ratio of units required is maintained throughout the management of the Plan, which is forty (40) units in total or twenty percent (20%) of the available apartments offered for rent. No particular unit will be deemed as an affordable unit in perpetuity, provided the required ratio and mix of units leased as affordable units is maintained, at twenty percent (20%) of the total project or forty (40) units.

#### RIDER TO THE LEASE AGREEMENT FOR MIXED INCOME UNITS

IN WITNESS WHEREOF, the on the day of	ne parties hereto have o	executed this Rider to the L	Lease Agreement
RESIDENT			
PRINT NAME			
PRINT NAME			
DATE			
BT 2008, LLC			
•			
SIGNATURE MANAGEME	ENT REPRESENTAT	IVE	

# List of Moderate Income Units and Style- 1st Floor Building One

		8 Units		1	5	3	_	2	3	5	4		Building	Studio	8 Units	5	3	_	5	4	3	2		Building	2 Bed
		ts											ding	0	ts									ding	
				1 <sup>st</sup>	2 <sup>nd</sup>	1 <sup>st</sup>	4 <sup>th</sup>	1 <sup>st</sup>	$3^{\rm rd}$	2 <sup>nd</sup>	1 <sup>st</sup>		Floor												
				3	3	3	2	2	2	2	2		Uı			$3^{\rm rd}$	$2^{nd}$	$3^{\rm rd}$	1 <sup>st</sup>	$4^{th}$	$3^{\rm rd}$	$2^{nd}$	1 st	Floor	
													Unit Style												
		4 Units						5	4	3	2		Building	1 Bed- Large		1	1	_	10	10	10	10	10	Unit Style	
														arge										yle	
								1	1	3	2		Floor												
															8 Units	1	4	သ	2	1	3	4	5	Building	1 Bed Den
								9	9	9	9		Unit Style		Š									ling	Den
12 Units	3	2	5	4	3	2	_	5	4	3	2	<u> </u>	Building	1 Bed		2 <sup>nd</sup>	$3^{\rm rd}$	2 <sup>nd</sup>	1 <sup>st</sup>	1 <sup>st</sup>	4 <sup>th</sup>	$3^{\rm rd}$	2 <sup>nd</sup>	Floor	
its													ding	1 Bed- Small										r	
	1	2	3	4	3	2	1	2	1	1	3	2	Floor												
																6	5	5	5	6	6	6	6	Unit Style	
	4	4	4	4	8	8	∞	∞	7	7	7	7	Uni											tyle	
													Unit Style												

# Moderate Income Breakdown for Complex

	1+10 2 Be 5+6 1 Be 5+3 Stud 7+14 1 Be 9 1 Be	Unit #
	2 Bed 1 Bed Den Studio 1 Bed Small 1 Bed Large	
40	2 X 4 = 8 2 X 4 = 8 2 X 4 = 8 2 X 4 = 8 3 X 4 = 12 1 X 4 = 4	Unit Type per Building
200	X = 40 X = 40 X = 40 X = 40 X = 40 X = 40	Total Units per Complex
40	X 20% = 8 X 20% = 8 X 20% = 8 X 20% = 8 X 20% = 12 X 20% = 4	<u>Moderate l</u>
	X 20% = 8       or Complex 1.6         X 20% = 8       1.6 each building         X 20% = 8       1.6 each building         X 20% = 12       2.4 each building         X 20% = 4       1 each building	Moderate Income Units

8 Units per Building

# **Building 1**

# **Building 2**

8 Units	2 <sup>nd</sup>	1 st	2 <sup>nd</sup>	1 <sup>st</sup>	$4^{\text{th}}$	1 <sup>st</sup>	$3^{\rm rd}$	1 <sup>st</sup>	Floor
	6	8	7	3	2	6	1	10	Unit
	1 bed den	l bed small	1 bed small	Studio	Studio	1 bed den	2 bed	2 bed	Type
	125		127				131	110	Unit #
8 Units	4 <sup>th</sup>	2 <sup>nd</sup>	2 <sup>nd</sup>	$3^{\rm rd}$	2 <sup>nd</sup>	1 <sup>st</sup>	1 <sup>st</sup>	2 <sup>nd</sup>	Floor
	6	4	8	7	9	2	5	1	Unit
	1 b	1 b	1 b	1 b	1 b	Stu	1 b	2 bed	Type
			1 bed small	1 bed small			1 bed den		ре
	246	224	238	237	229	202	205	221	Unit#

# **Building 3**

# **Building 4**

			8 Units				8 Units
428	1 bed small	8	2 <sup>nd</sup>	304	1 bed small	4	1 <sup>st</sup>
444	1 bed small	4	4 <sup>th</sup>	307	1 bed small	7	1 <sup>st</sup>
407	1 bed small	7	1 <sup>st</sup>	339	1 bed large	9	3rd
409	1 bed large	9	1 <sup>st</sup>	303	Studio	3	1 <sup>st</sup>
402	Studio	2	1 <sup>st</sup>	332	Studio	2	$3^{\rm rd}$
325	1 bed den	5	2 <sup>nd</sup>	325	1 bed den	5	2 <sup>nd</sup>
436	1 bed den	6	3rd	321	2 bed	1	2 <sup>nd</sup>
440	2 bed	10	4 <sup>th</sup>	330	2 bed	10	$3^{\rm rd}$
					2.		
Unit #	Type	Unit	Floor	Unit #	Type	Unit	Floor

## **Building 5**

501 to 540				8 Units
301 to 340	534	1 bed small	4	$3^{\rm rd}$
201 to 240	528	1 bed small	8	2 <sup>nd</sup>
101 to 140	509	1 bed large	9	1 <sup>st</sup>
	543	Studio	3	$4^{\text{th}}$
Building Unit Code:	522	Studio	2	2 <sup>nd</sup>
	526	1 bed den	6	$2^{\text{nd}}$
	530	2 bed	10	$3^{\mathrm{rd}}$
Unit # for moderate income labeled.	510	2 bed	?	1 st
8 units X 5 buildings + 40	Unit #	Type	Unit	Floor

#### Return to: Alter & Pearson, LLC P.O. Box 1530 Glastonbury, CT 06033

#### ACCESS EASEMENT

KNOW ALL MEN BY THESE PRESENTS, that the TOWN OF BERLIN, a municipal corporation organized and existing under the laws of the State of Connecticut, and having its territorial limits within the County of Hartford and State of Connecticut (hereinafter referred to as the "Grantor"), for the consideration of a Pump Station Easement received from BT 2008, LLC, and recorded at Volume , Page of the Berlin Land Records, and other valuable considerations received to its full satisfaction, does hereby give, grant, bargain, sell, and confirm unto the BT 2008, LLC, a Connecticut limited liability company having its principal place of business in the Town of Rocky Hill, County of Hartford, and State of Connecticut (hereinafter referred to as the "Grantee"), its successors and assigns forever, an easement for right-of-way and easement on, over, under and through the westerly portion of land of the Grantor, for the benefit of Grantee, to allow for construction, installation, maintenance and repair of a driveway, sidewalks, utilities, grading, drainage, lighting, landscaping and signage to permit both pedestrian and vehicular traffic to access all other parking areas and lands of the Grantee, its successors and assigns (hereinafter referred to as the "Easement"), said Easement being shown and designated as "EASEMENT AREA IN FAVOR OF THE APPLICANT FOR DRIVEWAY CONSTRUCTION, 3,140 S.F." and more particularly described on a map or plan filed on the Berlin Land Records as \_\_\_\_\_, titled: Map #

"PROPOSED MIXED-USE DEVELOPMENT (COMMERCIAL & RESIDENTIAL) 404 BERLIN TURNPIKE BERLIN, CONNECTICUT BL COMPANIES ARCHITECTURE ENGINEERING ENVIORMTNAL LAND SURVEYING 355 Research Parkway Meriden, CT 06450 (203)630-1406 (203)630-2615 Fax Title SITE UTILITIES PLAN Sheet No. SU-2 Designed C.J.L. Drawn C.J.L. Reviewed Scale 1"=30" Project No. 18C6611 Date 10/22/2020 CAD File: SU18C661101 REVISIONS 11/20/2020 REVISED FOR COORDINATION 02/24/2021 REVISED PER TOWN COMMENTS",

Said Easement is more particularly bounded and described as follows:

Beginning at a point, which point lies S 82°31'38.28" W a distance of 118.74 feet from a proposed iron pin lying in the westerly street line of the Berlin Turnpike (Route 5 & 15);

Thence running S 20°30'14.12" W a distance of 29.19 feet along land of the Town of Berlin, to a point;

Thence running S 7°49'39.16" E a distance of 23.64 feet along land of the Town of Berlin, to a point;

Thence running S 70°09'16.00" E a distance of 91.04 feet along land of the Town of Berlin, to a point;

Thence running S 20°09'08.85" W a distance of 3.00 feet along the Berlin Turnpike (Route 5 & 15);

Thence running N 70°09'17.37" E a distance of 204.52 feet along land now or formerly of the Grantee, to a proposed iron pin;

Thence running N 82°31'38.28" E a distance of 115.76 feet along land now or formerly of the Grantee, being the point or place of beginning.

Grantor hereby grants and declares, to the extent described herein, for the benefit of the Grantee, a right-of-way and easement on, over, under and through the Easement, which right-of-way and easement shall be appurtenant to and for the benefit of the Grantee and may be used by the Grantee, its successors, assigns, tenants, licensees, guests, agents and employees. The Easement shall be used by the Grantee, its successors, assigns, tenants, licensees, guests, agents and employees to allow for construction, installation, maintenance and repair of a driveway, sidewalks, utilities, grading, drainage, lighting, landscaping and signage to permit both pedestrian and vehicular traffic to access all other parking areas and lands of the Grantee. The Grantee shall have the right to enter on, over, under and through the Easement for the purpose of maintenance, repair and replacement of the driveway and all appurtenances. When utilizing the Easement, the Grantee shall do so as expeditiously as possible and in a manner to cause the least disturbance to the Grantor.

Grantor may continue to use the Easement in any way that will not prevent the use of the Easement for the purposes described herein. The Grantor shall not erect or allow any structures to be erected on the Easement, nor shall it plant or allow to be planted or grown any large trees or any other obstructions which would prevent the use of the Easement by the Grantee.

Grantee shall maintain the Easement in its present condition or in the condition to which it is improved from time to time, free and clear of obstruction, shall repair the same as necessary, shall keep the same reasonably free and clear of ice and snow, and shall keep the Easement insured with respect to liability. The cost of all necessary repairs, maintenance, snow and ice removal, clearing of the driveway, and insurance thereon shall be paid by the Grantee. The cost for repairing, replacing, maintaining or improving the Easement, shall be paid by the Grantee as set forth above. All repairs, replacement, maintenance or improvements made to the Easement shall be made to a quality suitable to accomplish the purposes for which the Easement has been created.

To the fullest extent permitted by law, Grantee shall defend and indemnify and hold harmless the Grantor and its successors, assigns, tenants, licensees, guests, agents and employees from claims, demands, costs, attorney fees, causes of action and liabilities of every kind whatsoever arising out of or in connection with Grantee's entry upon the Easement. The defense and indemnity shall apply regardless of any active and/or passive negligent act or omission of the Grantor, and its successors, assigns, tenants, licensees and guests, agents and employees, but Grantee shall not be obligated to indemnify any party for claims arising from the negligence or willful misconduct of the Grantor, and its successors, assigns, tenants, licensees, guests, agents and employees. The defense and indemnity set forth herein shall not be limited. All activities undertaken on, over, under and through the Easement, including ingress and egress, shall be at the

sole risk of the Grantee.

The right-of-way and easement created herein shall be a permanent right-of-way and easement, and shall bind the Grantor and its successors and assigns, and all subsequent owners and their successors and assigns.

TO HAVE AND TO HOLD the above-granted right, privilege, and authority unto said Grantee and its successors and assigns forever, to it and their own proper use and behoof.

Signed, Sealed and Delivered in the presence of:	TOWN OF BERLIN
	By:, Town Manager Duly Authorized
STATE OF CONNECTICUT COUNTY OF HARTFORD	: : ss. Berlin :
corporation, and that he, as such	officer, personally appeared, who are Town Manager of the TOWN OF BERLIN, a municipa Town Manager, being duly authorized to do so, executed the oses therein contained, by signing the name of the corporation
Commissioner of the Superior Cou Notary Public My commission expires:	urt

Return to: Alter & Pearson, LLC P.O. Box 1530 Glastonbury, CT 06033

#### **PUMP STATION EASEMENT**

KNOW ALL MEN BY THESE PRESENTS, that BT 2008, LLC, a Connecticut limited liability company having its principal place of business in the Town of Rocky Hill, Glastonbury, County of Hartford, and State of Connecticut (hereinafter referred to as the "Grantor"), for the consideration of an Access Easement received from the Town of Berlin, and recorded at Volume \_\_\_\_\_, Page \_\_\_\_\_ of the Berlin Land Records, and other valuable considerations received to its full satisfaction, does hereby give, grant, bargain, sell, and confirm unto the TOWN OF BERLIN, a municipal corporation organized and existing under the laws of the State of Connecticut, and having its territorial limits within the County of Hartford and State of Connecticut (hereinafter referred to as the "Grantee"), its successors and assigns forever, an easement for construction and improvements to upgrade the Town's adjacent pump station, as set forth below (hereinafter referred to as the "Easement"), said Easement is located along the westerly side of the Berlin Turnpike (Route 5 & 15) being shown and designated as "EASEMENT AREA IN FAVOR OF THE TOWN OF BERLIN FOR PUMP STATION UPGRADE CONSTRUCTION, 3,073 S.F." and more particularly described on a map or plan filed on the Berlin Land Records as Map # , titled:

"PROPOSED MIXED-USE DEVELOPMENT (COMMERCIAL & RESIDENTIAL) 404 BERLIN TURNPIKE BERLIN, CONNECTICUT BL COMPANIES ARCHITECTURE ENGINEERING ENVIORMTNAL LAND SURVEYING 355 Research Parkway Meriden, CT 06450 (203)630-1406 (203)630-2615 Fax Title SITE UTILITIES PLAN Sheet No. SU-2 Designed C.J.L. Drawn C.J.L. Reviewed Scale 1"=30" Project No. 18C6611 Date 10/22/2020 CAD File: SU18C661101 REVISIONS 11/20/2020 REVISED FOR COORDINATION 02/24/2021 REVISED PER TOWN COMMENTS",

Said Easement is more particularly bounded and described as follows:

Beginning at a proposed iron pin lying in the westerly street line of the Berlin Turnpike (Route 5 & 15), which point also marks the northeasterly corner of land now or formerly of the Town of Berlin;

Thence running S 82°31'38.28" W a distance of 115.34 feet along land now or formerly of the Town of Berlin, to a point;

Thence running N 20°30'14.12" E a distance of 30.17 feet along land now or formerly of the Grantor, to a point;

Thence running N 82°31'38.28" E a distance of 115.31 feet along land now or formerly of the Grantor, to a point;

Thence running S 20°27'00.93" W a distance of 30.16 feet along the street line of the Berlin Turnpike (Route 5 & 15), being the point or place of beginning.

Within said Easement, the Grantee shall have the right to construct, maintain, inspect, protect, use, operate, alter, modify, repair, reconstruct and replace its sanitary sewer pump station and any and all appurtenances thereto or modifications thereof (collectively hereinafter referred to as the "Pump Station Expansion") including, but not by way of limitation, manholes, siphons, embankments, and sewage tanks and valves, and to enter in and upon said parcel, to excavate, fill, operate equipment, install material, pass and repass over said parcel for any and all of said purposes, whether or not said purposes or functions are required to be performed within said parcel or adjoining parcels, and to perform any other activities incidental to the foregoing purposes or functions.

The Grantee shall have the right within said Easement to remove any and all structures, to cut and remove any trees, shrubs, plants and bushes, and to perform any other work necessary for the construction, maintenance, inspection, protection, use, operation alteration, modification, repair, reconstruction or replacement of the Pump Station Expansion.

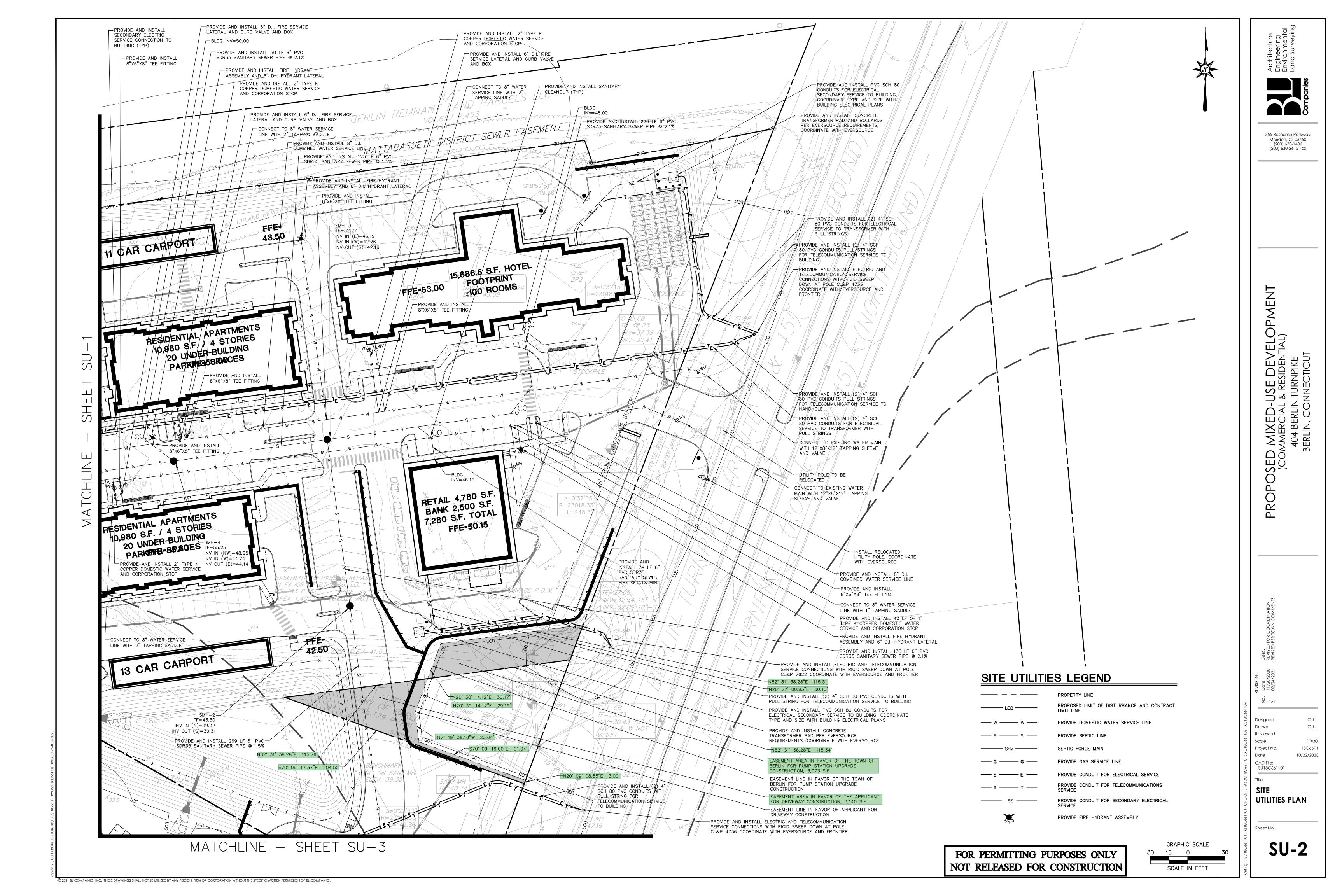
The Grantor shall not erect or allow to be erected, any building or structures in the Easement, but may grade, excavate, install utilities, including stormwater improvements, and perform any other work as approved by the Town of Berlin Planning and Zoning Commission in a Special Permit recorded at Volume \_\_\_\_\_, Page \_\_\_\_\_ of the Berlin Land Records (the "Special Permit"), and on the approved plans recorded as Maps # \_\_\_\_\_ to \_\_\_\_ ("the Approved Plans"). Grantor shall not perform any work not shown in the above-listed Special Permit and Approved Plans, unless written permission is given by the Grantee.

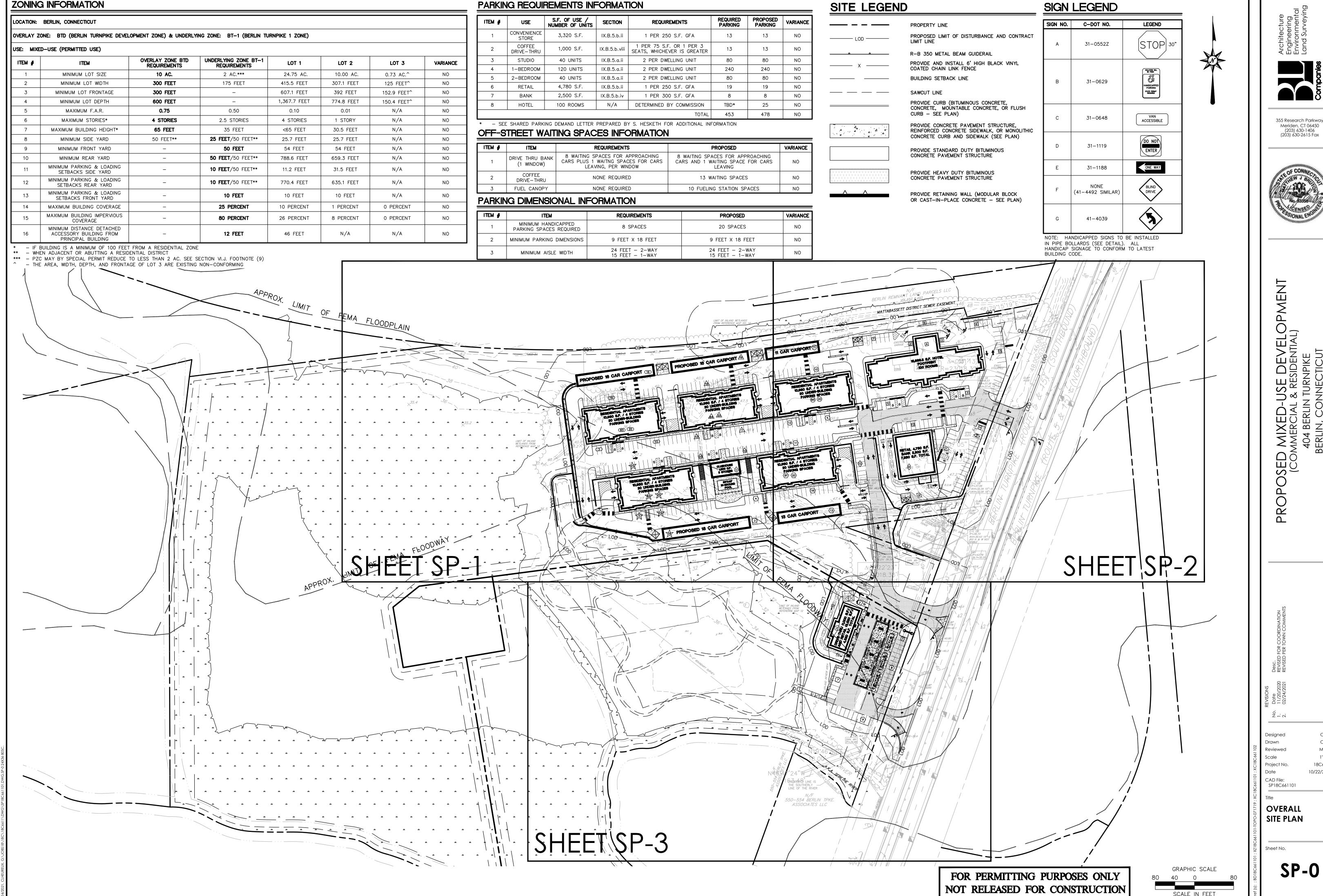
The Grantee covenants and agrees with the Grantor that it will, subsequent to any present or future construction, maintenance, inspection, protection, use, operation, alteration, modification, repair or replacement of said Pump Station Expansion, restore the land or property, exclusive of any structures, trees, shrubs, plants and bushes, of the Grantor herein, to substantially the same condition as existed prior to the commencement of any such activities commensurate, however, with the rights herein conveyed to the Grantee.

To the fullest extent permitted by law, Grantee shall defend and indemnify and hold harmless the Grantor and its successors, assigns, tenants, licensees, guests, agents and employees from claims, demands, costs, attorney fees, causes of action and liabilities of every kind whatsoever arising out of or in connection with Grantee's entry upon the Easement. The defense and indemnity shall apply regardless of any active and/or passive negligent act or omission of the Grantor, and its successors, assigns, tenants, licensees and guests, agents and employees, but Grantee shall not be obligated to indemnify any party for claims arising from the negligence or willful misconduct of the Grantor, and its successors, assigns, tenants, licensees, guests, agents and employees. The defense and indemnity set forth herein shall not be limited. All activities undertaken on, over, under and through the Easement, including ingress and egress, shall be at the sole risk of the Grantee.

This Agreement shall not be modified unless agreed to by the parties in writing.

TO HAVE AND TO HOLD the above-grand its successors and assigns forever, to it	anted right, privilege, and authority unto said Grantee and their own proper use and behoof.
IN WITNESS WHEREOF, the Grantor, 2021.	hereunto sets its hand and seal this day of
Signed, Sealed, and Delivered in the presence of:	BT 2008, LLC
	By: The D'Addeo Family Limited Liability Company, its Member By: Peter D'Addeo, its Managing Member
STATE OF CONNECTICUT ) ) ss. COUNTY OF HARTFORD )	Glastonbury
Liability Company, the Member of BT	anaging Member of The D'Addeo Family Limited 2008, LLC, as aforesaid signer and sealer of the he same to be his free act and deed as said Manager, ability company, before me.
	Commissioner of the Superior Court Notary Public My Commission Expires:

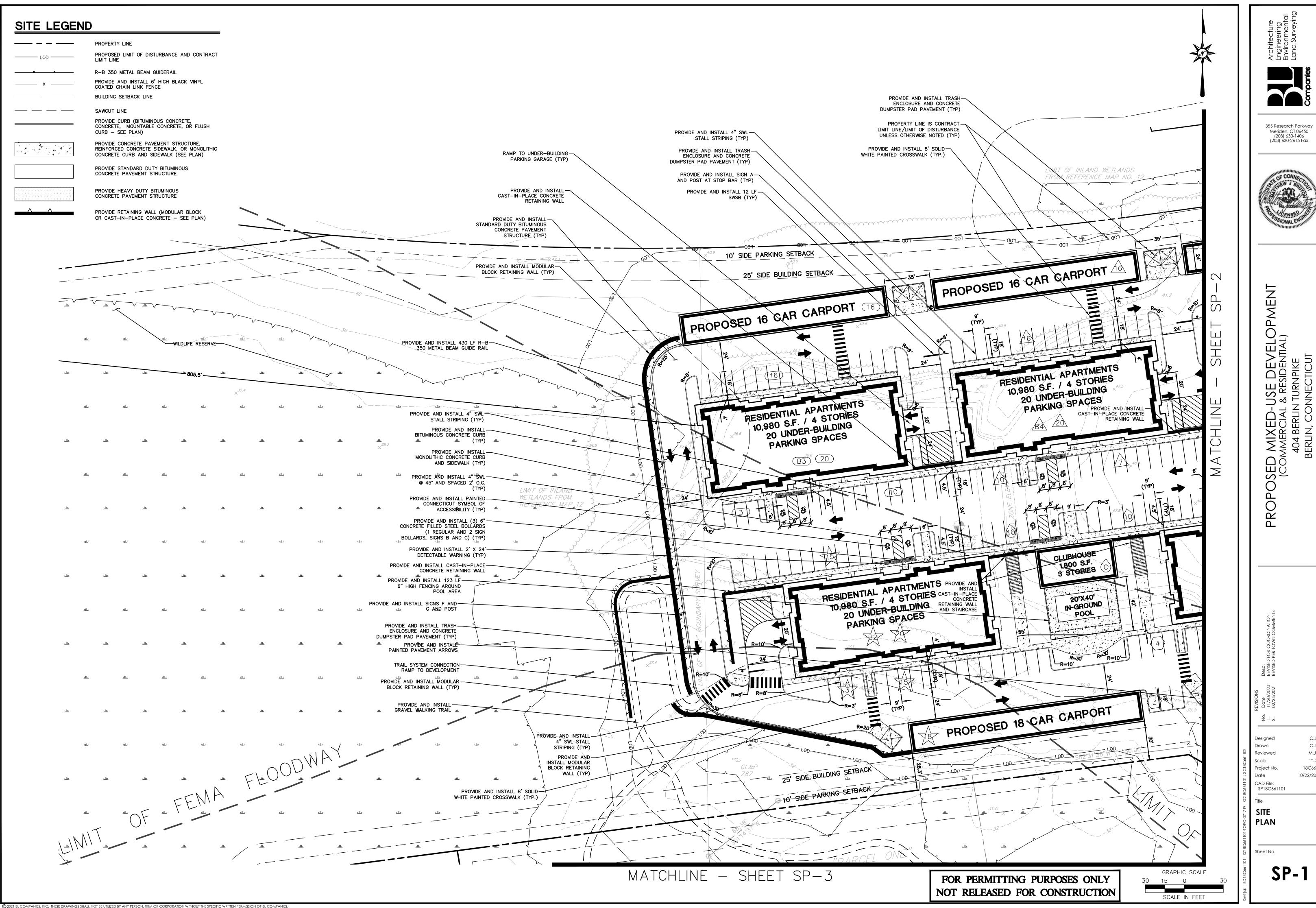




355 Research Parkway



SP-0







C.J.L. M.J.B. 1"=30' 18C6611 10/22/2020

