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**RISELEY & MORIELLO**  
**ATTORNEYS AT LAW**  
111 Green Street  
Post Office Box 4465  
Kingston, New York 12402

Richard F. Riseley  
Michael A. Moriello

Tel: (845) 338-6603  
Fax: (845) 340-1614

**ZONING PETITION**

**IN THE MATTER OF THE PETITION OF  
THE CENTER FOR PHOTOGRAPHY AT WOODSTOCK, LLC**

FOR a zoning district change of .744 acres of improved lands which are currently zoned C-3 and which lands are situate adjacent to the C-2 Zoning District by extension of the present C-2 Zoning District and by the accompanying Zoning Map Amendment in the City of Kingston, County of Ulster and State of New York.

TO: The Honorable Common Council of the City of Kingston, via the City Clerk, Ulster County, New York

Upon this Petition and additional documentation submitted herewith by Petitioner, the Petition of The Center for Photography at Woodstock [Nadine Lemmon, Treasurer and Michael A. Moriello, Esq. as Attorney], (Collectively hereinafter "Petitioner") respectfully shows this honorable body as follows, pursuant to Article X of the City of Kingston Zoning Law:

STATE OF NEW YORK )  
COUNTY OF ULSTER ) ss.:

Nadine Lemmon and Michael A. Moriello, being duly sworn, depose and say as follows:

FIRST: Name/Address. The name and address of the fee owner of the premises which is the subject of this Petition is N&S Supply of Fishkill, Inc. 205 Old Route 9, Fishkill, New York 12524. This Petition is being forwarded pursuant to the City of Kingston Application Forms in accordance with applicable provisions of the City of Kingston Code and the City of Kingston Zoning Law.

SECOND: Location. Petitioner is forwarding this Petition with the consent of the fee owner and the project is located at 25 Dederick

Street, Kingston, New York 12401 and related appurtenances as situate upon the Subject Premises. The Petitioner is the contract vendee for Purchase of the Subject Premises and for the associated use thereof for a museum, gallery and arts center. The on premises improvements are currently unoccupied. This project represents an important arts and cultural institution situate within the City of Kingston Midtown area.

On or about September 27, 2022, the Petitioner Submitted a combined Rezoning and SEQRA Application for review by the City of Kingston Planning Board ["Planning Board"] together with related notifications, Authorization, Planning Board Application Checklist, Deed and Project Narrative. The Planning Board conducted an initial discussion of the Project at its October 17, 2022 Meeting.

Said lands are located at 25 Dederick Street in the City of Kingston, County of Ulster and State of New York, more particularly described by way of the Deed to the premises, as set forth within Db. 3015, at page 346 in the Offices of the Ulster County Clerk. [A copy of said Deed is annexed hereto and made a part hereof as Exhibit "A".]

The subject premises is depicted on the current City of Kingston Tax Map as Section, Block and Lot Number 56.25-4-36.100. [A copy of the pertinent portion of said Tax Map is annexed hereto as Exhibit "B".]

The subject premises is physically bounded as follows:

- a.) On the North by Kingston Hospital and CSX Railroad.
- b.) On the South by lands of DBTL Realty, Corp., Shah Property, Inc. and Saunders Holdings, LLC.

- c.) On the East by lands of DBTL Realty, Corp.
- d.) On the West by Scott Dutton Associates, LLC, Scott Dutton Associates, LLC and Dederick Street.

THIRD: Improvements.

The subject premises is improved by the following:

- a.) N&S Supply of Fishkill Inc. building
- b.) Parking and roadway improvements.
- c.) Remaining lands and appurtenances.

FOURTH: Description of the Subject Premises.

The purpose of this Petition is to extend and conform the adjacent C-2 Zoning District to all of the .744 Subject Premises so that all of the lands comprising the parcel will be situate within the C-2 Zoning District. In this regard, the C-2 Zoning District designation is the ascendant district within the immediate vicinity of the parcel [from a current use progression perspective] and changing the zoning of the parcel will more appropriately acknowledge the pattern of development within this area of the City of Kingston.

In addition, it has become evident that the midtown area of Kingston is undergoing a transition and upgrade to move mixed business, residential and cultural uses. This transition will be further facilitated by effectuating the rezoning being forwarded in the instant matter.

Permitted uses, as set forth within the C-3 Zoning District, are unavailing for cultural institution uses.

There is currently no defined plan to redevelop the Subject Premises and as a result, this Zoning Petition is being forwarded

without a Land Use/Site Plan Application. The Petitioner is planning for a rehabilitation of the 40,000 square foot, four story building, with an open floor plan, vaulted ceilings and brick exterior. The intention of the Petitioner is to repurpose and adaptively reuse the improvements in order to forward a photography museum, an educational center for the arts and commercial businesses which are consistent with the surrounding area.

It is submitted that the physically developed premises is appropriate for inclusion within the C-2 Zoning District and that the extension and alteration of zoning requested herein is entirely appropriate and does not constitute spot zoning. Save Our Forest Action Coalition v. City of Kingston, 246 AD2d 217 (3<sup>rd</sup> Dept, 1998).

FIFTH: Proposed Zoning of the Site.

The Petitioner is requesting that the Subject Premises be included within C-2 Zoning District by way of C-2 Zoning District designation extension to encompass the Subject Premises and which extension would amend the City of Kingston Zoning Map. [A copy of the relevant portion of the City of Kingston Zoning District Map is annexed hereto and made a part hereof as Exhibit "C"].

SIXTH: Description of the Petition and Associated Action.

A.) The Petitioner proposes for the Subject Premises a rezoning to C-2 Zoning District designation for eventual adaptive re-use redevelopment of the current site improvements. There is no current plan for additional development and the rezoning is classified as an Unlisted Action pursuant to the applicable regulations of the Environmental Conservation Law of New York State [6 NYCRR Part 617.4].

B.) Unlisted Action classification is applicable even though the Project Site is an historically designated premises, as the 25% threshold trigger for historic designation and associated rezoning is not exceeded [See 6 NYCRR Part 617.4(b)(9)].

The rezoning will require review under SEQRA, as an Unlisted Action and it is anticipated that the City of Kingston Common Council will assume duties as Lead Agency for SEQRA review. There are no other identified Involved Agencies [discretionary permitting authorities] under SEQRA and the Interested Agencies [ministerial review authorities] which the Petitioners have been able to ascertain are as follows:

- 1.) City of Kingston Planning Board.
- 2.) City of Kingston Building Department.
- 3.) City of Kingston City Clerk.
- 4.) Ulster County Planning Board.

C.) The foregoing is offered with the caveat that when a defined plan for adaptive re-use occurs, the Petitioner herein will be required to apply to the City of Kingston Planning Board for any site plan review procedures which may be necessary for the redevelopment. Again, it is expected that exterior improvements to facades, fenestrations, windows, doors, parking areas and like improvements will be made. However, none of these improvements have been forwarded to a point whereby a formal site plan application would be in a position to be forwarded.

SEVENTH: Current Depiction of the Subject Premises.

The Subject Premises is currently depicted upon a certain survey map prepared by Christopher J. Zell, PLS, Brinnier & Larios, PC and being dated October 1, 1999 [A copy of said survey is annexed hereto and made a part hereof, as Exhibit "D" and a copy of the survey metes and bounds description is annexed hereto and made a part hereof as Exhibit "E".]

EIGHTH: The statutory references for this Rezoning Petition are as follows:

- a.) City of Kingston Zoning Ordinance, Article X.
- b.) General City Law of the State of New York, Section 29.
- c.) General City Law of the State of New York, Section 83.
- d.) Section 239-m of the General Municipal Law of New York State.
- e.) SEQRA [6 NYCRR Part 617 et. seq.].

[A copy of the relevant portions of the City of Kingston Zoning Law, governing the C-2 and C-3 Use Schedules, is annexed hereto and made a part hereof as Exhibit "F".]

It is noted that this Petition is required to be referred by the City of Kingston Common Council to the City of Kingston Planning Board, pursuant to Section 405-73 of the City of Kingston Zoning Ordinance.

Referral of a full statement of the proposed action to the Ulster County Planning Board for a Recommendation pursuant to Section 239-m of the General Municipal Law of New York State is further required.

In addition, a public hearing in consideration of the rezoning request, is required to be held by the Laws and Rules Committee of the

City of Kingston Common Council, in accordance with Section 405-74 of the City of Kingston Zoning Law and Section 83 of the General City Law of New York State.

WHEREFORE, upon full submittal and complete administrative/legislative review, your Petitioners request that the City of Kingston Common Council amend the City of Kingston Zoning Ordinance in a consistent fashion with this Petition by following all requisite SEQRA review procedures and rezoning statutory directives associated with the Center for Photography at Woodstock Petition for Rezoning, as herein stated. A Zoning Petition Addendum is being submitted simultaneously herewith as part of the rezoning analysis offered by the Petitioner.

THE CENTER FOR PHOTOGRAPHY  
AT WOODSTOCK

By: 

NADINE LEMMON, Treasurer

Respectively Submitted,

RISELEY & MORIELLO, PLLC

By: 

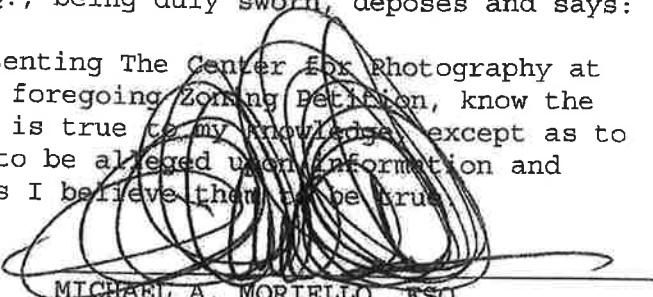
MICHAEL A. MORIELLO, ESQ.

VERIFICATION

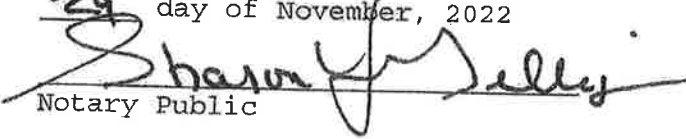
STATE OF NEW YORK)  
COUNTY OF ULSTER )ss.:

MICHAEL A. MORIELLO, ESQ., being duly sworn, deposes and says:

I am the Attorney representing The Center for Photography at Woodstock and I have read the foregoing Zoning Petition, know the contents thereof and the same is true to my knowledge, except as to those matters therein stated to be alleged upon information and belief, and as to said matters I believe them to be true.

  
MICHAEL A. MORIELLO, ESQ.

Sworn to before me this  
29 day of November, 2022

  
Notary Public

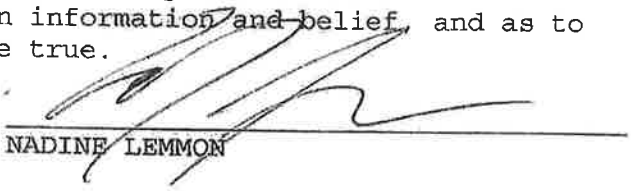
SHARON Y. GILLIGAN  
Notary Public, State of New York  
Reg. No. 01G14837043  
Qualified in Ulster County  
Commission Expires December 31, 2025

VERIFICATION

STATE OF NEW YORK)  
COUNTY OF ULSTER )ss.:

NADINE LEMMON, being duly sworn, deposes and says:

I am the Treasurer for the Center of Photography at Woodstock and I have read the foregoing Zoning Petition, know the contents thereof and the same is true to my knowledge, except as to those matters therein stated to be alleged upon information and belief, and as to said matters I believe them to be true.

  
NADINE LEMMON

Sworn to before me this  
29 day of November, 2022

  
Notary Public

MICHAEL MORIELLO  
Notary Public, State of New York  
Resident In And For Ulster County  
Commission Expires December 28, 2022

cc: Brian Wallis  
Scott Dutton, RA  
Matthew Jankowski, Esq.  
Mr. Wayne Platte  
Hon. Steven Noble  
Ms. Andrea Shaut  
Ms. Sue Cahill  
Ms. Elisa Tinti



EXHIBIT "A"

LIBR 3015 PAGE 0346

ULSTER COUNTY CLERK'S OFFICE  
COUNTY CLERK'S RECORDING PAGE

Return To:

VAN DE WATER & VAN DE WATER  
MILL & GARDEN ST  
POUGHKEEPSIE, N. Y. 12601

CANFIELD SUPPLY CO

N & S SUPPLY FISHKILL INC

477  
Index Deed Book

Book 03015 Page 0346

No. Pages 0005

Instrument DEED

Date : 2/18/2000

Time : 2:15:32

Control # 200002180148

RPT 17 2000 004048

Employee ID VENS

|            |    |          |
|------------|----|----------|
| DEED REC   | \$ | 20.00    |
|            | \$ | .00      |
|            | \$ | .00      |
| GOV REC FE | \$ | 5.00     |
| TRANS TAX  | \$ | 1,000.00 |
|            | \$ | .00      |
|            | \$ | .00      |
|            | \$ | .00      |
|            | \$ | .00      |
| Total:     | \$ | 1,025.00 |

STATE OF NEW YORK  
ULSTER COUNTY CLERK'S OFFICE

WARNING-THIS SHEET CONSTITUTES THE CLERK'S  
ENDORSEMENT REQUIRED BY SECTION 316-a(5) &  
SECTION 319 OF THE REAL PROPERTY LAW OF THE  
STATE OF NEW YORK. DO NOT DETACH.

ALBERT SPADA  
COUNTY CLERK

TRANSFER AMT

TRANSFER AMT \$ 250,000.00

TRANSFER TAX \$ 1,000.00

A 291

Standard N.Y.S.T.U. Form 2007  
Mortgage & Sale deed, with certificate against grantor's debt—Ind. or Corp.

ST-12940  
JULIUS BLUMBERG, INC., LAW BLANK PUBLISHERS

CONSULT YOUR LAWYER BEFORE SIGNING THIS INSTRUMENT—THIS INSTRUMENT SHOULD BE USED BY LAWYERS ONLY

THIS INDENTURE, made the 11<sup>th</sup> day of February, nineteen-hundred-and-two-thousand  
BETWEEN  
CANFIELD SUPPLY COMPANY  
45 Pine Grove Avenue, Kingston NY 12401

UFR 3015 Pmt 0347

party of the first part, and

N & S SUPPLY OF FISHKILL, INC.

205 Old Rt 9 Fishkill NY 12524

party of the second part,

WITNESSETH, that the party of the first part, in consideration of

TWO HUNDRED AND FIFTY THOUSAND

(\$250,000.00)

dollars,

lawful money of the United States,

paid

by the party of the second part, does hereby grant and release unto the party of the second part, the heirs or successors and assigns of the party of the second part forever,

ALL that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in the

Schedule A



**TOGETHER** with all right, title and interest, if any, of the party of the first part in and to any streets and roads abutting the above described premises to the center lines thereof,

**TOGETHER** with the appurtenances and all the estate and rights of the party of the first part in and to said premises,

**TO HAVE AND TO HOLD** the premises herein granted unto the party of the second part, the heirs or successors and assigns of the party of the second part forever.

**AND** the party of the first part covenants that the party of the first part has not done or suffered anything whereby the said premises have been incumbered in any way whatever, except as aforesaid.

**AND** the party of the first part, in compliance with Section 13 of the Lien Law, covenants that the party of the first part will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of the improvement and will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose.

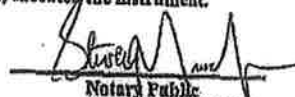
The word "party" shall be construed as if it read "parties" whenever the sense of this indenture so requires.  
**IN WITNESS WHEREOF**, the party of the first part has duly executed this deed this day and year first above written.



*John R. Shultz*  
CANFIELD SUPPLY COMPANY BY:  
John R. Shultz JR. V.P./Sec.

State of New York  
County of Dutchess ) SS:

On the 11<sup>th</sup> day of February in the year 2000, before me, the undersigned, a Notary Public in and for said State, personally appeared John R. Shultz <sup>Vice President</sup> personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

  
Notary Public  
STEVEN NUSSBAUM  
Notary Public, State of New York  
No. 4923755  
Qualified in New York County  
Commission Expires February 16, 2000

R & R ✓  
Van Dewater + Van Dewater  
Attn: John C.ifford  
Mill + Garden St.  
Rough. NY 12601

se  
se

Primer City

**LIBER 3015 PAGE 0350**

**DESCRIPTION OF LANDS TO BE CONVEYED TO  
N & S SUPPLY OF FISHKILL, INC.,  
CITY OF KINGSTON, ULSTER COUNTY, NEW YORK  
LOT NO. 1**

Beginning at a point on the Northwestern side of Dedrick Street, said point being on the Southwesterly line of lands of National Micronetics, Liber 2689 Page 0062, and running:

- 1) thence from said point of beginning along the Northwestern side of Dedrick Street South  $40^{\circ} 04' 44''$  West, 140.00 feet to a point;
- 2) thence along the Northeasterly side of Canfield Street (city street) North  $51^{\circ} 12' 16''$  West, 263.65 feet to a point on the Southeasterly line of lands of Consolidated Rail Corp.;
- 3) thence along the Southeasterly line of lands of Consolidated Rail Corp. the following courses and distances: North  $59^{\circ} 42' 16''$  East, 32.11 feet to a point;
- 4) thence North  $57^{\circ} 01' 03''$  East, 119.15 feet to a point;
- 5) thence along the Southwesterly line of lands of National Micronetics the following courses and distances: South  $40^{\circ} 33' 44''$  East, 27.40 feet to a point;
- 6) thence North  $58^{\circ} 23' 16''$  East, 1.97 feet to a point;
- 7) thence South  $51^{\circ} 12' 16''$  East, 190.47 feet to the place of beginning.

CONTAINING: 0.774 Acre

All bearings are referred to Magnetic North

Being Lot 1 as shown on Map of Lands of Canfield Supply Co., City of Kingston, revised November 29, 1999, prepared by Brinnier and Larios, P.C., filed in the Ulster County Clerk's Office January 24, 2000 as Map No. 11554.

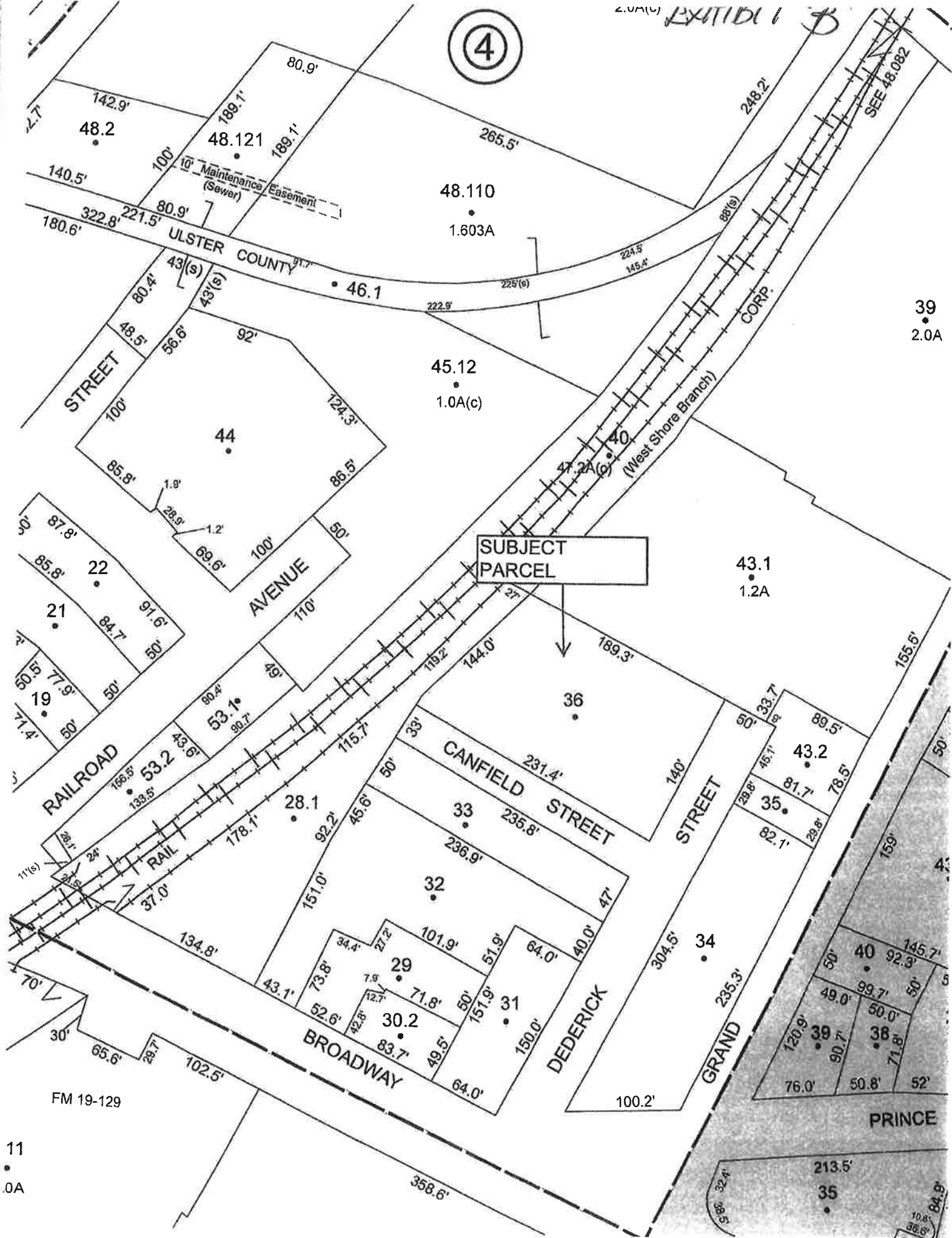
Included herewith is the right to the use of a right of way across Lots 2, 3 and 4 for ingress and egress from the above described premises to Dedrick Street.

REVISED NOVEMBER 29, 1999  
REVISED JANUARY 25, 2000

CHRISTOPHER J. ZELL, P.L.S.

④

2.0A(c) EXHIBIT 1 B



FM 19-129

11  
•  
0A

39  
•  
2.0A

EXHIBIT "C"

CENTER FOR PHOTOGRAPHY WOODSTOCK  
IN CONTRACT TO PURCHASE 25 DEDERICK STREET  
FORMER N&S SUPPLY COMPANY  
9/13/22

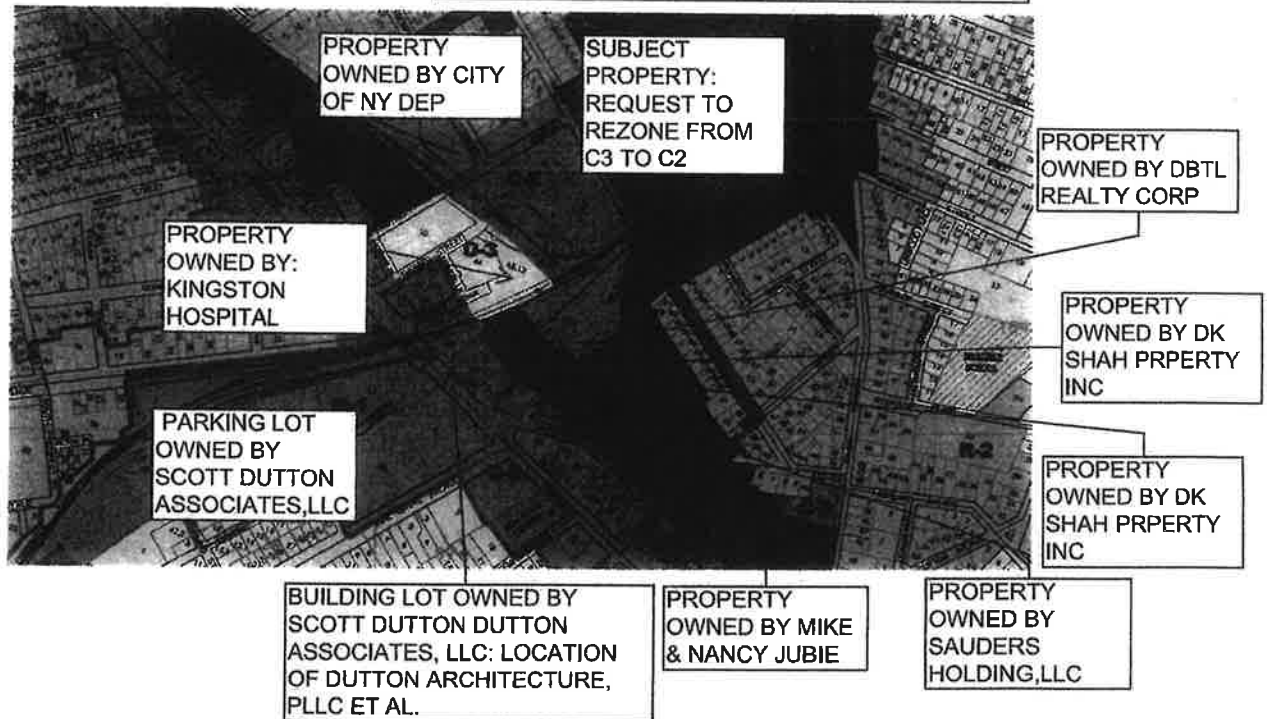


EXHIBIT D

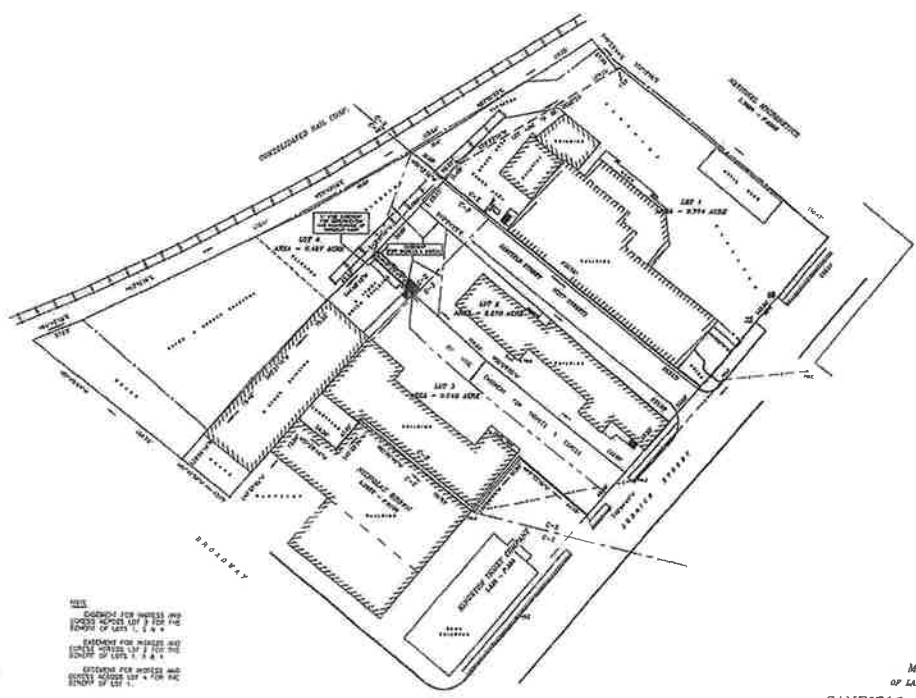


EXHIBIT D  
CITY OF KINGSTON  
ULSTER COUNTY  
NEW YORK  
OCTOBER 4, 1993  
SCALE: 1" = 20'

AREA SUMMARY  
LOT 1 - AREA = 0.274 ACRE TO BE CONVEYED TO M & S SUPPLY OF FISHKILL, INC.  
LOT 2 - AREA = 0.270 ACRE TO BE CONVEYED TO LEWIS & HENDERSON, INC.  
LOT 3 - AREA = 0.248 ACRE TO BE CONVEYED TO SCOTT OUTDOOR ASSOCIATES  
LOT 4 - AREA = 0.487 ACRE TO BE CONVEYED TO SCOTT OUTDOOR ASSOCIATES  
TOTAL AREA = 2.0 CITY ACRES

MAP  
OF LANDS OF  
CANFIELD SUPPLY CO.  
BROADWAY STREET  
CITY OF KINGSTON ULSTER COUNTY NEW YORK  
OCTOBER 4, 1993 SCALE: 1" = 20'

LOCATION MAP  
SHEET 1 OF 2

PLANNING BOARD APPROVAL  
APPROVED BY THE PLANNING BOARD OF THE CITY  
OF KINGSTON, ULSTER COUNTY, NEW YORK

OWNERS' CONSENT TO FILE  
I HEREBY GRANT MY APPROVAL OF THIS MAP  
AND CONSENT TO THE FILING OF IT IN THE  
ULSTER COUNTY CLERK'S OFFICE.

CITY ZONING INFORMATION  
DISTRICT: C-3 GENERAL COMMERCIAL  
MINIMUM LOT SIZE: 10,000 SQ. FT.  
MINIMUM LOT WIDTH: 100 FEET  
MINIMUM LOT DEPTH: 100 FEET  
MINIMUM BUILDING HEIGHT: 10 FEET  
MINIMUM LOT COVERAGE: 20%  
MINIMUM DISTANCE BETWEEN BUILDINGS: 10 FEET  
MINIMUM DISTANCE BETWEEN BUILDINGS: 10 FEET

DISTRICT: C-3 GENERAL COMMERCIAL  
MINIMUM LOT SIZE: 10,000 SQ. FT.  
MINIMUM LOT WIDTH: 100 FEET  
MINIMUM LOT DEPTH: 100 FEET  
MINIMUM BUILDING HEIGHT: 10 FEET  
MINIMUM LOT COVERAGE: 20%  
MINIMUM DISTANCE BETWEEN BUILDINGS: 10 FEET  
MINIMUM DISTANCE BETWEEN BUILDINGS: 10 FEET



BRUNNEN & LAROS, P. C.

REVISED 10/15/93 FOR APPROVAL  
REVISED 10/15/93 FOR APPROVAL  
REVISED 10/15/93 FOR APPROVAL



EXHIBIT "E"

LIBER 3015 PAGE 0350

DESCRIPTION OF LANDS TO BE CONVEYED TO  
N & S SUPPLY OF FISHKILL, INC.  
CITY OF KINGSTON, ULSTER COUNTY, NEW YORK  
LOT NO. 1

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- 1) thence from said point of beginning along the Northwesterly side of Dedrick Street South  $40^{\circ} 04' 44''$  West, 140.00 feet to a point;
- 2) thence along the Northeasterly side of Canfield Street (city street) North  $51^{\circ} 12' 16''$  West, 263.65 feet to a point on the Southeasterly line of lands of Consolidated Rail Corp.;
- 3) thence along the Southeasterly line of lands of Consolidated Rail Corp. the following courses and distances: North  $59^{\circ} 42' 16''$  East, 32.11 feet to a point;
- 4) thence North  $57^{\circ} 01' 03''$  East, 119.15 feet to a point;
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CONTAINING: 0.774 Acre

All bearings are referred to Magnetic North

Being Lot 1 as shown on Map of Lands of Canfield Supply Co., City of Kingston, revised November 29, 1999, prepared by Brinnier and Larios, P.C., filed in the Ulster County Clerk's Office January 24, 2000 as Map No. 11554.

Included herewith is the right to the use of a right of way across Lots 2, 3 and 4 for ingress and egress from the above described premises to Dedrick Street.

REVISED NOVEMBER 29, 1999  
REVISED JANUARY 25, 2000

CHRISTOPHER J. ZELL, P.L.S.

**§ 405-17. C-2 Central Commercial District.**

In the C-2 Central Commercial District, the following regulations shall apply. (See also Article V, Supplementary Regulations; all uses, except those with an asterisk, require site plan approval from the Planning Board in accordance with § 405-30.)

- A.** Purpose. The purpose of this district is to provide for and encourage a variety of retail businesses, business and professional offices, service businesses, entertainment and cultural establishments and related activities such as parking and pedestrian spaces, all designed to serve the City and the region; to encourage the concentration of retail and service uses to achieve continuity of frontage devoted to such purposes which will strengthen and complement one another. Further, it is a purpose of this district to protect the major public investment made and to be made toward revitalization of the business area, a vital part of the City's tax base, by conserving the value of land and buildings and conserving Kingston's historical heritage.
- B.** Uses permitted by right. A building may be erected, altered, arranged, designed or used, and a lot of premises may be used, for any of the following purposes by right and for no other:
- (1) Retail stores.
  - (2) Banks, including drive-in windows.
  - (3) Service businesses, such as, but not limited to, barbershops, beauty parlors, tailors and dry-cleaning stores, custom dressmakers, jewelry repair, shoe repair, travel agents, auto rental offices, appliance repair and duplicating businesses and job printing establishments having not more than 10 persons engaged therein.
  - (4) Business, professional and governmental offices.
  - (5) Theaters and assembly halls.
  - (6) Restaurants.
  - (7) Art or craft studios or studios for teaching the performing arts.
  - (8) Libraries, museums and art galleries.
  - (9) Manufacturing, assembling, converting, altering, finishing, cleaning or any other processing of products where goods so produced or processed are to be sold at retail, exclusively on the premises, in accordance with the requirements of § 405-16B(13).
  - (10) Public and private off-street parking lots and parking garages. Unless accessory to and on the same lot with a use otherwise permitted, such garages and parking lots shall be limited to use by passenger automobiles exclusively.
- C.** The following uses are subject to issuance of a special permit by the Planning Board in accordance with the provisions of § 405-32 of this chapter:
- (1) Radio, television and other electronic transmission stations and towers and public utility transmission lines, unit substations or other utility installations and disc antennas and similar devices.
  - (2) Hospitals for the care and treatment of human beings.
  - (3) Hotels, motels (including rooming houses and boardinghouses) and uses accessory thereto, including restaurants and swimming pools.
  - (4) Clubs without restrictions as to general use and commercial activities.
  - (5) Automotive service establishments, gasoline filling stations and incidental motor vehicle storage and repair or service. Where vehicles are stored for repair, they must have a valid registration and may not remain for more than one week.
  - (6) Amusement game arcades in accordance with the requirements of § 405-16C(4).
  - (7) Drinking establishments.
  - (8) Adult use entertainments. *Editor's Note: See § 405-46.1, Adult uses.*
- [Added 8-6-1996; approved 8-12-1996]**
- D.** Accessory uses shall be limited to the following:

(1) Off-street parking in accordance with the requirements of § 405-34.

(2) Signs in accordance with requirements of § 405-36.

(3) Fences, hedges or garden walls limited as in § 405-9C(8).

E. Lot and bulk requirements. All lot and bulk requirements for all districts are to be found in the schedule at the end of this chapter.

#### **§ 405-18. C-3 General Commercial District.**

In the C-3 General Commercial District, the following regulations shall apply. (See also Article V, Supplementary Regulations; all uses, except those with an asterisk, require site plan approval from Planning Board in accordance with § 405-30.)

A. Purpose. The purpose of this district is to provide for a wide range of commercial and limited industrial uses along major arterials and to accommodate uses that benefit from large numbers of motorists, that need fairly large parcels of land and that may involve characteristics such as trucking and noise that are objectionable to residential areas and certain nonresidential areas. This district can accommodate less intensive development in areas where continuity of pedestrian-oriented frontage is not critical.

B. Uses permitted by right. A building may be erected, altered, arranged, designed or used, and a lot or premises may be used, for any of the following purposes by right and for no other:

(1) Retail stores.

(2) Banks, including drive-in windows.

(3) New or used automobile sales establishments.

(4) Service businesses, such as, but not limited to, barbershops, beauty parlors, tailors and custom dressmakers, jewelry repair, shoe repair, travel agents, appliance repair, duplicating businesses and job printing establishments.

(5) Business, professional and governmental offices.

(6) Automotive services establishments, auto rental, gasoline filling stations and incidental motor vehicle storage, repair or service. Where vehicles are stored for repair, they must have a valid registration and may remain for only one week.

(7) Theaters; assembly halls; commercial recreation, such as ice skating, bowling alleys and billiard halls; and restaurants.

(8) Laundries and cleaning establishments.

(9) Newspaper plants, including incidental publishing.

(10) Art or craft studios or studios for teaching the performing arts.

(11) Funeral parlors.

(12) Manufacturing, assembling, converting, altering, finishing, cleaning or any other processing of products where goods so produced or processed are to be sold at retail, exclusively on the premises, in accordance with the provisions of § 405-16B(13).

(13) Research laboratories.

(14) Storage or repair garages.

(15) New or used trailer sales.

(16) Wholesale storage, distribution and warehousing facilities, including the sale or storage of food and building materials, but excluding secondhand lumber and junkyards, automobile dismantling plants or the storage of used parts of automobiles or other machines or vehicles or of dismantled or junked automobiles.

(17) Public and private off-street parking lots and parking garages. Unless accessory to and on the same lot with a use otherwise permitted, such garages and parking lots shall be limited to use by passenger automobiles exclusively.

(18) Building, plumbing and electrical contractors.

**[Added 6-6-1989; approved 6-8-1989]**

**C.** The following uses are subject to issuance of a special permit by the Planning Board in accordance with the provisions of § 405-32 of this chapter:

- (1)** Radio, television and other electronic transmission stations and towers and public utility transmission lines, unit substations or other utility installations and disc antennas and similar devices.
- (2)** Hospitals for the care and treatment of human beings.
- (3)** Membership clubs without restrictions as to general use and commercial activities.
- (4)** Hotels or motels (including rooming houses or boardinghouses) and uses accessory thereto, including restaurants and swimming pools.
- (5)** Animal hospitals, provided that no building, runway or exercise pen is located within 200 feet of any residence district boundary or within 50 feet of any street line; and provided, further, that any animals shall be kept within fully enclosed buildings between the hours of 8:00 p.m. and 8:00 a.m.
- (6)** A car wash.
- (7)** Amusement game arcades in accordance with requirements of § 405-16C(4).
- (8)** Drinking establishments.
- (9)** Auctions.

**[Added 7-12-1988; approved 7-14-1988 Editor's Note: This ordinance also provided that the special permit be renewable every two years. ]**

**(10)** Adult use entertainments. *Editor's Note: See § 405-46.1, Adult uses.*

**[Added 8-6-1996; approved 8-12-1996]**

**D.** Accessory uses shall be limited to the following:

- (1)** Off-street parking in accordance with the requirements of § 405-34.
- (2)** Signs in accordance with requirements of § 405-36.
- (3)** Fences, hedges or garden walls limited as in § 405-9C(8).

**E.** Lot and bulk requirements. All lot and bulk requirements for all districts are to be found in the schedule at the end of this chapter.

## OLD BUSINESS

Local Law No. XXXX Of 2022

The City of Kingston Non-Toxic Landscape Maintenance Act

City of Kingston

A Local Law Requiring Non-Toxic Landscape Maintenance On Land Owned Or Leased By The City of Kingston, With Exceptions And Waivers In Appropriate Circumstances

BE IT ENACTED, by the Common Council of the City of Kingston, as follows:

#### SECTION 1. NAME OF LOCAL LAW.

This law shall be known as “The City of Kingston Non-Toxic Landscape Maintenance Act.”

#### SECTION 2. DEFINITIONS.

For the purpose of this local law the following are defined as follows:

“Natural, Non-Toxic, Least Toxic or Biological Pesticide” shall mean a pesticide that is a naturally occurring substance or microorganism that controls pests in a non-toxic manner, or, if approved by the Conservation Advisory Council, the least toxic method possible.

“Integrated Pest Management” shall mean technique for agricultural disease and pest control in which as many pest control methods as possible are used in an ecologically harmonious manner to keep infestation within manageable limits.

“Non-toxic Pest Management (“NPM”)” shall mean a problem-solving strategy that prioritizes a natural, non-toxic approach to turf grass and landscape management without the use of toxic and synthetic pesticides. It mandates the use of natural, non-toxic, or, as a last resort with the Conservation Advisory Council approval, least toxic cultural practices that promote healthy soil and plant life as a preventative measure against the onset of turf and landscape pest problems.

Essential NPM practices include, but are not limited to:

- regular soil testing;
- addition of approved soil amendments as necessitated by soil test results, following, but not limited to, the recommendations of the Northeast Organic Farmers’ Association (NOFA) New York Chapter’s Organic Land Care Program as listed in NOFA’s Standards for Organic Land Care<sup>1</sup> guidance documents and/or the USDA National Organics Program<sup>2</sup> and any updates thereof;
- selection of plantings using criteria of hardiness; suitability to native conditions; drought, disease and pest-resistance; and ease of maintenance;
- using, with the Conservation Advisory Council approval, the least toxic organic, or nontoxic non-organic, products as some organic products are toxic;
- modification of outdoor management practices to comply with organic

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<sup>1</sup> [https://nofa.organiclandcare.net/wp-content/uploads/nofa\\_organic\\_land\\_care\\_standards\\_6thedition\\_2017\\_opt.pdf](https://nofa.organiclandcare.net/wp-content/uploads/nofa_organic_land_care_standards_6thedition_2017_opt.pdf)

<sup>2</sup> <https://www.ams.usda.gov/rules-regulations/organic/handbook>

horticultural science, including scouting, monitoring, watering, mowing, pruning, proper spacing, and mulching;

- the use of physical controls, including hand-weeding and over-seeding;
- the use of biological controls, including the introduction of natural predators, and
- enhancement of the environment of a pest's natural enemies;
- through observation, determining the most effective treatment time, based on pest biology and other variables, such as weather and local conditions; and
- eliminating pest habitats and conditions supportive of pest population increases.

"Pest" shall mean (1) any insect, rodent, fungus, weed or (2) any other form of terrestrial or aquatic or animal life or virus, bacteria, or other micro-organism (except viruses, bacteria or other micro-organisms ordinarily present on or in humans or living animals) which the commissioner of the New York State Department of Environmental Conservation declares to be a pest.

"Pesticide" shall mean any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest; and any substance or mixture of substances intended for use as a plant regulator, defoliator or desiccant. It shall include all pesticide products registered as such by the United States Environmental Protection Agency and the New York State Department of Environmental Conservation, and all products for which experimental use permits and provisional registrations have been granted by the United States Environmental Protection Agency and the New York State Department of Environmental Conservation.

"Sidewalk" shall mean the portion of a street between the curblines or the lateral lines of a roadway and the adjacent property lines intended for use of pedestrians.

"Toxic" shall mean any substance that is harmful to human health and the environment. It is recognized that, by their very nature, pesticides and herbicides are toxic to those pests they are designed to eliminate. The concern of this local law is to limit pesticides' toxicity to humans and environmental assets including, but not limited to, water quality, soil quality, and air quality, while preventing pests from multiplying and thereby endangering such protected entities. A pesticides' relative toxicity to humans, water, soil, and air, shall be the standard that should govern the determination as to which pesticides should be utilized.

### SECTION 3. LEGISLATIVE INTENT.

The City of Kingston agrees with the determination of the U.S. Environmental Protection Agency (EPA) that "all pesticides are toxic to some degree...", and the commonplace, widespread use of pesticides is both a major environmental problem and a public health issue."

The City of Kingston recognizes that all residents, particularly children, as well as other inhabitants of our natural environment, have a right to protection from exposure to hazardous chemicals and pesticides, in particular.

The City of Kingston recognizes that a balanced and healthy ecosystem is vital to the health of the City and its citizens; and as such is also in need of protection from

exposure to hazardous chemicals and pesticides, in particular.

The City of Kingston recognizes that it is in the best interest of public health to eliminate the use of toxic pesticides on City-owned land; to encourage the reduction and elimination of the use of toxic pesticides on private property; and to introduce and promote natural, non-toxic, or as a last resort and with the Conservation Advisory Council approval, least toxic management practices to prevent and when necessary, control pest problems on City-owned and leased land.

Furthermore, per § 358-10B(1) of the City of Kingston municipal code: "*Sidewalk Standards, Maintenance, Cleaning of Sidewalks*" the City of Kingston recognizes that it shall be the duty of any owner or owners, and/or occupant or occupants of land abutting any City street upon which there are City sidewalks to maintain the sidewalks in front of such respective land "...free from all obstructions, including overgrown vegetation, accumulations of dirt, and from all matter and substances which will obstruct the same or make the same unsafe for pedestrians."

Therefore, the City of Kingston seeks to implement non-toxic pest management (NPM) on City-owned and leased lands, and City sidewalks.

#### SECTION 4. DECLARATION OF PHILOSOPHY AND PRINCIPLES.

The City of Kingston hereby adopts the precautionary principle (as defined by the Wingspread statement) as the basis for its non-toxic pest management (NPM) policy. The precautionary principle states:

"When an activity raises threats of harm to the environment or human health, precautionary measures should be taken, even if some cause and effect relationships are not yet fully established."

#### SECTION 5. ENACTMENTS.

BE IT HEREBY RESOLVED, the City of Kingston hereby adopts an NPM policy that mandates the following on all properties where the City and/or any owner or owners, and/or occupant or occupants of land abutting any City street upon which there are City sidewalks is responsible to maintain the area of concern, including lawns, grassy areas, and sidewalks:

1. that the use and application of toxic chemical pesticides, either by City of Kingston employees or by private contractors, for the purpose of turf and landscape maintenance, is prohibited on all lands maintained by the City of Kingston;
2. that the use and application of toxic chemical pesticides by, or at the behest of, any owner or owners, and/or occupant or occupants of land abutting any City street upon which there are City sidewalks is prohibited;
2. that, if toxic products must be used, based upon a waiver or exemption, then natural, least toxic turf and landscape cultural practices and maintenance shall be the method of choice to understand, prevent, and control potential pest problems;
3. that all control products used under the terms of this policy shall be in keeping with, but not limited to, those products on the approved list of the Northeast Organic Farming Association of New York or approved by the Conservation Advisory Council;



4. that City of Kingston employees who work with turf grass and the landscape receive education and training in natural, least toxic turf and landscape management to be coordinated by the Conservation Advisory Council, if, in its opinion and discretion, such training is necessary;
5. that a listing of all lands affected by this policy be made available to the public by posting a list on the City website.

BE IT HEREBY RESOLVED that Section § 358-10B of the City of Kingston municipal code: "Sidewalk Standards; Maintenance; Cleaning of Sidewalks" be amended to include the following under Subsection (6):

6. Each and every owner or owners, and/or occupant or occupants of land abutting any City street upon which there are City sidewalks is responsible to comply with Local Law No. XXXX Of 2022 *The City of Kingston Non-Toxic Landscape Maintenance Act*, a local law requiring non-toxic landscape maintenance on land owned or leased by the City of Kingston, with exceptions and waivers in appropriate circumstances.

#### SECTION 6. NON-COMPLIANCE

Non-compliance to any clause, sentence, paragraph, subdivision, section or part of this local law shall be met with penalties in the order of \$25 for first offense, \$50 for second offense, and \$100 for third offense and beyond.

BE IT HEREBY RESOLVED that Section § 358-11 "Penalties for Offenses" of the City of Kingston municipal code, Subsection B be amended to include the following under Subsection (D).

- D. Non-compliance to any clause, sentence, paragraph, subdivision, section or part of Local Law No. XXXX Of 2022 *The City of Kingston Non-Toxic Landscape Maintenance Act*, a local law requiring non-toxic landscape maintenance on land owned or leased by the City of Kingston, with exceptions and waivers in appropriate circumstances, shall be met with penalties in the order of \$25 for first offense, \$50 for second offense, and \$100 for third offense and beyond.

#### SECTION 7. EXEMPTIONS.

All turf and landscape pest management activities taking place on land maintained by the City of Kingston and/or City sidewalks shall be subject to this local law, except as follows:

1. Pesticides or classes of pesticides classified by the United States environmental protection agency as not requiring regulation under the federal insecticide, fungicide and rodenticide act under 40 CFR § 152.25, and therefore exempt from such regulation when intended for use, and used only in the manner specified.
2. Biological pesticides, such as bacillus thuringiensis or milky spore that are not genetically modified.
3. Pesticides in contained baits for the purpose of rodent control.
4. Control of poison ivy and poison oak that constitutes a health hazard.
5. Control of ticks.
6. Any property, or categories of properties, as recommended from time to time by the Conservation Advisory Council and approved by the Mayor of the City of Kingston.

## SECTION 8. WAIVERS.

1. Any City agency, contractor, and/or any owner or owners, and/or occupant or occupants of land abutting any City street upon which there are City sidewalks may apply to the Conservation Advisory Council for a single-use waiver of the restrictions established pursuant to this local law. Such application shall be in a form and manner prescribed by the Conservation Advisory Council and shall contain such information as the committee deems reasonable and necessary to determine whether such waiver should be granted. The Conservation Advisory Council may grant such waivers by a majority vote of the voting membership, not merely a majority of those present and voting. In determining whether to grant or deny a request for a waiver, the Conservation Advisory Council shall consider

- (i) the magnitude of the infestation,
- (ii) whether the pest situation poses an immediate threat to public health, property, or the environment
- (iii) the availability of effective alternatives consistent with this local law, and
- (iv) (iv) the likelihood of exposure of humans to the pesticide.

No waiver shall be approved unless the following conditions have been met:

- (i) Any pesticide used of all available choices must have the least acute and chronic toxic effect on human health or safety; and,
- (ii) The applicant must submit a plan demonstrating how underlying causes of the pest outbreak will be addressed in a manner consistent with this local law to prevent future outbreaks.

2. If a pest situation poses an immediate threat to human health and warrants the use of pesticides that would otherwise not be permitted under this local law, the Mayor shall have the authority to grant a temporary emergency waiver for a period of thirty days. Notice of the waiver request shall be given to the Conservation Advisory Council for advice on resolving the problem without the use of pesticides.

3. All waivers may be extended for one additional period not to exceed six months at the discretion of a majority vote by the voting membership of the Conservation Advisory Council and/or the Mayor of the City of Kingston. Nothing in this waiver provision prohibits the City of Kingston from adopting additional waivers via resolution for as long as the condition exists.

4. Any City Department, and/or any owner or owners, and/or occupant or occupants of land abutting any City street upon which there are City sidewalks, and or/any persons performing services for such entities using a pesticide under such a waiver must comply with all applicable federal and state laws regarding pesticide use and the Ulster County pesticide neighbor notification law.

## SECTION 9. SEVERABILITY.

If any clause, sentence, paragraph, subdivision, section or part of this local law or the application thereof to any person, individual, corporation, firm, partnership, entity or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, effect or invalidate the

remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part of this law or in its application to the person, individual, corporation, firm, partnership, entity or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

**SECTION 10. EFFECTIVE DATE.**

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

Adopted by the City of Kingston Common Council: xxxxxxxx, 2022