

MEMORANDUM OF STAFF COMMENTS

TO: Zoning Board of Appeals
FROM: Adam Levitus, ZEO
DATE: April 23, 2021
RE: #2021-03 Motor Vehicle Use Approval – Gasoline Filling Station
APPLICANT: BT 2008 LLC (Peter D’Addeo, Managing Member of D’Addeo Family Limited Liability Company, Member of BT 2008 LLC)
ADDRESS: 0 Berlin Turnpike
Map 10-2 Block 83 Lots 12-7333, 12-7334, 13A, 13C-7509, 13C-7510
ZONE: BT-1 (with pending application to the Planning and Zoning Commission for a change to BTD)

Proposal and Background

BT 2008 LLC (Peter D’Addeo, Managing Member of D’Addeo Family Limited Liability Company, Member of BT 2008 LLC) is requesting a motor vehicle use location approval for a gasoline filling station per Berlin Zoning Regulation XI.R. The properties are owned by BT 2008 LLC and the gasoline filling station is being proposed as a component of a proposed mixed-use development.

Staff Comments

4/22/21 Update (Public Hearing kept open at 3/23/21 Meeting):

At the 4/15/21 meeting, the Planning and Zoning Commission closed the public hearing for this project and approved the zone change for the project. Moreover, a motion was made to approve the site plan/special permit applications with conditions. However, the motion was later retracted (near the end of a 4+ hour meeting) to allow more time to review and potentially develop conditions for the motion. ZEO Levitus asked the PZC if there was any opposition or specific comments regarding the gas station, and members generally indicated that nothing was noted that would impact the gas station location application.

Broadly, this ZBA application was continued across several meetings due to the premature nature of the overall design (e.g., PZC review process could have drastically changed the character of the gas station). Now that the PZC public hearing has been closed and the overall status of the project in PZC review, the applicant has recompiled the updated plans and submitted them to the ZBA for consideration. The specific plan sheets include:

- SP-0A – Gas Station Offset Exhibit – Rev. 3 - 03/11/2021
- LR-1 – Lot Line Revision Plan – Rev. 3 - 03/11/2021
- SP-3 – Site Plan – Rev. 3 - 03/11/2021

As a part of the PZC public hearing process and overall project review, two external consultants were retained to review the application documents (Engineering: WMC Consulting Engineers, Planning: Goman + York Planning and Design). Numerous items – including pedestrian access, dumpster locations, parking, queueing, and the retail use classifications – were raised by the consultants and discussed/revised throughout the public hearing. The consultants were present at multiple PZC meetings, and ultimately did not note any outstanding issues.

Summary of Discussions, Plan Changes, and Zoning Considerations

- As with the initial ZBA submission, the applicant as provided an updated 'bullet list' relating their submission to the relevant regulations under BZR.XI.R.
 - Staff take no exception to the applicant's responses
- Plans were updated to show the 2-acre extent of the proposed gas station development that is being submitted for gas station location approval.
 - This delineation effectively:
 - A) clarifies that the entirety of the 10-acre lot would not be used for a gas station
 - B) helps facilitate future efforts to potentially split off the rear westerly portion of the proposed lot 13C / the gas station lot. The applicant has indicated a desire to dedicate the land for open space to the Berlin Land Trust or Town as part of conservation efforts.
 - By having this delineation, a motor vehicle location approval could proceed regardless of the lot configuration decisions outside of the approval location.
- Dumpster concerns were addressed by relocating to the gas station lot (Sheet SP-3)
- Sidewalks and pedestrian crosswalks were added to facilitate pedestrian circulation at the gas station
- In response to the town engineer's comments, draft access easement language was presented and will be coordinated with the town through standard processes
- The interpretation of the convenience/retail store square footage insofar as the gas station regulations are concerned is a point of confirmation for the next (5/6/21) PZC meeting.
 - The planning consultant suggested that the uses were more aligned with hybrid or multiple principle uses rather than the accessory uses controlled by the regulations. The PZC is expected to make an interpretation of the uses and associated retail square footage allowances.
 - The ZBA should consider if the building size/configuration would impact the location approval. The proposed building meets setback and lot coverage requirements, and if the PZC determines the square footage needs to be limited, the building would be smaller than proposed.
 - Should the ZBA wish to decide on this application, one condition of approval might be that the final plans submitted for building permit need to demonstrate compliance with all zoning regulations subject to staff review and approval. This way, the location approval could be granted on the basis of the lot itself while staff resolve the technicalities.

The decision before the ZBA is whether the proposed lot/area is suitable for a Gasoline Filling Station. The overall site plan approval and relation within the proposed mixed-use development/masterplan is within the purview of the PZC Site Plan process. However, ZBA members should consider if the design elements and lot sufficiently meet the regulations to warrant a location approval.

Should the Board move to approve this application, staff recommend that the following conditions be considered:

- Approval be based on resubmitted plans SP-0A, LR-1, and SP-3 – Rev. 3 - 03/11/2021
- Motor vehicle location approval is limited to the 2-acre portion of Lot #2 as delineated on the plans.
- Approval contingent upon the revision of the lot lines as proposed for Lot #2 (MBL 10-2-83-13C) to obtain the required 1500 ft separation
- Applicant shall fill out / submit all necessary DMV Retail Gasoline Dealer License forms for staff review and signoff. Applicant shall return to the ZBA for approval should modifications be deemed necessary.
- All plan submissions for building permit applications should clearly demonstrate compliance with zoning regulations for confirmation by staff (e.g., gas station building floor plans should delineate a maximum of 2000sf of retail display)

3/17/21 Update (Public Hearing kept open at 2/23/21 Meeting):

This project is still undergoing PZC review. Some updated plans relevant to the gas station approval have been received and have been posted to the website/distributed to ZBA members. However, the project is still being reviewed holistically as part of the PZC review process.

Staff will provide an update to ZBA members and the website before the ZBA 3/23/21 meeting should a decision be reached at the 3/18/21 PZC meeting.

2/18/21 Update (Public Hearing kept open at 1/26/21 Meeting):

Third-party engineering and planning consultant reports (procured as part of the PZC reviews for this project), an updated aerial rendering, Town of Berlin Engineering Department comments, and three updated site plan sheets (SK 27.1-3) were received by staff and distributed to PZC members on 2/17/21. Copies of those documents have been posted to the website and have been provided to ZBA members in their document packages for the 2/23/21 ZBA meeting.

Note: Due to weather-related scheduling, the next PZC meeting for which comments / information might be heard for this project will not be until 2/25/21.

As of the writing of this memorandum, Staff are still in the process of reviewing the consultant reports and other documents. Based on a preliminary, cursory review of the consultant reports, updated plans, etc, there are items that may impact the overall site configuration and/or ZBA decision-making:

- There are outstanding discussions regarding the requirements surrounding retail convenience store/coffee shop uses (e.g., accessory vs. principal retail uses) and around parcel size/lot lines.*
- Easements with the town have not yet been drafted per Town Engineer comments. These include areas at proposed lot line revisions that would impact the 1500ft separation*
- There are outstanding discussions regarding the location of some of the vehicular access, parking, and the required dumpster area is located outside of the proposed property line for this gas station*
- A number of design-related elements appear to be outstanding per engineering consultant comments (e.g., Wetland review comments not yet incorporated, grading/stormwater plans yet finalized, questionable soil conditions beneath the gas station convenience store, etc.). These elements might be resolvable, but that resolution may impact the site plan.*
- Again, these are some preliminary observations based on a cursory review. More observations/comments will likely arise and/or be resolved through the PZC review process.*

Note:

The suitability of the location for a gas station under ZBA approval – as defined by the Berlin Zoning Regulations XI.R – is dependent on a number of factors. One such criteria is the commonly-cited 1500-foot required separation from another filling station. However, this is only one of many criteria. For example, the 1500-foot requirement is in the same list of sub-section criteria for gas stations as fuel pump setbacks of 25 feet and the retail merchandise 2000 sf maximum limitation. All such criteria should be reviewed and considered as part of a ZBA approval, not just the 1500-foot separation requirement.

Note:

Overall staff comments/recommendations from the 1/22/21 memorandum and 1/26/21 ZBA meeting discussion still generally remain the same at this time. The applicant should continue to navigate the PZC approval process and update documents as required based on those reviews. Those materials will continue to be shared with the ZBA to maximize the efficiency of the process, to help inform ZBA decision-making, and to help expedite communication of any ZBA concerns and/or decisions.

Original staff comments below from 1/22/21 – kept for continuity since application largely has not changed:

Note that site plan, special permit, and zone change applications for the proposed mixed-use development was separately submitted by the applicant to the Planning and Zoning commission for review. The approval of a gas station location by the ZBA would require that the site first be finalized (e.g., to confirm the 1500ft separation is met by checking the final, amended lot lines).

The Planning and Zoning Commission have not yet approved the unified master plan, uses, site elements and other elements in the site plan/special permit/zone change applications (including lot lines) as of the 1/21/2021 PZC meeting. Consultants have been retained by the town to assist in the review process, but the consultant reports and analyses are still being developed. The PZC is currently scheduled to continue the public hearing for this project at their 2/18/2021 meeting. At the request of the applicant, staff have compiled the application to be put before the ZBA, and the ZBA should determine how it wishes to proceed.

This project is comprised of 3 lots located along the west side of the Berlin Turnpike, just south of Deming Road. Most of the land in these lots is currently undeveloped, with the exception of a small building at the northeast corner of the 24.75 acre lot at 404 Berlin Turnpike.

The project is proposed to be a mixed-used development under the requirements of the BT-D zone (the zone was added in 2019 in order to promote mixed-use developments along the Turnpike). The project is intended to consist of commercial (convenience store, gas station, retail), residential (200 apartment units), and hotel uses.

As part of this project, the 3 lots are being developed under one assemblage/unified master site plan. The project is frequently known under the 404 Berlin Turnpike address (which coincides with the largest parcel); however, the proposed gas station is proposed for the southern 10-acre parcel (current address is 0 Berlin Turnpike).

The BT-D zone allows for any uses that would be permitted in the underlying zone (in this case, BT-1). The BT-1 zone permits gasoline filling stations as a special permit use subject to both PZC site plan and ZBA motor vehicle location approval.

Regarding motor vehicle use design criteria (enumerated in BZR XI.R.), the 11/3/20 memorandum from Alter & Pearson, LLC to the ZBA largely appears to coincide with the submitted site plans and the motor vehicle use location special regulations as required by BZR XI.R. This includes the 1500ft distance from the nearest gas station (Gulf at 301 Berlin Turnpike) and 500-foot distance from places of public assembly (e.g., churches, schools). Note that these items have not yet been fully reviewed (either as a standalone gas station or as part of the unified master plan), as the Planning and Zoning Commission consultant report regarding overall site locations, parking, etc. has not yet been received by staff.

However, initial staff reviews suggest several items should be clarified by the applicant via updated/additional documents, including:

- Memo item 10 suggests that dumpsters are shown on SP-3, but no such dumpsters were observed on that sheet.*
- Memo item 12.c.ii suggest that display of retail will not exceed the 2000sf maximum, however, floor plans of the c-store were not submitted with the application, and the general site plan lists the retail use as 3320sf.*

- *Updated plans should be submitted by the applicant that clarify/address the items above and any other issues resulting from the larger PZC review. After PZC approval has been obtained, the applicant should submit the approved site plans (including all final lot lines, building footprints, floor plans, etc.) to the ZBA for this approval.*

As of the time of this report, staff have not received DMV Retail Gasoline Dealer License application forms from the applicant. If the ZBA wishes to proceed with the review and should the ZBA approve this application, those documents will need to be submitted for staff review prior to staff signoff of the DMV application. All state-required licenses and approvals would need to be obtained by the owner/applicant/operator prior to opening the gasoline filling station for business.

Zoning Requirements:

§XI.R. Automotive Services

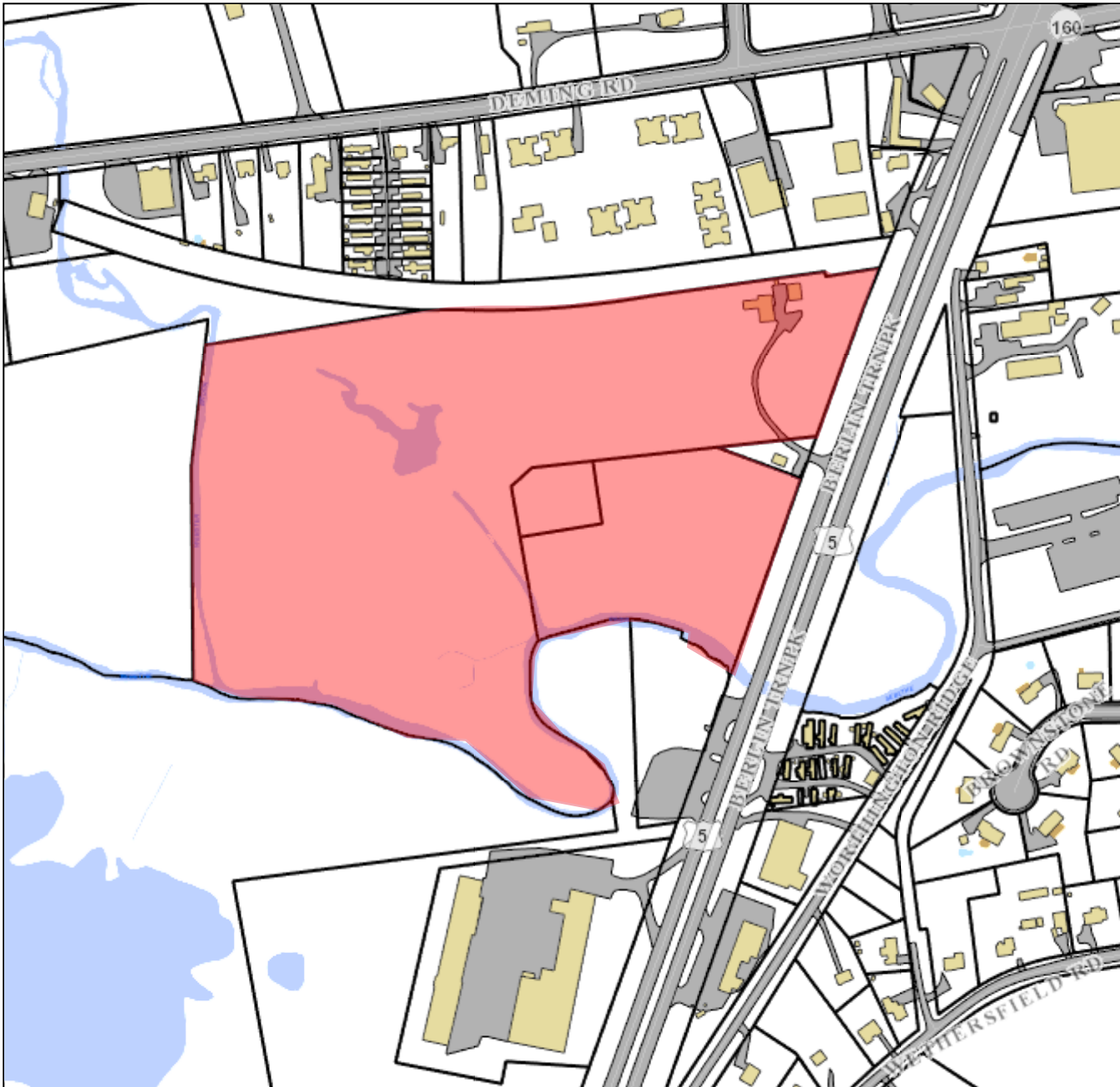
The Town of Berlin Plan of Conservation and Development, Section II, Strategic Outline for Implementation, Strategy 1: Coordinate the Regulatory Structure to Support the Plan, 3) states: Any variance granted by the Zoning Board of Appeals should be consistent with the standards imposed by Connecticut General Statutes in which a hardship exists owing to conditions affecting a specific parcel of land, and the variance which is granted should be consistent with the goals and policies of this plan and the intent of the zoning regulations.

Town of Berlin

Geographic Information System (GIS)



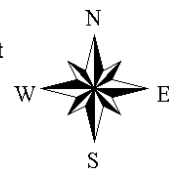
Date Printed: 1/21/2021



MAP DISCLAIMER - NOTICE OF LIABILITY

This map is for assessment purposes only. It is not for legal description or conveyances. All information is subject to verification by any user. The Town of Berlin and its mapping contractors assume no legal responsibility for the information contained herein.

Approximate Scale: 1 inch = 400 feet





Town of Berlin

ZBA # _____ - _____ - _____

Planning and Zoning Department

240 Kensington Road
Berlin, Connecticut 06037
www.town.berlin.ct.us

ZONING BOARD OF APPEALS APPLICATION

- ☐ Special Permit ☐ Variance ☐ Appeal of ZEO
☒ Motor Vehicle Location ☐ Alcohol Uses Location ☐ Other / Determination
Gasoline Filling Station Location Approval

Property Owner(s): BT 2008, LLC

Project Address*: 404 Berlin Turnpike

Map: (Lot 1) 10-2 Block: 83 Lot: 12-7333/12-7334 Zone(s): BT-1 Lot Area: 29.39 +/- acres
(Lot 3) 10-2 83 13-A BT-1 0.73 +/- acres
Gasoline Filling Station----- (Lot 2) 10-2 83 13-C-7509/13-C-7510 BT-1 5.36 +/- acres
located on this lot

Please select all relevant items below:

- ☒ Supplemental Information Is Required For:
ZBA Special Permit / Sale of Alcoholic Beverages Location / Motor Vehicle Uses Location - *Gasoline Filling Station Location Approval*
☒ Inland Wetlands and Water Course Commission review needed - approval received 10/6/20
☐ Planning and Zoning Commission review needed
☒ Property is within 500 feet of a Municipal Boundary of _____
☐ Previous Zoning Board of Appeals actions on this property:

Date(s) & Purpose(s): _____

Applicant Information

Name: BT 2008, LLC

Firm Name: c/o Commercial Services Realty

Street Address: 156 New Britain Ave.

City: Rocky Hill ST: CT Zip: 06067

Email: pdaddeo@ccimcsr.com

Phone: 860-721-005 (office); 860-983-5146 (cell)

Signature: _____
BT 2008, LLC

Date: 11/2/2020

By: The D'Addeo Family Limited Liability Company, its Member

By: Peter D'Addeo, its Managing Member

Property Owner(s) Information (If Not the Applicant) - Property Owner is the Applicant

Name: _____

Principal: _____

Street Address: _____

City: _____ ST: _____ Zip: _____

Email: _____

Phone: _____

*Letter of Authorization Required

ZBA action is requested pursuant to Berlin Zoning Regulations Section(s): X.I.R

*Any town official and/or employee who the town deems necessary may enter the property to verify information submitted with this application.

Brief description of the proposal: 10-pump gasoline filling station with associated convenience store, which is a component of the Site's proposed mixed-use development. See attached narrative for additional information.

VARIANCE APPLICATIONS: For relief of: _____ requirement.

Requested requirement: _____

Reason/Description of Hardship (REQUIRED): _____

MOTOR VEHICLE USE LOCATION¹:

The first page of the State DMV application is required to be submitted with this application

	<u>Number of Service Bays</u>	<u>Parking Required</u>	<u>Parking Provided</u>
<input type="checkbox"/> New Car Dealer	_____	_____	_____
<input type="checkbox"/> Used Car Dealer	_____	_____	_____
<input type="checkbox"/> General Repairer	_____	_____	_____
<input type="checkbox"/> Limited Repairer	_____	_____	_____
<input checked="" type="checkbox"/> Gasoline Station	<u>N/A</u>	_____	_____

SALE OF ALCOHOLIC BEVERAGES LOCATION¹

The first page of the State Liquor Permit application is required to be submitted with this application

Type of State Liquor Permit:

☐ On -Premises Permit: Type _____

☐ Off-Premises: Type _____

☐ Other: Explain _____

To be completed by P&Z staff only:

Fee Paid \$ _____ (Refer to current Fee Schedule)

ZBA # _____ - _____ - _____

Received by: _____

Scheduled on ZBA Agenda of: _____

ZONING BOARD OF APPEALS DECISION:

Plan Title & Date: _____

TO: Zoning Board of Appeals

FROM: Alter & Pearson, LLC

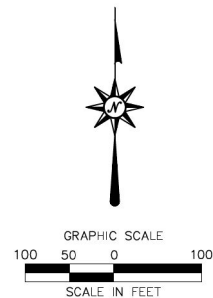
DATE: November 3, 2020 (*revised April 21, 2021*)

RE: Gasoline Filling Location Approval – 404 Berlin Turnpike

The Applicant is proposing a mixed-use development at 404 Berlin Turnpike (three lots). The project consists of four phases: **Phase 1:** 3,320 s.f. convenience store with 1,000 s.f. drive-thru establishment and 10 pump gasoline fueling station; **Phase 2:** 200 residential apartment units within five buildings together with associated carports, a pool and clubhouse for residents; **Phase 3:** 7,280 s.f. retail building; and **Phase 4:** 100+/- room hotel.

The Applicant is seeking a location approval from the Zoning Board of Appeals for the 10-pump gasoline fueling station. There is no automobile dealing or repairers associated with the proposed use. *Please note that the below subsections correspond to the subsections of Section XI.R – Automotive Services.*

1. Not applicable as no automobile license is proposed with the gasoline filling station.
2. The Site (Lot 2) has frontage of 392 feet and a depth of 774.8 feet (when the Site is 10 acres), *or has frontage of 392 feet and a depth of 243 feet (when the Site is 2 acres).*
3. The building is set back 107.5 feet from the street line, 25.7 feet to the closest side line and 659.3 feet from the rear line (when the Site is 10 acres), *or the building is setback 107.5 feet from the street line, 25.7 feet to the closest side line and 79 feet from the rear line (when the Site is 2 acres).* The lot is not contiguous to a residential district.
4. Not applicable as the lot is not contiguous to a residential district
5. Maximum building coverage is 1% (when the Site is 10 acres), *or maximum building coverage is 5% (when the Site is 2 acres).*
6. Two, right-in and two right-out driveways are proposed at the westerly side of the Berlin Turnpike having widths of 15 feet and 20 feet. The distance between the northerly right-out curb cut and the southerly right in-curb cut is approximately 50 feet. The driveways are not proximate to any intersections with public streets.
7. The proposed storage tanks are located underground.
8. The gasoline filling station is at least 500 feet from any place of any church, hospital, library, school, community house, playground or theater.
9. There are no proposed outdoor displays.
10. Dumpsters are shown on SP-3.
11. The Applicant acknowledges this provision.
12.
 - a. See first plan in the plan set demonstrating that the setback requirement is met.
 - b. The fuel pumps are set back from the street line by 50 feet.
 - c.
 - i. Applicant acknowledges.
 - ii. Display of retail and convenience merchandise within the convenience store will not exceed 2,000 s.f.
 - iii. Not applicable as no repairer services proposed.
 - iv. Not applicable as site will not have a motor vehicle repair license.
 - v. Parking requirements for the convenience store are met on the proposed plan.
 - d. No residence or sleeping quarters are proposed.



Architecture
Engineering
Environmental
Land Surveying

355 Research Parkway
Meriden, CT 06450
(203) 630-1406
(203) 630-2615 Fax

PROPOSED MIXED-USE DEVELOPMENT
(COMMERCIAL & RESIDENTIAL)
404 BERLIN TURNPIKE
BERLIN, CONNECTICUT

No.	Date	Desc.
1.	11/20/2020	REVISED FOR COORDINATION
2.	02/24/2021	REVISED PER TOWN COMMENTS
3.	03/11/2021	REVISED PER REVIEW COMMENTS

Designed	C
Drawn	C
Reviewed	
Scale	1"=
Project No.	18C
Date	10/22/

GAS STATION OFFSET EXHIBIT

Sheet No.

SP-0A

LOCATION: BERLIN, CONNECTICUT							
OVERLAY ZONE: BTD (BERLIN TURNPIKE DEVELOPMENT ZONE) & UNDERLYING ZONE: BT-1 (BERLIN TURNPIKE 1 ZONE)							
USE: MIXED-USE (PERMITTED USE)							
ITEM #	ITEM	OVERLAY ZONE BTD REQUIREMENTS	UNDERLYING ZONE BT-1 REQUIREMENTS	LOT 1	LOT 2	LOT 3	VARIANCE
1	MINIMUM LOT SIZE	10 AC.	2 AC.***	2475 AC.	10.00 AC.	0.73 AC.^	NO
2	MINIMUM LOT WIDTH	300 FEET	175 FEET	415.5 FEET	307.1 FEET	125 FEET^	NO
3	MINIMUM LOT FRONTAGE	300 FEET	—	607.1 FEET	392 FEET	152.9 FEET^	NO
4	MINIMUM LOT DEPTH	600 FEET	—	1,367.7 FEET	774.8 FEET	150.4 FEET^	NO
5	MAXIMUM F.A.R.	0.75	0.50	3.10	0.01	N/A	NO
6	MAXIMUM STORIES*	4 STORIES	2.5 STORIES	4 STORIES	1 STORY	N/A	NO
7	MAXIMUM BUILDING HEIGHT*	65 FEET	35 FEET	<65 FEET	30.5 FEET	N/A	NO
8	MINIMUM SIDE YARD	50 FEET**	25 FEET/50 FEET**	25.7 FEET	25.7 FEET	N/A	NO
9	MINIMUM FRONT YARD	—	50 FEET	54 FEET	54 FEET	N/A	NO
10	MINIMUM REAR YARD	—	50 FEET/50 FEET**	788.6 FEET	659.3 FEET	N/A	NO
11	MINIMUM PARKING & LOADING SETBACKS SIDE YARD	—	10 FEET/50 FEET**	11.2 FEET	31.5 FEET	N/A	NO
12	MINIMUM PARKING & LOADING SETBACKS REAR YARD	—	10 FEET/50 FEET**	770.4 FEET	635.1 FEET	N/A	NO
13	MINIMUM PARKING & LOADING SETBACKS FRONT YARD	—	10 FEET	10 FEET	10 FEET	N/A	NO
14	MAXIMUM BUILDING COVERAGE	—	25 PERCENT	10 PERCENT	1 PERCENT	0 PERCENT	NO
15	MAXIMUM BUILDING IMPERVIOUS COVERAGE	—	80 PERCENT	26 PERCENT	8 PERCENT	0 PERCENT	NO
16	MINIMUM DISTANCE DETACHED ACCESSORY BUILDING FROM PRINCIPAL BUILDING	—	12 FEET	46 FEET	N/A	N/A	NO



R-1

Research Parkwa
riden, CT 06450
(203) 630-1406
(3) 630-2615 Fax

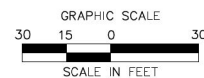
T LINE VISION PLAN

† No.

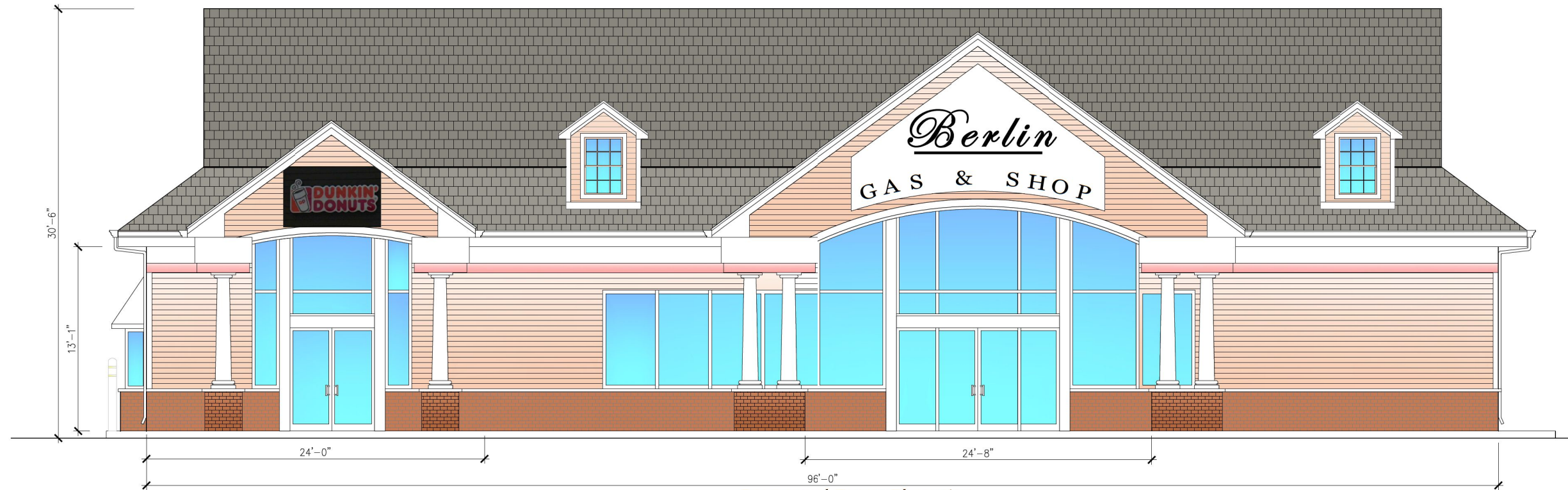
MATCHLINE - SHEET SP-1 AND SP-2



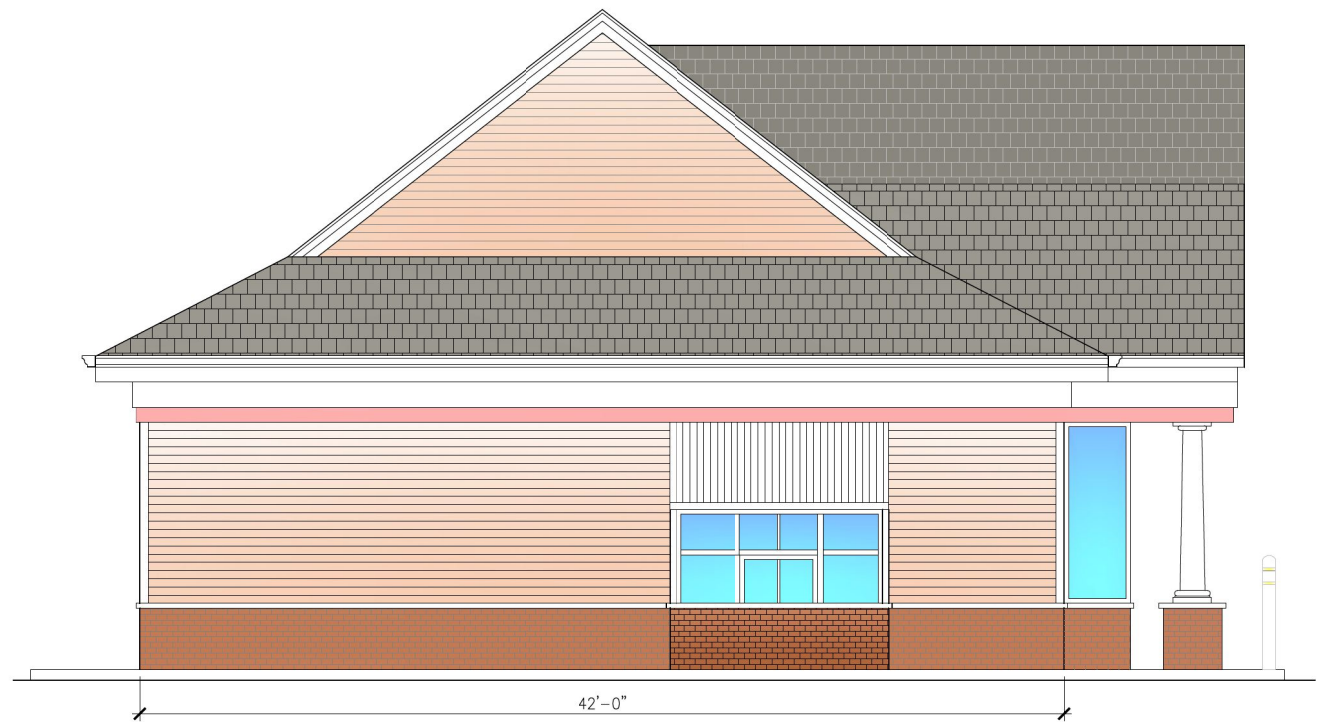
FOR PERMITTING PURPOSES ONLY
NOT RELEASED FOR CONSTRUCTION



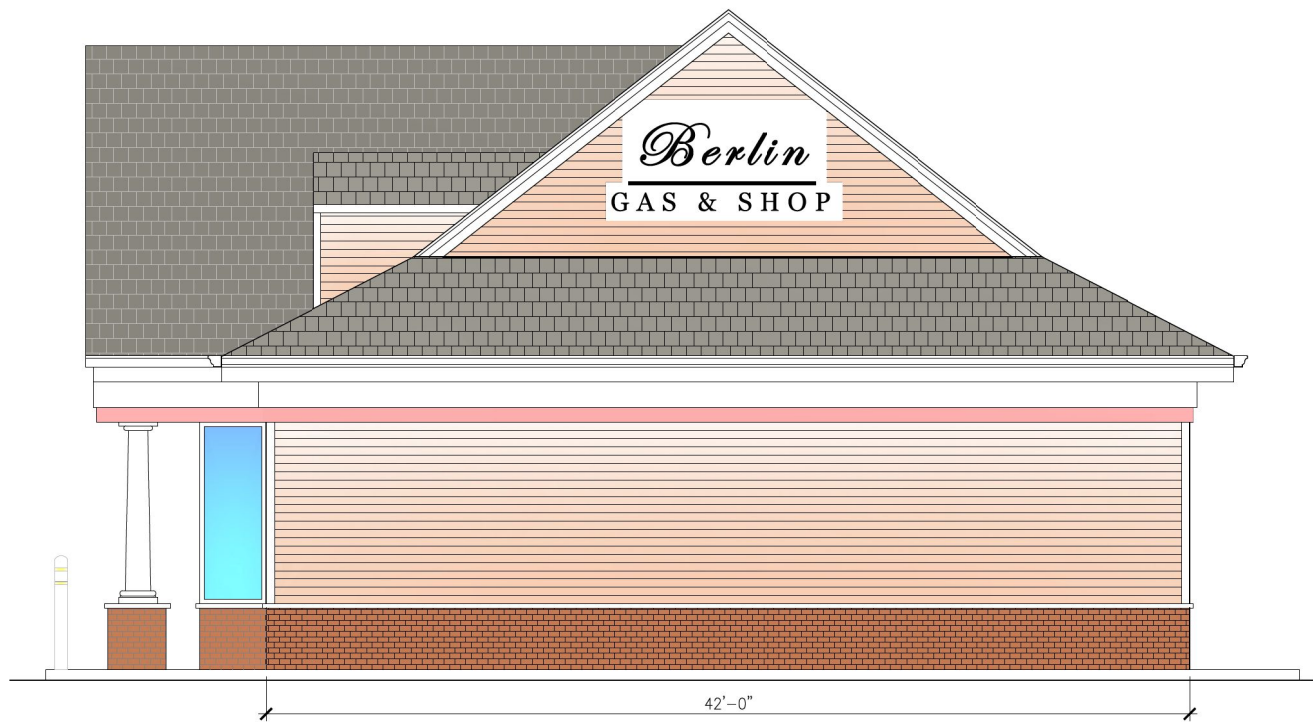




Proposed Front Elevation
Scale: 1/4"=1'-0"



Proposed East Side Elevation
Scale: 1/4"=1'-0"



Proposed West Side Elevation
Scale: 1/4"=1'-0"

OWNER:



156 New Britain Ave.
Rocky Hil, CT 06067
Phone: (860) 721-0005
Fax: (860) 563-3315
www.commercialservicesrealty.com

CLIENT:

PROJECT NAME:

New Convenience
Store

Gas Station

FC ADDRESS:

404 Berlin Turnpike,
Berlin, CT

DRAWN BY:

R. Abramov

DATE:

12-19-2019

REVISIONS:

#	DATE:	COMMENTS

SHEET:

A-01

DRAWING NUMBER:

1

OF:

2

DRAWING NAME:

Elevations