



Village of Greenport Building Department

236 Third Street, Greenport, New York 11944

OFFICE: 631.477.0248 / FAX: 631.477.1877

NOTICE OF DISAPPROVAL

Date: January 11, 2021

To: 123 Sterling Ave Corp.
ATTN: Paul Pawlowski

PLEASE TAKE NOTICE that your application dated January 5, 2021 to change the uses that were previously approved by the Zoning Board of Appeals of the Village of Greenport, the Planning Board of the Village of Greenport and the Board of Trustees of the Village of Greenport and stated in a Stipulation of Settlement which included your predecessor in interest in the 123 Sterling Avenue property and the Sterling Neighborhood Association from the approved stipulated use from storage space on the first floor to indoor parking, and modify the approved stipulated use on the second floor from open space to storage space, is returned herewith and disapproved on the following grounds:

1. The uses that are proposed require the medication of the Stipulation of Settlement, and the approval of the Board of Trustees, Planning Board, Zoning Board of Appeals and the Sterling Neighborhood Association must approve the changes in the uses on the premises that are not conforming with the Stipulation of Settlement.
2. Indoor Parking is not an approved, or conditional use in the Waterfront Commercial (W-C) District.

150-11 A, B, C, D, E, F, G

Permitted Uses, Conditional Uses, Standards of Conditional Uses, and Special Uses for properties located within the W-C district.

The plans show a proposed conversion of stipulated approved storage space on the first floor being converted into an indoor parking garage. Indoor parking garages are not a permitted use, conditional use, or special use in the W-C district. This would require a use variance.

3. Storage Space is not an approved, or conditional use in the Waterfront Commercial (W-C) District.

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150-11 A, B, C, D, E, F, G

Permitted Uses, Conditional Uses, Standards of Conditional Uses, and Special Uses for properties located within the W-C district.

The plans show a proposed conversion of stipulated approved open space on the second floor being converted into storage space. Storage space is not a permitted use, conditional use, or special use in the W-C district. This would require a use variance.

- 4. The reduction of Waterfront Commercial use is an expansion of the variance relief that was granted by the Zoning Board of Appeals in conjunction with the Stipulation of Settlement and requires an area variance.

This application is therefore denied, requiring the above-mentioned use variance, area variance and amendment to the Stipulation of Settlement.

Please be advised that the application proposes land banked parking in order to meet the parking requirement. The Planning Board may reject the land banked parking shown on the site plan, resulting in an additional variance for parking requirements.

Please also be advised that certain provisions of the Stipulation of Settlement regarding affordable housing were conditions of the variance relief that was granted in the Stipulation of Settlement and any modifications or supplemental provisions must be first approved by the parties to the Stipulation of Settlement.

The premise to which this application applies to is located at:
123 Sterling Avenue, Greenport, New York 11944.

This property is located in the C-R District. This Property is located in the Historic District.

Map: 1001 Section: 3 Block: 5 Lot(s): 16.4/5

1/11/2021

.....
Greg Morris - NYS Code Enforcement Official

.....
Date

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AFFIDAVIT

Village of Greenport)
Town of Southold)
County of Suffolk) ss
State of New York)

I swear that to the best of my knowledge and belief that the statements contained in this application, together with the plans and specifications submitted, are true and complete statements of proposed work to be done on the described premises and that all provisions of the Building Code, Zoning Code, and all other laws pertaining to the proposed work shall be complied with, whether specified or not, and that such work and inspections are authorized by the owner. The Village of Greenport is hereby granted permission to enter the property listed as the "Location" for the purposes of inspecting my property for a site visit. I understand that if approved, this Area Variance will be granted and accepted on condition that the provisions of Federal, State and Local rules and regulations, and any additional requirements of the Area Variance are complied with. Any violation of all applicable codes, or deviations from the approved plans may result in the immediate revocation of this Area Variance & legal action taken against me. No responsibility rests upon the Village of Greenport, Code Enforcement, the Fire Marshal or the Fire Department by reason of this application and permit.

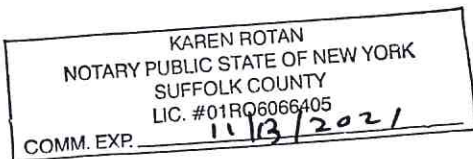
Sworn to be before this 5 day
of January 20 21

Signature


Owner or Applicant



Notary Public, Suffolk County, New York



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USE VARIANCE # 1 & 2.



ZONING BOARD OF APPEALS APPLICATION USE VARIANCE

236 Third Street, Greenport, New York, 11944
(631) 477-0248
www.villageofgreenport.org

Date of Application _____

All information below is to be completed by the applicant. This completed application is to be accompanied by the Notice of Disapproval, Copies of Covenants and/or Restrictions, where applicable, Environmental Assessment Form, building plans showing elevations, setbacks, floor plans, room dimensions, details of footings and foundation, Survey/Site Plan and species of lumber and quality of material, where applicable.

THE OWNER OF THE PROPERTY IS: (PLEASE PRINT CLEARLY)

123 Sterling Ave. Corp.
Paul Paul Lewis
First Name Last Name Business Name, if applicable

[REDACTED] [REDACTED] [REDACTED] [REDACTED]
Mailing Address City/ Town/ Village State Zip

[REDACTED] [REDACTED]
Phone # E-Mail Address

CONTACT PERSON (if different from owner)

The person to receive all correspondence:

Same
First Name Last Name Business Name, if applicable

Mailing Address City/ Town/ Village State Zip

Phone # E-Mail Address

IF ANYONE OTHER THAN THE OWNER COMPLETES THIS APPLICATION, WRITTEN CONSENT FROM THE OWNER MUST BE SUBMITTED WITH THIS APPLICATION.

Location: 016.4
Suffolk County Tax Map Number: 1001 Section: 003 Block: 05 Lot 016.5
Street Address: 123 STERLING AVE Greenport, New York, 11944

Zoning District: WC R1 R2 PD CR CG
Is property located within the Historic District? Yes No
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ZONING BOARD OF APPEALS APPLICATION

USE VARIANCE

236 Third Street, Greenport, New York, 11944

(631) 477-0248

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The Code Official reviewed and denied an application dated _____ for a Building Permit for the location specified on this application.

Provisions of the Zoning Code appealed:

(Indicate Article, Section and Subsection of Zoning Code by numbers)

Article: _____ Section: 150 - _____ Subsection: _____

Type of appeal made for:

A Variance to the Zoning Code or Zoning Map.

An interpretation of the Village Code Article: _____ Section: _____ Subsection: _____

Has a prior appeal been made at any time with respect to this property? Yes No I Don't Know

If yes, please provide the date appeal was made: _____

Project Description:

For Demolition of Existing Building Areas:

Please describe area being removed:

New Construction Areas (New Dwelling or New Addition/Extensions)

Dimensions of First Floor (Addition/Extension): _____

Dimensions of Second Floor: _____

NO CHANGE.

Height (from finished grade to top of ridge): _____ - Feet, _____ - Inches

Is basement or lowest floor area being constructed? Yes No

If yes, please provide height (above ground) measured from natural existing grade to first floor:

____ - Feet, ____ - Inches.

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ZONING BOARD OF APPEALS APPLICATION

USE VARIANCE

236 Third Street, Greenport, New York, 11944

(631) 477-0248

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Project Description: (CONTINUED)

Proposed Construction Description: (Alteration or Structural Changes)

Number of floors BEFORE alterations: _____

Describe General Characteristics BEFORE alterations:

NO CHANGE TO STRUCTURE

Number of floors AFTER Alterations: _____

NO CHANGE

Describe General Characteristics AFTER alterations:

Calculations of Building Areas and Lot Coverage:

Existing Square Footage of Building(s) on this property: 14,800 SF

Proposed Increase in Building Coverage: NO CHANGE SF

Square Footage of this Lot: 75,076 SF

Percentage of Coverage of this Lot by Building Area: 19 %

Purpose of New Construction:

Please describe:

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ZONING BOARD OF APPEALS APPLICATION

USE VARIANCE

236 Third Street, Greenport, New York, 11944
(631) 477-0248
www.villageofgreenport.org

An Applicant for a Use Variance must demonstrate unnecessary hardship by completing the following. Please consult with your attorney before completing.

Use Variance Reasons for Appeal:

Please answer in detail & submit related documents as required. You may attach additional sheets as needed.

The applicant cannot realize a reasonable return, for each permitted use under the Zoning Regulations for Zoning District _____, as demonstrated by substantial and competent financial evidence because:

① THIS REQUEST IS NOT ABOUT A RETURN
IT IS ABOUT IMPROVING THE SITE PLAN.

The alleged hardship relating to the property is unique and does not apply to most of the parcels in the same Zoning District or neighborhood because:

② SEE ATTACHED

The requested Use Variance, if granted, will not alter the essential character of the neighborhood because:

③ SEE ATTACHED

The alleged hardship has not been self-created because:

④ SEE ATTACHED

Are there Covenants or Restrictions concerning this land? Yes No
If yes, please furnish copies.

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STIPULATION
JAN 19 2021

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Use Variance Request #1 : Conversion of already approved indoor storage space to indoor parking space

1. The application cannot realize a reasonable return:

We the applicant are not here based of the economics and the return on investment for this property and for this variance request.

2. The alleged hardship relating to the property is unique and does not apply to most of the parcels in the same zoning district or neighborhood because:

This request is unique because the nature of this multi-family residential and Waterfront commercial mixed-use building within a residential neighborhood is distinct, and is obliged to a 14 year-old Stipulation Agreement establishing certain plans. The original site plan approved was for 21 head-in parking spaces along Sterling Avenue which would not allow for sidewalks and curbing as per code. These parking spots are in close proximity to the entrance of the building so in order to still have efficient and convenient parking locations we are asking for 12 indoor parking spots in the west side approved storage area. This property is unique because we have the indoor space to achieve this, and we have the property size to achieve this and we do not need any street parking.

3. The requested Use Variance, if granted will not alter the essential character of the neighborhood because:

This use variance will not alter the character of the neighborhood and in fact will offer many benefits to the neighborhood over the current site plans, by offering sidewalks to the waterfront, by hiding cars verses being visible, improving traffic with no backing up into the street, by offering more green-space and greater screening and scale to the building. The neighbors can then walk safely to the public waterfront dinghy dock on sidewalks verses behind cars that are parked.

4. The alleged hardship has not been self created because:

The request is not self-created as the Sterling Avenue parking was part of the Stipulation site plan negotiated in 2007 by the previous owners of the property. The current owner with the support of Sterling Basin Neighborhood Association (SBNA) has made these proposed improvements to modify the approved site plan and our goal now is to work with the village boards to the benefit of the community.

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Use Variance Request #2 : Second Floor Storage Space

1. The application cannot realize a reasonable return:

We the applicant are not here based of the economics and the return on investment for this property and for this variance request.

2. The alleged hardship relating to the property is unique and does not apply to most of the parcels in the same zoning district or neighborhood because:

This request is unique because the nature of this multi-family residential and Waterfront commercial mixed-use building within a residential neighborhood is distinct, and combined with a 14 year-old Stipulation Agreement establishing certain plans. By converting the original west side second floor open space to storage will reduce the overall building footprint by eliminating the need for a separate, second storage building as approved. If this request is granted, it then allows us not to build the second building on the property which in return would create more green-space.

3. The requested Use Variance, if granted will not alter the essential character of the neighborhood because:

This use variance will not alter the character of the neighborhood and will actually improve the the neighborhood by reducing overall building lot coverage. By allowing the second floor storage it will mean one less building on the site.

4. The alleged hardship has not been self-created because:

The request is not self-created as the Sterling Avenue parking was part of the Stipulation site plan negotiated in 2007 by the previous owners of the property. The current owner with the support of Sterling Basin Neighborhood Association (SBNA) has made these proposed improvements to modify the approved site plan and our goal now is to work with the village boards to the benefit of the community.

The depth to water in this area does not allow for basement storage, therefor, we are asking for storage on the second floor of the already approved building in the unused open space.

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#1



ZONING BOARD OF APPEALS APPLICATION AREA VARIANCE

236 Third Street, Greenport, New York, 11944
(631) 477-0248
www.villageofgreenport.org

Date of Application _____

All information below is to be completed by the applicant. This completed application is to be accompanied by the Notice of Disapproval, Copies of Covenants and/or Restrictions, where applicable, Environmental Assessment Form, building plans showing elevations, setbacks, floor plans, room dimensions, details of footings and foundation, and species of lumber and quality of material, where applicable.

THE OWNER OF THE PROPERTY IS: (PLEASE PRINT CLEARLY)

123 STERLING AVE CORP

PAUL
First Name

DAVID NEBI
Last Name

Business Name, if applicable

[REDACTED]
Mailing Address

[REDACTED]
City/ Town/ Village

[REDACTED]
State

[REDACTED]
Zip

[REDACTED]
Phone #

[REDACTED]
E-Mail Address

CONTACT PERSON (if different from owner)

The person to receive all correspondence:

SAM E
First Name

Last Name

Business Name, if applicable

[REDACTED]
Mailing Address

[REDACTED]
City/ Town/ Village

[REDACTED]
State

[REDACTED]
Zip

[REDACTED]
Phone #

[REDACTED]
E-Mail Address

IF ANYONE OTHER THAN THE OWNER COMPLETES THIS APPLICATION, WRITTEN CONSENT FROM THE OWNER MUST BE SUBMITTED WITH THIS APPLICATION.

Location:

Suffolk County Tax Map Number: 1001 Section: 003 Block: 05 Lot 016.5

Street Address: 123 STERLING AVE Greenport, New York, 11944

Zoning District: WC R1 R2 PD CR CG

Is property located within the Historic District? Yes No

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ZONING BOARD OF APPEALS APPLICATION AREA VARIANCE

236 Third Street, Greenport, New York, 11944

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Provisions of the Zoning Code appealed:

(Indicate Article, Section and Subsection of Zoning Code by numbers)

Article: _____ Section: 150 - _____ Subsection: _____

Type of appeal made for:

A Variance to the Zoning Code or Zoning Map.

An interpretation of the Village Code Article: _____ Section: _____ Subsection: _____

Has a prior appeal been made at any time with respect to this property? Yes No I Don't Know

If yes, please provide the date appeal was made: _____

Project Description:

For Demolition of Existing Building Areas:

Please describe area being removed:

N/A

New Construction Areas (New Dwelling or New Addition/Extensions)

Dimensions of First Floor (Addition/Extension): _____

Dimensions of Second Floor: _____

NO CHANGE

Height (from finished grade to top of ridge): _____ - Feet, _____ - Inches

Is basement or lowest floor area being constructed? Yes No

If yes, please provide height (above ground) measured from natural existing grade to first floor:

_____ - Feet, _____ - Inches.

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ZONING BOARD OF APPEALS APPLICATION AREA VARIANCE

236 Third Street, Greenport, New York, 11944

(631) 477-0248

www.villageofgreenport.org

Project Description: (CONTINUED)

Proposed Construction Description: (Alteration or Structural Changes)

Number of floors BEFORE alterations: _____

NO CHANGE

Describe General Characteristics BEFORE alterations:

Number of floors AFTER Alterations: _____

Describe General Characteristics AFTER alterations:

NO CHANGE

Calculations of Building Areas and Lot Coverage:

Existing Square Footage of Building(s) on this property: ^{14,800}~~11,800~~ SF

Proposed Increase in Building Coverage: NONE SF

Square Footage of this Lot: 7506 SF

Percentage of Coverage of this Lot by Building Area: 19 %

Purpose of New Construction:

Please describe:

THE PURPOSE IS TO IMPROVE THE SITE PLAN.

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ZONING BOARD OF APPEALS APPLICATION

AREA VARIANCE

236 Third Street, Greenport, New York, 11944

(631) 477-0248

www.villageofgreenport.org

Area Variance Reasons for Appeal:

Please answer in detail. *Additional sheets may be submitted with preparers signature.*

Will an undesirable change occur in the characteristics of the neighborhood or will a detriment to nearby properties be created by the granting of this area variance?

SEE ATTACHED

Can the benefit sought by the Applicant be achieved by another method, feasible for the Applicant to pursue, other than an Area Variance?

SEE ATTACHED

Is the requested Area Variance substantial?

SEE ATTACHED

Will the requested Area Variance have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district?

SEE ATTACHED

Was the alleged difficulty self-created, which consideration shall be relevant to the decision of the Zoning Board of Appeals, but shall not necessarily preclude the granting of the Area Variance?

SEE ATTACHED.

Are there Covenants or Restrictions concerning this land? Yes No

If yes, please furnish copies.

STIPULATED

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JAN 19 2021

Area Variance: Reduction of Commercial Waterfront Space

Please note by converting the already approved Waterfront Commercial west side from double height general storage space to interior parking space, we feel that the intended use of this area would remain, while improving the exterior look and public experience at Sterling Avenue.

1. Will an undesirable change occur in the characteristics of the neighborhood or will a detriment to the nearby properties be created by granting of the area variance:

This area variance will not create an undesirable change in the characteristic of the neighborhood or nearby properties. In fact we believe it will allow for a positive change to the approved stipulation plans by removing head-in on street parking off Sterling Avenue and offering sidewalks, curbing, street trees and green-space.

2. Can a benefit sought by the applicant be achieved by another method, feasible for the applicant to pursue other than an area variance:

This property is unique as it allows for onsite parking that meets the code requirements. The goal with the indoor parking is to have parking that is as efficient and convenient as the Sterling Avenue parking. If we are able to remove the parking along Sterling Avenue then the only place for parking in close proximity is within the building itself.

3. Is the request area variance substantial:

The request is not substantial as we are not changing the approved building footprint and in fact are removing the accessory building approved in the Stipulation plan, and we are requesting a replacement of storage area with parking area.

4. Will the requested area variance have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district:

The area variance if approved will have a positive effect on the physical and environmental conditions in the neighborhood. If granted we are replacing cars in head-in parking spaces on Sterling Avenue with green space and trees. This will improve the look of the neighborhood while improving the environmental impact. The drainage and soil retention would be better with more green-space.

5. Was the alleged difficulty self-created, which consideration shall be relevant to the decision of the Zoning Board of Appeals, but shall not necessarily preclude the granting of the area variance:

The request is not self-created as the Sterling Avenue parking was part of the Stipulation site plan negotiated in 2007 by the previous owners of the property. The current owner with the support of Sterling Basin Neighborhood Association (SBNA) has made these proposed improvements to modify the approved site plan and our goal now is to work with the village boards to the benefit of the community.

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617.20
Appendix B
Short Environmental Assessment Form

Instructions for Completing

Part 1 - Project Information. The applicant or project sponsor is responsible for the completion of Part 1. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification. Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information.

Complete all items in Part 1. You may also provide any additional information which you believe will be needed by or useful to the lead agency; attach additional pages as necessary to supplement any item.

Part 1 - Project and Sponsor Information			
123 STELLING AVE CORP			
Name of Action or Project:			
123 STERLING			
Project Location (describe, and attach a location map):			
123 STELLING AVE 6 Acre plot			
Brief Description of Proposed Action:			
NO CHANGE FROM APPROVED PLAN. EXCEPT REMOVE PARKING ALONG STELLING & CREATE LANDSCAPE BUFFER. APPROVED PLAN CONSIST OF 15,000 Sq foot COMMERCIAL SPACE & 17 RESIDENTIAL APARTMENTS, WITH 100 BUILDING FOR SPACE.			
Name of Applicant or Sponsor:		Telephone:	[REDACTED]
PAUL PANFOWSKI		E-Mail:	[REDACTED]
Address:			
[REDACTED]			
City/PO:		State:	Zip Code:
[REDACTED]		[REDACTED]	[REDACTED]
1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation?			NO YES
If Yes, attach a narrative description of the intent of the proposed action and the environmental resources that may be affected in the municipality and proceed to Part 2. If no, continue to question 2.			<input type="checkbox"/> <input type="checkbox"/>
2. Does the proposed action require a permit, approval or funding from any other governmental Agency?			NO YES
If Yes, list agency(s) name and permit or approval:			<input checked="" type="checkbox"/> <input type="checkbox"/>
3.a. Total acreage of the site of the proposed action?		1.7 acres	
b. Total acreage to be physically disturbed?		.90 acres	
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor?		1.7 acres	
4. Check all land uses that occur on, adjoining and near the proposed action.			
<input type="checkbox"/> Urban <input type="checkbox"/> Rural (non-agriculture) <input type="checkbox"/> Industrial <input type="checkbox"/> Commercial <input checked="" type="checkbox"/> Residential (suburban)			
<input type="checkbox"/> Forest <input type="checkbox"/> Agriculture <input type="checkbox"/> Aquatic <input type="checkbox"/> Other (specify): _____			
<input type="checkbox"/> Parkland			

18. Does the proposed action include construction or other activities that result in the impoundment of water or other liquids (e.g. retention pond, waste lagoon, dam)? If Yes, explain purpose and size: _____	NO	YES
_____	<input checked="" type="checkbox"/>	<input type="checkbox"/>
19. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility? If Yes, describe: _____	NO	YES
_____	<input checked="" type="checkbox"/>	<input type="checkbox"/>
20. Has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) for hazardous waste? If Yes, describe: _____	NO	YES
_____	<input checked="" type="checkbox"/>	<input type="checkbox"/>
I AFFIRM THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE		
Applicant/sponsor name: <u>Paul Panfence</u>	Date: <u>1/14/20</u>	
Signature: 		

Part 2 - Impact Assessment. The Lead Agency is responsible for the completion of Part 2. Answer all of the following questions in Part 2 using the information contained in Part 1 and other materials submitted by the project sponsor or otherwise available to the reviewer. When answering the questions the reviewer should be guided by the concept "Have my responses been reasonable considering the scale and context of the proposed action?"

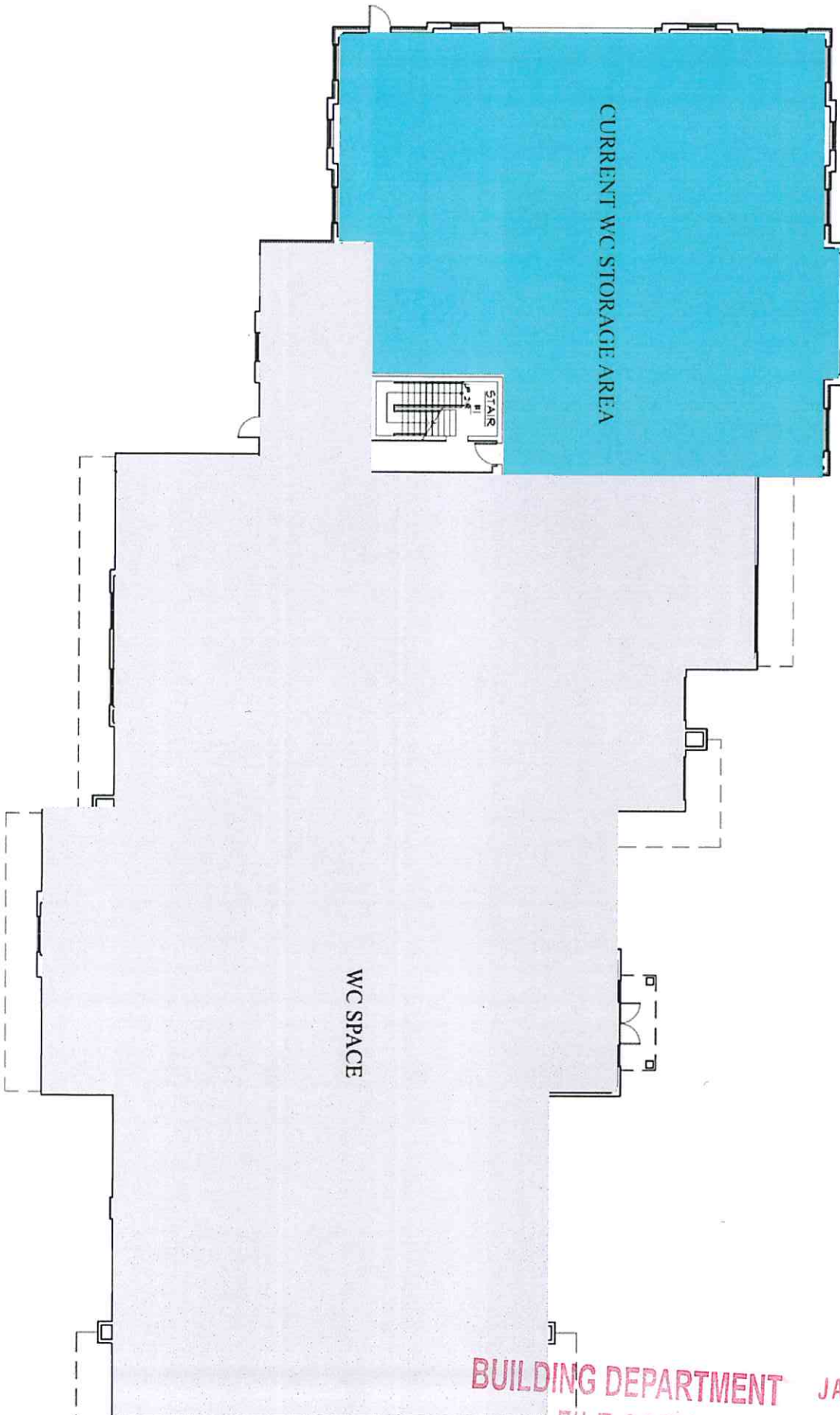
	No, or small impact may occur	Moderate to large impact may occur
1. Will the proposed action create a material conflict with an adopted land use plan or zoning regulations?	<input type="checkbox"/>	<input type="checkbox"/>
2. Will the proposed action result in a change in the use or intensity of use of land?	<input type="checkbox"/>	<input type="checkbox"/>
3. Will the proposed action impair the character or quality of the existing community?	<input type="checkbox"/>	<input type="checkbox"/>
4. Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)?	<input type="checkbox"/>	<input type="checkbox"/>
5. Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway?	<input type="checkbox"/>	<input type="checkbox"/>
6. Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities?	<input type="checkbox"/>	<input type="checkbox"/>
7. Will the proposed action impact existing:	<input type="checkbox"/>	<input type="checkbox"/>
a. public / private water supplies?	<input type="checkbox"/>	<input type="checkbox"/>
b. public / private wastewater treatment utilities?	<input type="checkbox"/>	<input type="checkbox"/>
8. Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources?	<input type="checkbox"/>	<input type="checkbox"/>
9. Will the proposed action result in an adverse change to natural resources (e.g., wetlands, waterbodies, groundwater, air quality, flora and fauna)?	<input type="checkbox"/>	<input type="checkbox"/>

	No, or small impact may occur	Moderate to large impact may occur
10. Will the proposed action result in an increase in the potential for erosion, flooding or drainage problems?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
11. Will the proposed action create a hazard to environmental resources or human health?	<input type="checkbox"/>	<input type="checkbox"/>

Part 3 - Determination of significance. The Lead Agency is responsible for the completion of Part 3. For every question in Part 2 that was answered "moderate to large impact may occur", or if there is a need to explain why a particular element of the proposed action may or will not result in a significant adverse environmental impact, please complete Part 3. Part 3 should, in sufficient detail, identify the impact, including any measures or design elements that have been included by the project sponsor to avoid or reduce impacts. Part 3 should also explain how the lead agency determined that the impact may or will not be significant. Each potential impact should be assessed considering its setting, probability of occurring, duration, irreversibility, geographic scope and magnitude. Also consider the potential for short-term, long-term and cumulative impacts.

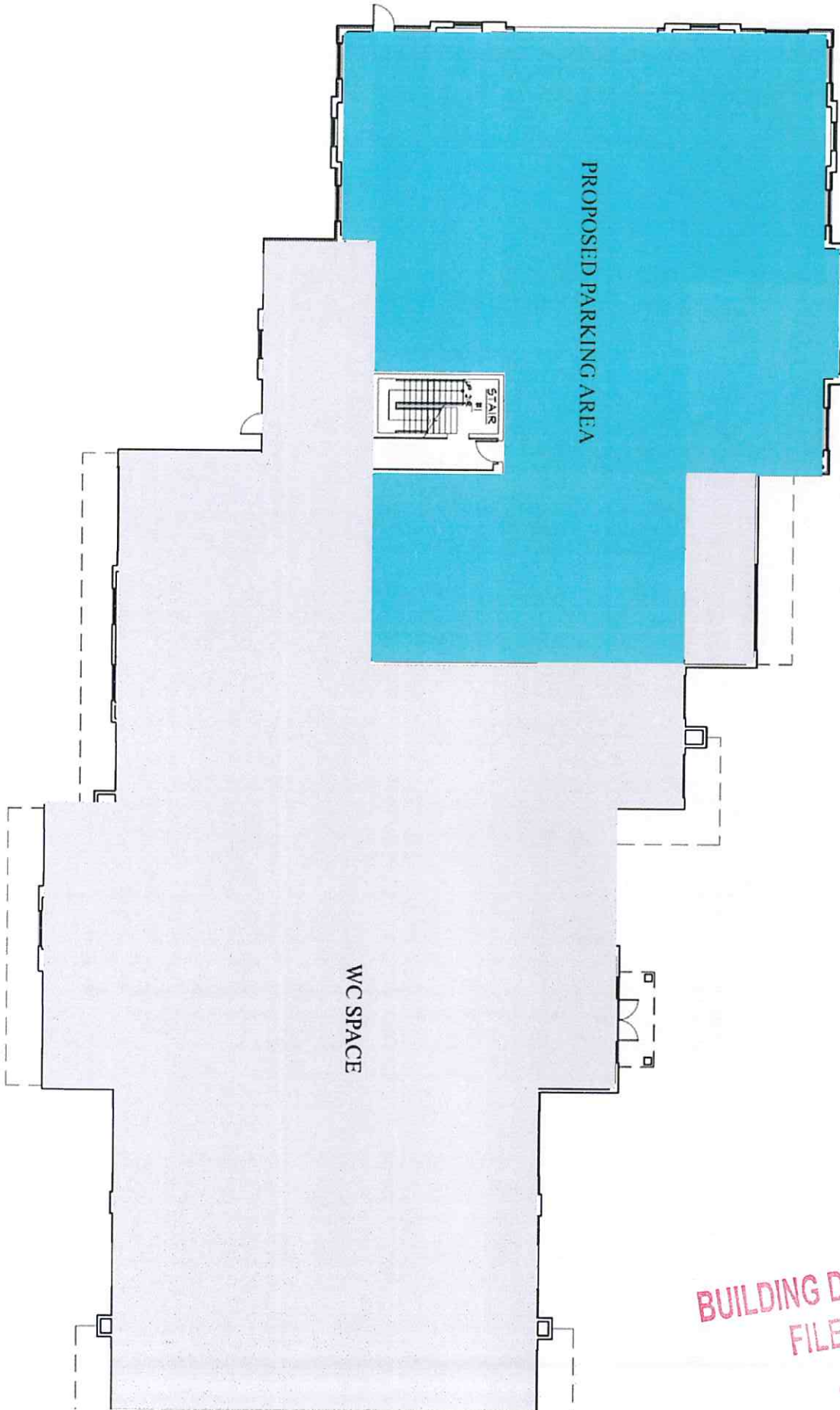
<input type="checkbox"/>	Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action may result in one or more potentially large or significant adverse impacts and an environmental impact statement is required.
<input type="checkbox"/>	Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action will not result in any significant adverse environmental impacts.
_____	_____
Name of Lead Agency	Date
_____	_____
Print or Type Name of Responsible Officer in Lead Agency	Title of Responsible Officer
_____	_____
Signature of Responsible Officer in Lead Agency	Signature of Preparer (if different from Responsible Officer)

PRINT



PROPOSED FIRST FLOOR LAYOUT

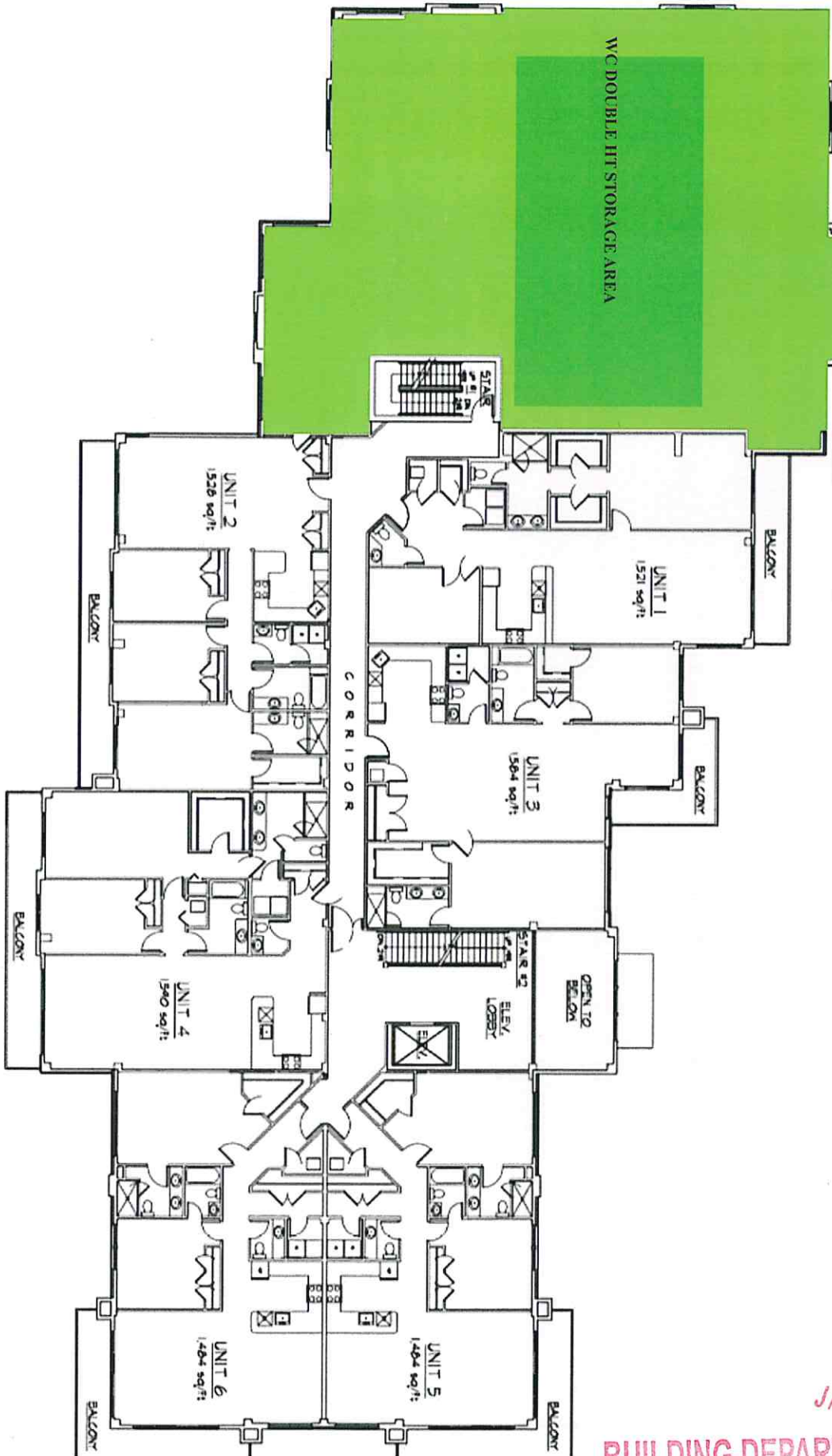
BUILDING DEPARTMENT JAN 19 2021
FILE COPY



FIRST FLOOR LAYOUT

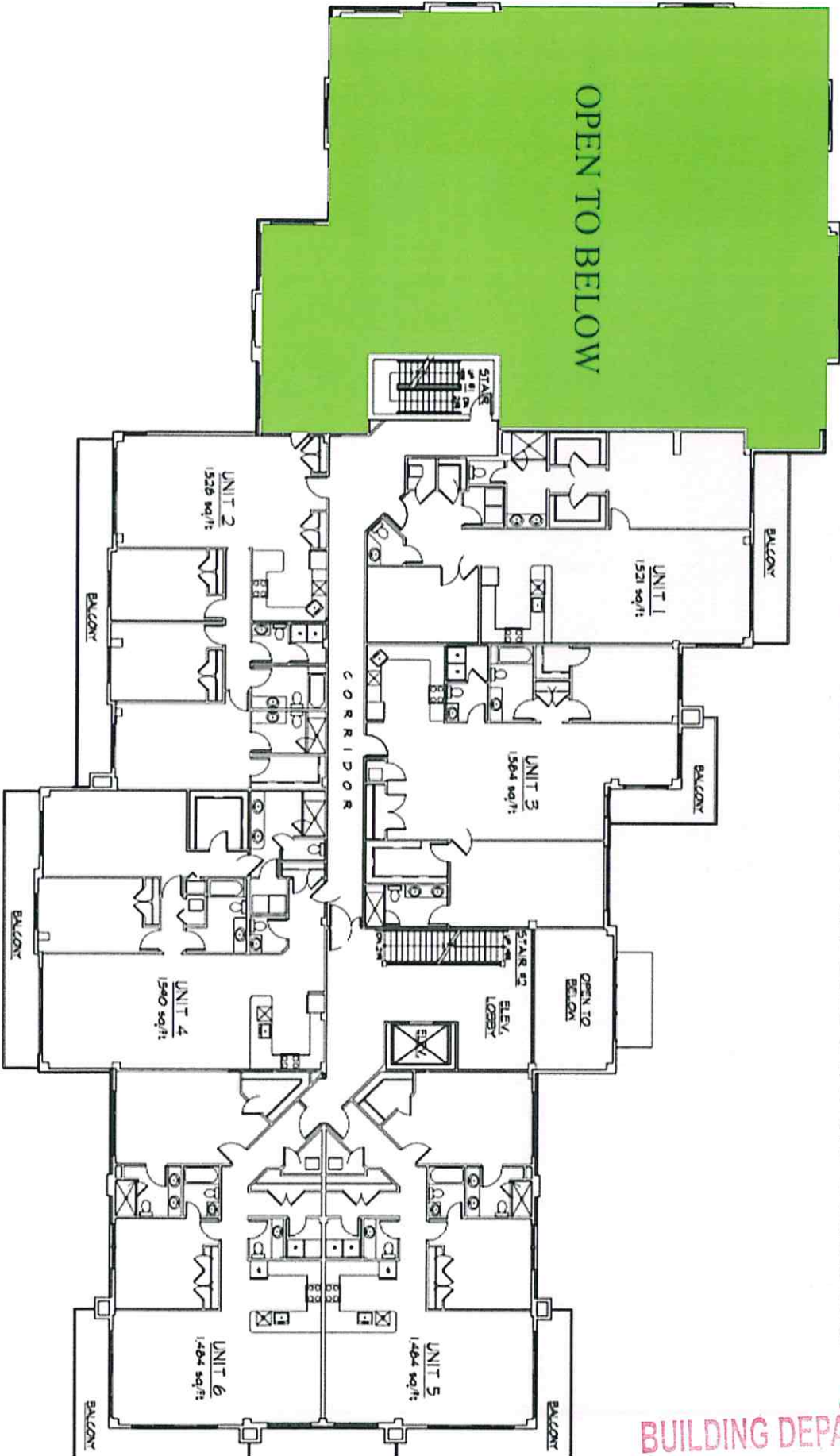
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PLAN ARE APPROXIMATE



CURRENT SECOND FLOOR LAYOUT WITH STORAGE

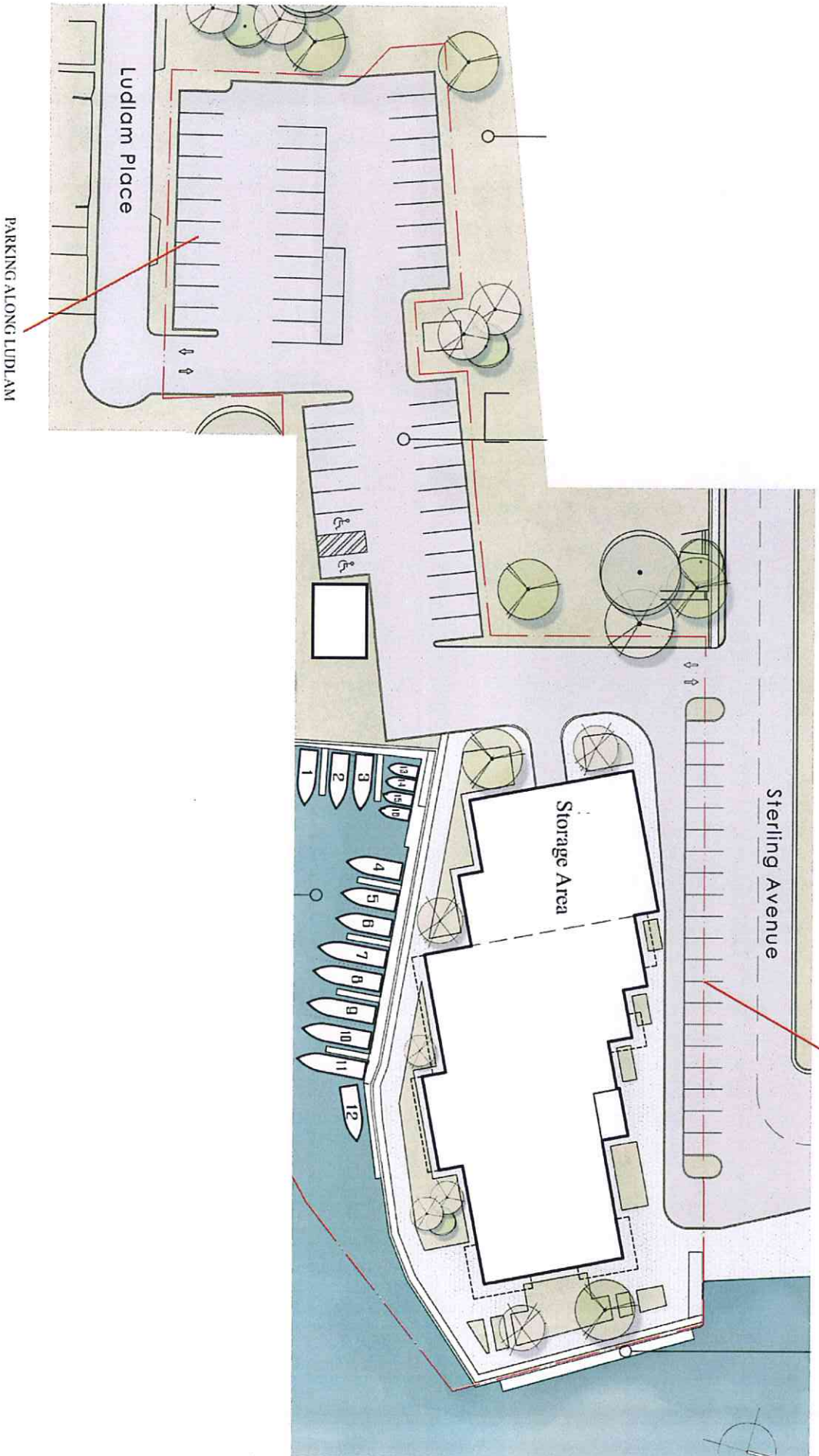
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CURRENT SECOND FLOOR LAYOUT NO STORAGE

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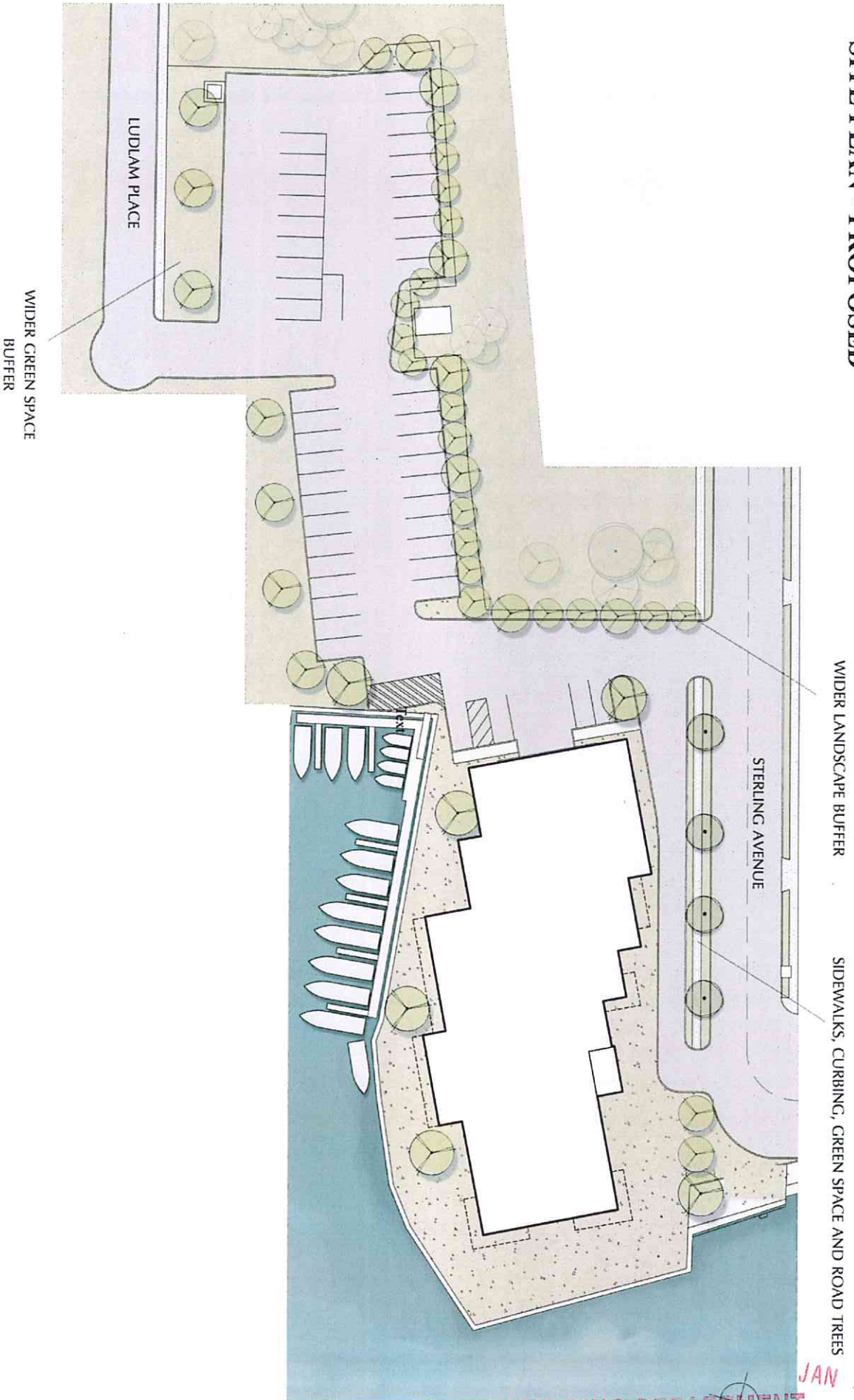
SITE PLAN - APPROVED



**BUILDING DEPARTMENT
FILE COPY**

JAN 19 2021

SITE PLAN - PROPOSED



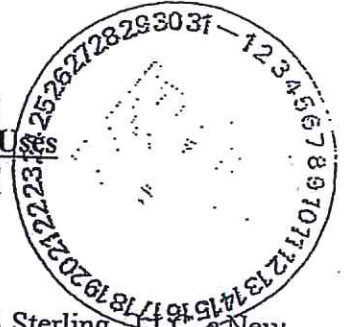
JAN 19 2021

BUILDING DEPARTMENT

FILE NO. 2021-00000

Stipulation and Agreement of Settlement
Including Approval of Revised Site Plan and U
for Property Owned by 123 Sterling LLC

Dated: March 12, 2007



AGREEMENT dated this 12th day of March, 2007, between 123 Sterling, LLC, a New York State limited liability company with offices located at 219 Miro Place, Port Washington, NY 11050; Sterling Basin Neighborhood Association, a membership organization, with an office address of with an office address of c/o Susan Heaney, PO Box 874, Greenport, NY 11944; Bob Stahman, with an address of 130 Sterling Ave., Greenport, NY 11944 ; and George Limperis, with an address of 264 Liberty St., San Francisco, CA 94114; the Village of Greenport, with an address of 236 Third Street, Greenport, New York; the Zoning Board of Appeals of the Village of Greenport, with an office located at 236 Third Street; and the Village Planning Board of the Village of Greenport, 236 Third Street, Greenport, New York 11944, as follows:

WHEREAS, 123 Sterling LLC ("123 Sterling"), owns 1.72 acres of land, which is located along the south side of Sterling Avenue in the Village of Greenport, identified on the Suffolk County Tax Map as parcels numbered 1001-003-05-016.4 & 016.5 (hereinafter referred to as "the property"); and

WHEREAS, since October 28, 1971, tax lot 016.5 has been zoned Waterfront Commercial ("WC") and tax lot 016.4 has been zoned WC in part and R-2 Residential ("R-2") in part; and

WHEREAS, that section of lot 016.4 which is zoned R-2 is included within the Village of Greenport Historic District; and

WHEREAS, in 2003, 123 Sterling applied to the Village of Greenport Planning Board

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("Planning Board") for site plan approval to permit the demolition of some of the existing structures on the property to allow for the construction of a 14,480 square foot structure, along with associated marina facilities as part of its proposed "Greenport Marina" site plan; and

WHEREAS, the Planning Board adopted lead agency status for purposes of SEQRA and initiated a coordinated SEQRA review and thereafter, following several public meetings and site plan review, on March 31, 2005, the Planning Board issued a negative declaration for the proposed development under the State Environmental Quality Review Act ("SEQRA") and then rendered a conditional approval which approved the "Greenport Marina" site plan, conditioned upon the Village of Greenport Zoning Board of Appeals (hereinafter "ZBA") rendering an interpretation that the use proposed by 123 Sterling for that portion of the property that is zoned R-2 Residential existed as a pre-existing nonconforming use; and

WHEREAS, a proceeding was commenced in Supreme Court, Suffolk County, challenging the Planning Board's March 31, 2005 decisions entitled "*Matter of Sterling Basin Neighborhood Association and Bob Stahman and George Limperis v. Planning Board of the Village of Greenport and 123 Sterling, LLC*," Suffolk County Index No. 05-10801; and

WHEREAS, by decision dated March 20, 2006, and judgment dated May 5, 2006, the Supreme Court, Suffolk County (Loughlin, J.) upheld the Planning Board's decisions; and

WHEREAS, SBNA subsequently filed a notice of appeal from the May 5, 2006 judgment; and

WHEREAS, the ZBA held a public hearing on July 27, 2005 concerning the interpretation called for by the Planning Board; and

WHEREAS, on September 28, 2005, the ZBA adopted a resolution finding that the use of the R-2 parcel as proposed by 123 Sterling constituted a pre-existing nonconforming use of the

property; and

WHEREAS, in October 2005, SBNA and George Limperis commenced a proceeding, entitled "*Matter of Sterling Basin Neighborhood Assoc. v Zoning Board of Appeals of the Village of Greenport,*" Index No. 05-26023, challenging the ZBA's September 28, 2005 determination; and

WHEREAS, on January 24, 2006, the Supreme Court, Suffolk County (Loughlin, J.), granted the petition in that proceeding to the extent that the Court remanded the matter back to the ZBA to adopt findings regarding its September 28, 2005 decision; and

WHEREAS, on February 22, 2006, the ZBA adopted a new resolution, in which it found that the use of the R-2 parcel as proposed by 123 Sterling constituted a legal pre-existing nonconforming use of the property; and

WHEREAS, SBNA and George Limperis commenced a new proceeding challenging the ZBA's February 22, 2006 decision, under the caption "*Matter of Sterling Basin Neighborhood Association and George Limperis v. Zoning Board of Appeals of the Village of Greenport and 123 Sterling, LLC*" Supreme Court, Suffolk County, Index. No. 06-09063; and

WHEREAS, by order dated October 6, 2006, the Supreme Court, Suffolk County (Spinner, J.) dismissed this proceeding and upheld the ZBA's February 22, 2006 decision; and

WHEREAS, SBNA subsequently filed a notice of appeal from the October 6, 2006 order; and

WHEREAS, the appeals in the proceedings with Suffolk County index numbers 05-10801 and 06-09063 are still pending; and

WHEREAS, the parties to those proceedings (including 123 Sterling and SBNA) have

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had extensive discussions regarding proposed modifications to the original, approved development plans for the property (hereinafter, "Original Plans"); and

WHEREAS, the proposed modifications to the Original Plans are shown and described more fully in (1) a revised Site Plan, prepared by Kenneth H. Beckman, L.S., dated 12/16/02 and last revised 2/06/07, attached as Exhibit A hereto, (2) revised elevation and floor plan drawings, prepared by Gary D. Cannella Associates, architects and planners, dated January 31, 2007, attached as Exhibit B hereto, and (3) a narrative entitled "Description of Revised Site Plan and Uses for 123 Sterling Avenue," dated February 7, 2007, attached as Exhibit C hereto; and

WHEREAS, the modifications to the original, approved development plans as shown in Exhibits A, B, and C, are collectively referred to as the "Modified Plans"; and

WHEREAS, the parties to those proceedings have also had extensive discussions with Village officials, including representatives of the Village Trustees, the Planning Board, and the ZBA, regarding the Modified Plans; and

WHEREAS, 123 Sterling and SBNA are desirous of settling their differences by pursuing the Modified Plans in lieu of the Original Plans, while reserving their rights, as provided herein; and

WHEREAS, the Village is desirous of settling the litigation and dispute in the manner proposed by 123 Sterling and SBNA for numerous reasons, including:

- 1) The Village believes that a development plan that is preferred by both the owners (123 Sterling) and neighbors (SBNA) is preferable to the original development plan (which is opposed by SBNA) and will bring more community accord;
- 2) Under the Modified Plans, 123 Sterling has proposed a voluntary set-aside of five residency-restricted, price-limited residential housing units within its proposed new building

on the property; and

3) Said residency-restricted, price-limited residential housing units will serve a legitimate Village need for such housing, at no cost to the Village;

4) The proposed development plan appears to be a proper and desirable use of the subject property which will have a significant positive impact on the neighborhood, the community and the Village;

5) The settlement of this matter and the pending litigation limits the uncertainty which is interjected by the potential outcomes of the litigation and the continued use of public resources for that purpose; and

WHEREAS, the Modified Plans have been submitted to the Planning Board and ZBA, as well as the Board of Trustees of the Village of Greenport, as provided herein, and those boards, having reviewed and considered said the Modified plans at a joint special public meeting including the ZBA, Planning Board and Board of Trustees held on March 12, 2007; and

WHEREAS, the Planning Board, acting as lead agency for the project, has circulated the Modified Plans to all involved agencies prior to said public meeting; and

WHEREAS, the Village has referred the Modified Plans to the Suffolk County Planning Commission in accordance with the requirements that are set forth in GML § 239-m; and

WHEREAS, the Suffolk County Planning Commission has determined the consideration of the project and any action by the boards with respect to the matter to be one for local determination; and

WHEREAS, the undersigned on behalf of 123 Sterling represents that he/she/they has/have the authority to enter into this stipulation on behalf of 123 Sterling, and;

WHEREAS, the undersigned on behalf of SBNA represents that they have the authority

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to enter into this stipulation on behalf of SBNA and its members, including George Limperis and Bob Stahman, and that the members of SBNA duly authorized such action; and

WHEREAS, the parties intend that this agreement have no effect on any rights of way or easements benefiting George Limperis or his property, and;

WHEREAS the parties intend that this agreement have no effect on any easement or right of way of the Village of Greenport may have across the subject property, including but not limited to the easement or right of way for the Village sewer lift station, and that the easement or right of way for the sewer lift shall station stay in full force and effect, and ;

WHEREAS the subject property is unique among waterfront commercial sites in the Village because it is bisected by the WC Waterfront Commercial and R-2 residential district boundary line, and;

NOW, THEREFORE, after due consideration, SBNA and 123 Sterling stipulate and agree as follows, and the Planning Board, ZBA, and Village Board of Trustees stipulate and find as follows:

A. STIPULATION AND AGREEMENT:

1. Without relinquishing any rights 123 Sterling may have under the Original Plans, 123 Sterling agrees to use its best efforts to pursue the development of the property according to the Modified Plans so long as the Village's and any other governmental approvals of such plans are not challenged in any administrative or judicial proceedings and/or found invalid by any agency or court of law. Nothing herein shall be construed as requiring 123 Sterling to challenge any decisions made by such agencies, to commence litigation, or to defend any challenges to governmental approvals brought by third parties, but 123 Sterling shall be entitled, in its sole discretion, to do so. 123 Sterling agrees that the Modified Plans are to be submitted for approval

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to the Village Boards in connection with the review of this agreement. If all approvals are received from the Village and not challenged or invalidated, 123 Sterling agrees to use its best efforts to obtain any remaining approvals to effectuate the Modified Plans. Provided that all approvals are received, 123 Sterling agrees to develop the property according to the Modified Plans in lieu of the Original Plans. 123 Sterling reserves the right to pursue development of the property according to the Original Plans and existing approvals in the event that any governmental agency rejects the Modified Plans, or in the event that any necessary approvals for the Modified Plans are not given, or in the event that any such approvals are challenged and/or invalidated. In the event that 123 Sterling develops the property in accordance with the Modified Plans as set forth herein, 123 Sterling reserves the right at any time to seek any modifications to said plans through the ordinary channels for obtaining such modifications at that time. In the event that 123 Sterling obtains all approvals for the Modified Plans and no such approvals are challenged or invalidated, 123 Sterling reserves the right to abandon the Modified Plans, except that, in the event 123 Sterling abandons the Modified Plans but thereafter seeks to develop the property, 123 Sterling shall apply for approvals of the new development plans *de novo*, through the ordinary channels for obtaining such approvals.

2. Without relinquishing its or its members' rights to the pending appeals challenging the Original Plans, SBNA agrees that the Modified Plans are acceptable to SBNA and its members, and that SBNA and its members support the Modified Plans. SBNA, its members, and its counsel will not challenge or assist in any challenge to the Modified Plans or any approvals given in connection with this stipulation, or any future approvals (such as a building permit or certificate of occupancy) that are consistent with the Modified Plans. SBNA reserves the right to oppose or challenge any future changes that may be made to the Modified

Plan or to changes in operations or uses at the site, including before any regulatory authorities considering such changes. SBNA further reserves the right to pursue its appeals challenging the Planning Board and ZBA decisions approving the Original Plans, except that, to the extent that 123 Sterling pursues and develops its property in accordance with the Modified Plans, SBNA agrees that any challenges to the Original Plans shall not affect the Modified Plans. SBNA reserves the right to perfect the pending appeals in the event that any approvals granted to the Modified Plans are challenged, or that 123 Sterling seeks to implement the Original Plans. SBNA further reserves such rights as may be extant to challenge or oppose the Original Plans in the event that 123 Sterling seeks to implement the Original Plans.

3. 123 Sterling and SBNA agree that the promises they herein make to each other shall be enforceable at law or equity, except that SBNA expressly acknowledges that it shall have no right to file a notice of pendency against 123 Sterling's property in connection with any legal action to enforce the promises herein. This agreement shall be binding upon and inure to the benefit of SBNA, its officers, and its members, and 123 Sterling, its successors and assigns, but in no event may this agreement be recorded and in no event shall this agreement be construed as conferring rights upon other parties. 123 Sterling agrees to notify SBNA's counsel within three days of receipt of notice of filing of a legal challenge to any of the approvals sought for the Modified Plans. By entering into this stipulation, 123 Sterling and both the Planning Board and Zoning Board of Appeals of the Village of Greenport herewith consent to any application(s) SBNA elects to make to enlarge the time to perfect the pending appeals in the cases under Suffolk County Index Numbers 05-10801 and 06-09063

4. Without relinquishing any rights that the Village of Greenport, the Planning Board or the Zoning Board of Appeals may have with respect to any prior actions or approvals of

those Boards, or to the position of the Village and the Planning Board and Zoning Board of Appeals in the underlying litigations, the Village agrees to take such actions as may reasonably be expected to accomplish the terms of this settlement agreement.

B. FINDINGS AND APPROVALS

1. VILLAGE TRUSTEES APPROVAL: The Village Trustees, after considering the Modified Plans and this stipulation at a public meeting, hereby approve this stipulation and agreement and the Modified Plans. This approval is given pursuant to the Village Trustees' powers under Village Law § 4-412(3)(3), which authorizes the Village Trustees to compromise claims, as well as pursuant to its general police powers and zoning powers (Article 7 of the Village Law).

2. PLANNING BOARD APPROVALS:

The plans for the proposed development of the subject property having been duly submitted to the Planning Board, and the Planning Board having duly considered the Modified Plans at a public meeting, that application being the use of the property as described in the Modified Plans, in a joint session with the Zoning Board of Appeals and the Board of Trustees of the Village of Greenport, and;

The Planning Board having duly considered the application in the form of the Modified Plans and and duly considered the Modified Plans, and the impact of the project on the environment and the community, neighborhood, and Village, the Planning Board hereby determines as follows:

a) As lead agency for SEQRA purposes, Village Planning Board, in connection herewith, hereby determines that the proposed Modified Plans do not constitute a significant variation from the original project for which a negative declaration was issued, and that there will not be a

significant negative impact on the environment that will be created by the project as modified, and the Planning Board therefore adopts a negative declaration of significance.

b) The Planning Board hereby approves the site plan modifications for the Modified Plans, as set forth in Exhibit A hereto.

c) The Planning Board hereby approves the terms and conditions of the within stipulation and agreement stated herein.

3. ZBA APPROVAL:

The Modified Plans for the proposed development of the subject property having been duly submitted to the Zoning Board of Appeals, and the Zoning Board of Appeals having duly considered the Modified Plans at a public meeting, and the approvals as may be required for the uses specified in the plans, that application being the use of the property as described in the Modified Plans, in a joint session with the Planning Board and the Board of Trustees of the Village of Greenport, and;

The Zoning Board of Appeals having duly considered the application in the form of the Modified Plans, the uses specified in those plans, and the Modified Plans and the uses specified in those plans, and the Zoning Board of Appeals having determined that the project will not result in a significant negative impact on the neighborhood or neighboring properties, and that the impact of the project on the environment and the community, neighborhood, and Village, the Zoning Board of Appeals hereby determines as follows:

a) Consistent with the ZBA's prior involvement in the matter, the ZBA hereby approves the Modified Plans and finds said plans to be consistent with the zoning code and prior approvals and further approves the Modified Plans and the uses contained in those plans..

4. EFFECTUATING CONDITION OF APPROVALS: The Village approvals granted hereunder are conditioned on 123 Sterling's voluntary offer to set aside residency restricted/price restricted residential units as set forth in the Modified Plans (see especially Exhibit C hereto). Accordingly, 123 Sterling shall not be entitled to receive a Certificate of Occupancy for the approved structures in the Modified Plans unless and until it has recorded covenants effectuating the residency and price restrictions. Such covenants shall (1) provide for an initial sale price of \$175,000, (2) prohibit the merger of any affordable unit with any other unit, (3) permanently restrict ownership to persons who can demonstrate to the satisfaction of the Greenport Housing Authority that they have either maintained their primary residence and/or place of full-time employment within the boundaries of the Greenport Union Free School District for at least two years prior to application for approval to purchase, (4) agree to occupy the restricted unit as a primary residence. The Village shall work with 123 Sterling to draft such other restrictions as may be necessary to support the foregoing restrictions. Prior to recording the covenants, the form of covenants shall be presented to the Village Attorney and Board of Trustees, which shall review the form of covenants and approve same prior to their recording. Presentation of proof of recording to the Village shall satisfy this condition of the approvals.

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STIPULATED AND AGREED TO BY:

Richard Raskin
Richard Raskin, Managing Member
123 Sterling, LLC

Susan Heaney
Susan Heaney
Ellen Schnepel
Ellen Schnepel
Co-Chairs
Sterling Basin Neighborhood Association

APPROVED AND STIPULATED TO BY:

By: Jessica E. DePaul Mayor
Village of Greenport

By: Mary L. Coyle
Village Planning Board

By: Mary Beth Lewis
Zoning Board of Appeals

I certify that this is a true copy of the original

JANET E. STAPLES
Notary Public, State of New York
No. 4831949, Suffolk County
Commission Expires July 31, 2009

Janet E. Staples

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Description of Uses 123 Sterling Avenue, Greenport, NY

February 7, 2007

1. A 3 story, approximately 15,000 square foot footprint building with a footprint similar to that shown on the Site Plan (rev. 2/6/07) and the Gary D. Canella sketch plans (5 pgs) attached will be built.
2. The building will have waterfront commercial operations on the 1st floor.
3. The 2nd floor will have 6 market rate residential condominium units of about 1500 sf each.
4. The 3rd floor will have:
 - a. 6 market rate residential condominium units of about 1500 sf each.
 - b. 5 Affordable Housing Residency Restricted (AHRR) residential units of approximately 600-650 sf each. The ownership and occupancy of the ARR units shall be restricted as follows:
 - (i) The units can only be sold to people who have had the Village of Greenport or the Greenport School district as their primary residence for no less than two years or who have worked in the Greenport School district or Village of Greenport for no less than two years and are so certified by the Village of Greenport's Housing Authority.
 - (ii) The units will have to be owner occupied as the owner's primary residence.
 - (iii) Initially sold for no more that \$175,000 to people who qualify under Village of Greenport Affordable Housing Residency Restrictions as described herein and more particularly to be drawn by the Village with the developers input.
 - (iv) By covenants that prevent the merging of the units into other AHRR unit or any other unit.
 - (v) There will be a limit on the number of people who may occupy the units as to be drawn by the Village with the input of the developers to prevent overcrowding and uses not in accordance with the intent of these units.
 - (vi) Subsequent sales of these units will be at market rates but the residency and no merging restrictions shall be deeded restrictions.
 - (vii) In the event the original owner of a unit sells the unit within two years of the Closing of Title a "flip tax" equal to 25% of the difference between the new purchase price of the AHRR unit and the purchase price paid for the unit initially but in no event less than 10% of the purchase paid by the seller shall be paid by the seller. This provision shall survive the deed and closing of title. Such flip tax shall be shared 50/50 between the developer/sponsor and the Village Housing Authority.
 - (viii) Any and all flip tax money going to the Housing Authority shall be used by the Housing authority to further its mission.
5. The property will have a Work/Storage building as shown on the sketch site plan.
6. The balance of the property shall be devoted to parking, open work /storage space and other uses that are consistent with the waterfront commercial and residential activities on the site. No

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multi tiered boat racks are included in this plan and 123 Sterling LLC understands that if it ever wanted to install same they would have to make a new application to the Village.

7. In the event the occupants of the 1st floor do not need to tie up vessels directly to the bulkheads of the property fronting on Rackett's Basin, 123 Sterling LLC and its successors and assigns reserve the right to build, install and operate the docks, floats and slips shown on the Site Plan previously approved by the Village and the NYS DEC.
8. The condominium plan will be written in such a way as to allow the developers/sponsors (123, its successors or assigns) to own the first floor, the common space mentioned in 6 above and the Work/Storage building mentioned in 5 above and allocate such space to the W/C tenants of the first floor and/or the residential owners on a basis that the sponsors determine.

123 Sterling Avenue Greenport, NY 11944 -- Phone: 516-883-1022 Fax: 516-883-1023

Web address: www.123sterling.com. Contact e-Mail: 123sterlinggreenport@gmail.com

Web Site Design and Maintenance: CJSWebWorks.com

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