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July 15, 2022

**VIA EMAIL AND FEDERAL EXPRESS**

Zoning Board of Appeals  
Penfield Town Hall  
3100 Atlantic Avenue  
Penfield, NY 14526

***Re: Chick-fil-A Area Variance/Special Use Permit Applications***

Dear Chairman DeLaus and Members of the Zoning Board of Appeals (“ZBA”):

Our firm serves as land-use counsel to Chick-fil-A, Inc. (“CFA”) in connection with its plans to redevelop property located at 2130 Fairport Nine Mile Road in the Town of Penfield (SBL # 140.01-2-4.1) (the “Project Site”) with a new quick-serve restaurant and drive-thru (the “Project”). Due to the Site location, the new restaurant will require a special use permit for signage and setback area variances from the ZBA.

The Project Site is located in the General Business zoning district pursuant to the Town of Penfield Zoning Code (the “Zoning Code”). Pursuant to the Zoning Code, Site Plan and Conditional Use Permit approval is required for the Project pursuant to Article XII and XIII of the Zoning Code. CFA has applied to the Town of Penfield Planning Board for those approvals and its application is under review.

Pursuant to Zoning Code Article XIV, CFA respectfully submits this application to the ZBA with respect to signage and an attached drive-thru ordering canopy required for the Project as proposed. See Exhibit 1 (the “Application”). As discussed in more detail below, we believe

that the Project meets the standards for granting the Application. The Application is also submitted pursuant to NYS Town Law § 274-A which allows variance applications related to a site plan to be submitted directly to the ZBA without the need to appeal a denial from the Town's Code Enforcement Officer.

Enclosed are nine (9) sets of the following documents in support of CFA's Application, as well as a check in the amount of \$110 for the application and posting fees:

Exhibit 1 – Area Variance and Special Use Permit Applications, and SEQRA SEAF, Part 1;

Exhibit 2 – Project Narrative;

Exhibit 3 – Site Plan;

Exhibit 4 – Sign Survey;

Exhibit 5 – Exterior elevation renderings;

Exhibit 6 – Photos of the Project Site; and

Exhibit 7 – Photos of other nearby commercial structures.

As required by the State Environmental Quality Review Act and its implementing regulations in 6 NYCRR Part 617 (collectively, "SEQRA"), the Project is subject to SEQRA review by the Zoning Board of Appeals and the Planning Board. A Short Environmental Assessment Form ("SEAF"), Part 1 has been prepared by CFA. The Planning Board, through its review of the Project, has treated the Project as a SEQRA Unlisted Action and is proceeding with an uncoordinated SEQRA review. The ZBA's action on CFA's applications to the ZBA may also be considered an Unlisted Action because of the signage proposed, requiring a separate ZBA SEQRA determination.

Finally, because of the proximity of the Project Site to a state highway, referral of the application to the Monroe County Planning Department for review pursuant to NYS General Municipal Law § 239-m will be necessary.

### **Project Description**

The Project Site is currently developed with existing asphalt parking and gravel areas that formerly serviced a full-service restaurant and a materials storage business on the Site, which have since been demolished. As described in the Project Narrative (See Exhibit 2), CFA is proposing to redevelop the Project Site with a new ±5,600 SF quick serve restaurant with a dual lane drive-thru and a bypass lane, outdoor patio area (±20 outdoor seats), a detached ±2,050 SF meal ordering canopy, and a ±1,900 SF meal delivery canopy over the drive thru (the "Project"). In addition to the restaurant, the Project includes a new parking lot, pedestrian walkways, lighting, curbing, stormwater management facilities, landscaping, signage, utilities, and other appurtenances that are

depicted on the site plan. See Exhibit 3. The project also includes a landscaped buffer on Route 250 as well as a green space transition to the adjacent residential neighborhoods.

Access to the Project Site is provided by three internal shared access drives with multiple connections to NYS Route 250 and NYS Route 441 with two access drives located to the rear of the Project Site. These access drives also serve existing users which include, in addition to CFA, a car wash, a bank, and a McDonalds restaurant. Given the constraints on access to the Project Site, the proposed layout on the Site is designed to facilitate the efficient flow of drive-thru traffic and required parking for employees and customers, while offering safe pedestrian access on the Project Site as contemplated by the Route 441/250 Overlay District. See Exhibit 3.

The two canopies proposed for the drive-thru lanes as part of the Project are a free-standing canopy that will be located over the menu boards/ordering stations (“ordering canopy”) and the second canopy will be attached to the building and located over the pick-up window (“meal delivery canopy”). The ordering canopy will be located as far away as possible from NYS Route 250 and the property line shared with Cam’s Pizzeria in the Project’s front yard and side yard setbacks, but still require area variances. The location of these canopies is depicted on the proposed site plan in Exhibit 3 to this letter and renderings of the canopies are provided in Exhibit 5.

The canopies further CFA’s corporate-wide initiative to improve and expedite drive-thru customer experiences at its quick-serve restaurants. During busier times of the day, CFA employees will be stationed at the drive-thru ordering stations with tablets to take orders, collect payments, answer questions about the menu items and to generally assist customers with any ordering and dining needs. This customer service process allows numerous orders to be placed simultaneously, thereby expediting customers’ meal delivery and greatly improving their CFA experience. The canopies are designed to protect CFA employees and members of the public from sun exposure, varying temperatures and inclement weather like snow and rain during the ordering and meal delivery process.

The Project also includes proposed signs intended to achieve various objectives. The Project is a restaurant and signage is designed to attract travelers from nearby highways and to guide them to the restaurant from the shared access drives. As a result, signage must be visible and sufficient to guide customers onto the shared access drives and to the Project. The Project includes a pylon sign intended to advertise the Project to travelers on NYS Route 250. Four business signs/logos on the sides of the building and directional signs guide customers from the nearby highways and the shared access drives to the Project. See Exhibit 4. These four signs provide the nationally recognized branding for a CFA restaurant and others are focused on providing safe internal traffic circulation to and from the Project Site.

In order to achieve CFA’s goals of excellent customer service and the necessary visibility for the Project from surrounding highways and the shared access drives, as discussed separately below, CFA requires: (1) Setback area variances for the Ordering Canopy; and (2) a Special Use Permit for Signage. The Project otherwise is approvable through site plan review with a conditional use permit and meets all of the other dimensional requirements of the Zoning Code.

**(1) AREA VARIANCES FOR ORDERING CANOPY**

CFA requests the following area variances from the front and side yard setbacks to allow for the construction of the ordering canopy for the Project:

<b>Property Line</b>	<b>Code Section</b>	<b>Setback Required</b>	<b>Setback Proposed<sup>1</sup></b>	<b>Variance Requested</b>
Front	§250-5.7(D)(3)	80'	±71'	9'
Side	§250-5.7(D)(3)	20'	±8'	12'

The Project Site is a narrow, irregularly shaped parcel bounded by Route 250 on the west, a shared access drive and Cam’s Pizzeria to the north, and by a shared access drive on the east and southern sides of the property. These physical constraints make the layout proposed for the Project the only viable alternative that provides safe and efficient vehicle access to the proposed drive-thru from the shared access drives that surround the Site. By necessity, the ordering and meal delivery canopies must be oriented around the restaurant based on the entrance and exit defined by the shared access drives.

The ordering canopy is situated along the northern boundary of the site as far back from Route 250 as possible without intruding into the curve of the two-lane drive-thru from the share access drive. Due to the narrowness and irregular shape of the Site, the canopy is located as far from the Cam’s Pizzeria property line as possible while providing room for the restaurant and the drive-thru lanes on the southern side of the site.

This layout allows CFA to stack 50 vehicles entering the Site from the shared drive while keeping dine-in customers separate from drive-thru traffic. This separation provides for the safety and efficiency of serving customers. The provision of this feature was tested at other sites and improves both customer service response times and the safe flow of traffic away from walkways for dine-in customers. However, the layout requires both a side and front setback area variance to accommodate the ordering canopy which abuts the Cam’s Restaurant parking lot.

**Area Variance Review Standards**

NYS Town Law § 267-B(3)(b) provides the applicable legal standards for review of area variances by the ZBA. This law requires the ZBA, in deciding whether to grant the requested variances, to undertake a “balancing test” that considers the “benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant.” As discussed below, we submit that the requested variances are justified under this “balancing test” as required by the NYS Town Law.

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<sup>1</sup> As shown on the Site Plans, Exhibit 3, the actual anticipated front yard setback for the ordering canopy from Route 250 is 71.7’, while the anticipated side yard setback is 8.3’. To ensure compliance based on constructed conditions, CFA proposes to round off the setback distances to 71’ and 8’, respectively.

For CFA, the benefit of the setback variance for the ordering canopy is a Project that is economically viable and which provides safe and efficient vehicular and pedestrian customer access to the Site. By contrast, the ordering canopy will not detrimentally affect the health, safety, and welfare of the neighborhood or community. Accordingly, based on the balancing of the factors provided in NYS Town Law § 267-B(3)(b), CFA respectfully submits that the requested setback variances should be granted for the following reasons:

**NYS Town Law § 267-B(3)(b)(1) - Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variances.**

The neighborhood character near the Project Site is comprised entirely of commercial uses along existing commercial corridors. See Exhibit 8. The Project Site's side property line abuts a commercial parking lot for an existing restaurant while the parcel fronts on Route 250, a heavily trafficked commercial corridor.

As such, the proposed ordering canopy is consistent with the commercial development along Routes 250 and 441. Other nearby businesses, including McDonalds' drive-thru windows, Cam's Pizzeria and Moe's Grill, do not appear to meet the 80' front yard setback. See Exhibit 7. The side yard separating the Moe's and Panera Bread buildings is only slightly more than 20' in total. In this context, the relative proximity of the ordering canopy to Route 250 and the parking lot for Cam's Pizzeria is consistent with the character of the surrounding commercial area. Further, from Route 250, views of the proposed ordering canopy will be reduced by landscaping and the canopy will blend in with an aesthetically fitting restaurant. Finally, the location of the canopy near, but as far as possible from Route 250 meets the Town's neighborhood transitional requirements by buffering residential neighbors to the rear of the Site from commercial activities.

Therefore, the proposed front and side setback variances for the ordering canopy will not produce an undesirable change or detriment to the commercial character of the area.

**NYS Town Law § 267-B(3)(b)(2) - Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than area variances.**

Based on the limited access available to and from the Site from the shared access drives, CFA seeks the benefit of a viable Project with a safe, efficient drive-thru that separates drive-thru lanes from dine-in customers' parking and walking paths. This drive-thru design includes two lanes that accommodate up to fifty vehicles for efficient service for customers entering the Site from the shared access drives. The lanes wrap around the building rather than intrude upon internal parking areas, making the Site safer for pedestrians accessing the restaurant after parking in those areas. This layout has been successful at other Chick-fil-A restaurants across the country.

An ordering canopy is critical to CFA's drive-thru operations and its proposed location is required for efficient traffic flows entering the Site from the shared access drives. The proposed location of the canopy is also necessary in order to provide for pedestrian safety

by separating drive-thru traffic from pedestrians crossing internal parking areas to enter the restaurant. Due to the narrowness of the Site and its irregular shape, there is no alternative layout which would not require area variances and provide the same level of safety and efficiency for customers, or a viable project for CFA. Because of these physical constraints, relocating the ordering canopy further away from Route 250 and the parking area for Cam's Pizzeria is not feasible without substantially reducing vehicle stacking availability from the shared drives and parking required for the Project.

Accordingly, given the physical constraints of the Site, there is no feasible alternative to the granting of the requested area variances for the ordering canopy that would meet CFA's objective of a viable project that provides an efficient drive-thru for vehicles and safe internal parking areas for pedestrians.

**NYS Town Law § 267-B(3)(b)(3) - Whether the requested area variance is substantial.**

The requested side and front setback variances for the ordering canopy are not substantial because neither creates any adverse impact on surrounding properties and the environment. The ordering canopy is consistent with existing commercial development along Routes 250 and 441. Other nearby businesses, including McDonalds' drive-thru windows, Cam's Pizzeria and Moe's Grill, do not appear to meet the 80' front yard setback. See Exhibit 7. The side yard separating the Moe's and Panera Bread buildings is only slightly more than 20' in total. In this context, the relative proximity of the ordering canopy to Route 250 and the parking lot for Cam's Pizzeria is consistent with the character of the surrounding commercial area. Further, from Route 250, views of the proposed ordering canopy will be reduced by landscaping and the canopy will blend in with an aesthetically fitting restaurant. This will represent a significant improvement as compared to existing Site conditions consisting of vacant asphalt parking and gravel areas.

New York State courts have upheld area variances similar in size to the requested variance, particularly when granting the variance does not result in any adverse impacts, as is the case here. The parcel is surrounded by commercial corridors with similar setbacks found in proximity. See Exhibit 7. Finally, the addition of landscaping softens the appearance and meets the intent of the Town's zoning.

**NYS Town Law § 267-B(3)(b) (4) - Whether the proposed variances will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.**

As discussed above, granting the requested setback variances for the ordering canopy will have no adverse effects on the physical or environmental conditions in the neighborhood or district. The Project is proposed in the General Business zoning district within the Route 411/250 Overlay, characterized by commercial uses along two commercial corridors. Similar setbacks can be found within the commercial corridor. See Exhibit 7. Likewise, overall site design for the Project and proposed landscaping will improve the Project Site as compared to current conditions – the foundations of razed commercial structures, gravel and unmaintained asphalt parking lots.

CFA is a highly successful restaurant chain with hundreds of locations nationwide and the Project will contribute positively to commercial development in the neighborhood through the redevelopment of the Project Site with a new desirable and attractive restaurant and drive-thru. The Project will attract new businesses and customers to the area and increase taxes and jobs in the Town of Penfield. The Project represents a substantial investment in the community. Also, the new building has been designed to be architecturally consistent with the community style.

For the foregoing reasons, the requested variance will not adversely affect or impact the physical or environmental conditions in the neighborhood.

**NYS Town Law § 267-B(3)(b)(5) - Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the board of appeals but shall not necessarily preclude the granting of the area variance.**

The need for the variances is not a self-created difficulty. As discussed above, the ordering canopy and requested area variances are critical to the feasibility of the Project. The shared access to the Project Site, the parcel shape and the Project Site location between existing commercial uses, significantly limit CFA's options for locating the proposed ordering canopy absent the need for the requested variances. The proposed Site layout and location of the ordering canopy provide for efficient drive-thru access from the shared drives. Additionally, by wrapping the ordering canopy and drive-thru lanes around the outside of the building, CFA seeks to provide for the safety of its dine-in customers by separating parking areas from the vehicle drive-thru lanes. The need for the requested variances for the ordering canopy arises from the physical constraints of a narrow and irregularly-shaped site, combined with the limitations of access to and from the Site from the shared access drives.

Because these physical site constraints are not of CFA's creation, the difficulty is not self-created.

**The Statutory Balancing Test Favors Granting the Requested Area Variances**

The statutory "balancing test" of NYS Town Law § 267-B(3)(b) requires the ZBA to consider the "benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant." Based on the foregoing, granting the requested variances will allow CFA to achieve the benefit of a viable Project with a safe, efficient drive-thru that separates drive-thru lanes from dine-in customers' parking and walking paths. By contrast, granting the requested area variances for the ordering canopy will not detrimentally affect the health, safety, and welfare of the surrounding commercial properties. Accordingly, the statutory "balancing test" favors the granting of the requested area variances for the ordering canopy.

## (2) SPECIAL USE PERMIT FOR SIGNAGE

The Project requires a Special Use Permit under Zoning Code § 250-10.3 for three of the four wall signs on the sides of the building intended to guide customers from the surrounding highways and the shared access drives to the Project.

The site will predominantly attract traveling customers from Route 250 and the shared access drives from Route 441. As a result, signage visible from Route 250 and the shared access drives is critical to ensuring the Project's ability to attract a sufficient customer base from the highways and for customers to be guided to the restaurant from the shared access drives.

### **Special Use Permit Review Standards**

Zoning Code § 250-10.3(B) provides the applicable standards for the Zoning Board of Appeals to consider in determining whether to grant a Special Use Permit for the signage proposed by CFA. As discussed below, CFA respectfully submits that the proposed signage for the Project complies with these standards and the granting of the requested Special Use Permit is appropriate.

#### **Zoning Code § 250-10.3(B)(1) - The proposed signage is in harmony with the standards for permitted signs and within the spirit of this article.**

The proposed wall signs are consistent with the spirit of Penfield's zoning standards. All of the wall signs are located on the restaurant itself and comply with the square footage allowed for wall signs provided by the Zoning Code. See Zoning Code § 250-10.13(A), (B).

Further, given the unique circumstances with respect to customer access to the Project Site from the shared access drives, wall signs that ensure identification of the restaurant building from both Route 250 and from vehicles traveling along the winding shared access drives around the Site are consistent with the intent of the Zoning Code's standard for allowing identification of a business with a wall sign on the business. See Zoning Code § 250-10.13(C).

Specifically, vehicular access to the restaurant occurs from several directions via the shared access drives surrounding the Site, making identification of CFA's restaurant difficult without the requested wall signs. The shared access drive from Route 441 leads traveling customers on a winding 1,000' approach to the Project Site from the north that makes identification of businesses and their accesses challenging. Wall signs on the northern and eastern sides of CFA's restaurant are required to allow for the identification of the location of the restaurant by travelers approaching the restaurant along the shared drives from Route 441. The shared drive continues along the eastern edge of the Site before turning west to where it provides access to the Project from Route 250. A wall sign on the southern wall of the restaurant is critical for identification of the restaurant by northbound travelers on Route 250 before they pass the shared access driveway on the southern side of the Site. Accordingly, signage on all four walls is necessary to allow customers to identify the location of CFA's restaurant both from Route 250 and from the shared access drives surrounding the Site consistent with the intent of Zoning Code § 250-10.13(C).



**Zoning Code § 250-10.3(B)(2) - The proposed signage shall be compatible with and not be detrimental to neighborhood properties.**

The proposed signage for CFA's restaurant is consistent with other commercial development along Routes 250 and 441, a busy commercial corridor characterized by businesses with substantial existing wall signage. See Exhibit 7. Additionally, other nearby buildings have multiple wall signs. For example, Panera is on the corner of a shared access driveway and has two wall signs on the building. See Exhibit 7. The recently constructed Burger King fast food restaurant also has shared access to Route 250 and has three wall signs on the south, west and north exterior walls of the building. See Exhibit 7. In this context, CFA's proposed wall signage will be compatible with and not detrimental to neighborhood properties.

**Zoning Code § 250-10.3(B)(3) - The proposed signage does not, by reason of its location, create a hazard of any nature to the public in general or to any owner or occupant of neighborhood properties.**

As shown on the Project's Sign Survey (See Exhibit 4), Exterior Elevations (See Exhibit 5) and in the context of the surrounding commercial corridors, the Project's wall signage will not result in any measurable adverse impacts or create a hazard to the neighborhood, the public or environment. Proposed signage matches existing signage found through the Route 441/250 commercial corridor. In fact, the Project Site would appear out of place without adequate signage for wayfinding and identification of the building as a restaurant.

**Zoning Code § 250-10.3(B)(4) - The proposed signage does not in any way interfere with the lawful and aesthetic enjoyment of the public highway or neighborhood properties.**

As shown on the Project's Sign Survey (See Exhibit 4) Exterior Elevations (See Exhibit 5) and in the context of the surrounding commercial corridors, the Project's wall signage will not result in any measurable adverse impacts or create a hazard to the neighborhood, the public or environment. The proposed signage does not feature distracting, flashing LED lights or any other unusual features. Instead, the signage fits aesthetically in with the commercial uses in this intensively developed commercial area along Routes 250 and 441. See Exhibit 7.

**Zoning Code § 250-10.3(B)(5) - Where applicable, the proposed signage is necessary to adequately identify the business(es).**

As discussed above, the proposed wall signage is necessary to ensuring that customers are able to identify the location of CFA's restaurant both from Route 250 and from the winding, shared access drives surrounding the Site. The shared access drive from Route 441 leads traveling customers on a winding 1,000' approach to the Project Site from the north that makes identification of businesses and their accesses challenging. Wall signs on the northern and eastern sides of CFA's restaurant are required to allow for the identification of the location of the restaurant by travelers approaching the restaurant along the shared

drive from Route 441. The shared drive continues along the eastern edge of the Site before turning west to where it provides access to the Project from Route 250. A wall sign on the southern wall of the restaurant is critical for identification of the restaurant by northbound travelers on Route 250 before they pass the shared access driveway on the southern side of the Site. Signage on all four walls is thus necessary to allow customers to identify the location of CFA's restaurant both from Route 250 and from the shared access drives surrounding the Site consistent with the intent of Zoning Code § 250-10.13(C). Accordingly, signage on all four walls is necessary to allow customers to identify the location of CFA's restaurant both from Route 250 and from the shared access drives surrounding the Site consistent with the intent of Zoning Code § 250-10.13(C).

**CFA's Proposed Wall Signs Comply with Standard for Issuance of Special Use Permit**

Overall, as discussed above, the signage complies with the Zoning Code's Special Use Permit Standards for signage (See Zoning Code § 250-10.3(B)) because the proposed wall signs are compatible with the existing commercial corridor signs and yet do not impair the general health, safety or welfare of the community. The signs meet the intent of the Zoning Code in permitting signage on exterior walls that face parking lots or roadways without impairing the aesthetics of the neighborhood. Finally, they are critical to identifying CFA's restaurant for traveling customers, both from Route 250 and from the shared access drives surrounding the Site.

**Conclusion**

Based on the foregoing, granting the approvals sought by the Application for the canopy and signage will not detrimentally affect the health, safety, and welfare of the surrounding commercial properties or the community. By contrast, granting the Application will create a number of benefits: it will allow CFA to achieve a viable restaurant on the Project Site; it will improve the visibility of the Project Site; it will improve existing conditions by redeveloping an existing vacant commercial site; it will create new taxes and jobs for the Town of Penfield; and, lastly, it will allow CFA to offer quality food at affordable prices with a safe and convenient drive-thru experience for the local community.

Thank you kindly for your attention to CFA's Application. We look forward to discussing this matter with you at the ZBA's upcoming meeting. Please let me know if you have any questions on the materials submitted.

Very truly yours,

*/s/ David R. Everett*

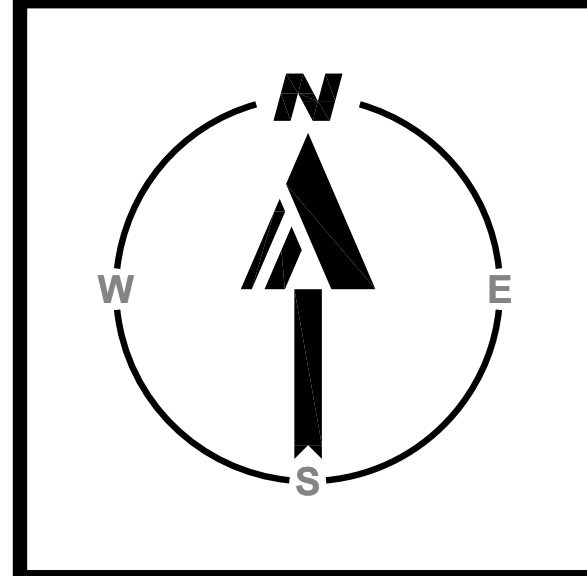
David R. Everett

Encs.

c: Andy Savages, Zoning Administrator  
Town of Penfield Planning Board  
Clint Mattson (CFA)  
Timothy Freitag, P.E. (Bohler)

# **EXHIBIT 3**





**ZONING ANALYSIS TABLE - LOT 2-4.1/PERK**

ZONING DISTRICT	GB - GENERAL BUSINESS		
OVERLAY DISTRICT	250 / 441 OVERLAY DISTRICT		
REQUIRED PERMIT	SITE PLAN APPROVAL, CONDITIONAL USE PERMIT		
ZONE CRITERIA	REQUIRED	EXISTING	PROPOSED
MIN. LOT AREA	N/A	±54,653 SF ±1.48 ACRES	±83,960 SF ±1.93 ACRES
MIN. LOT WIDTH	N/A	±86.4'	±86.4'
MAX. BLDG COVERAGE	65%	N/A	±6.6%
MIN. FRONT SETBACK	80'	N/A	±71.65' (CANOPY) (V) / ±81.14 BLDG
MIN. SIDE SETBACK	20'	N/A	±8.32' (CANOPY) (V) / ±55.98 (BLDG)
MIN. REAR SETBACK	30'	N/A	±156.4' (CANOPY) / ±160.3' (BLDG)
MAX. BUILDING HEIGHT	40'	N/A	<±24'
MAX. IMPER. COVERAGE	70%	±53,725 SF ±83.1%	±57,865 SF ±85.9%
PARKING SPACES	81	92	±81
ACCESS. PARKING SPACES	4	3	±4
PARKING STALL CRITERIA STANDARD: 9 FT X 18 FT	USE CATEGORY: RESTAURANT	REQUIREMENT: 1.5 SPACES PER 2 PERSONS OF LEGAL OCCUPANCY PLUS ONE FOR EACH EMPLOYEE	
	REQUIREMENT CALCULATION:	94 PERSONS / 2 PERSONS * 1.5 SPACES + 10 EMPLOYEES = 81 SPACES	

**ZONING ANALYSIS TABLE - LOT 6.998**

ZONING DISTRICT	GB - GENERAL BUSINESS		
OVERLAY DISTRICT	250 / 441 OVERLAY DISTRICT		
REQUIRED PERMIT	SITE PLAN APPROVAL, CONDITIONAL USE PERMIT		
ZONE CRITERIA	REQUIRED	EXISTING	PROPOSED
MIN. LOT AREA	N/A	±157,563 SF ±3.62 ACRES	±138,239 SF ±3.17 ACRES
MIN. LOT WIDTH	N/A	±14.5'	±14.5'
MAX. BLDG COVERAGE	65%	N/A	±0%
MIN. FRONT SETBACK	80'	N/A	N/A
MIN. SIDE SETBACK	20'	N/A	N/A
MIN. REAR SETBACK	30'	N/A	N/A
MAX. BUILDING HEIGHT	40'	N/A	N/A
MAX. IMPER. COVERAGE	70%	±42,771 SF ±27.2%	±37,332 SF ±27.0%
PARKING SPACES	N/A	0	0
ACCESS. PARKING SPACES	N/A	0	0



**REVISIONS**

REV	DATE	COMMENT	BY
1	2022-06-03	PER TOWN COMMENTS	KHB
2	2022-07-07	PER TOWN COMMENTS	KHB
3			
4			
5			
6			
7			
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9			
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11			
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14			

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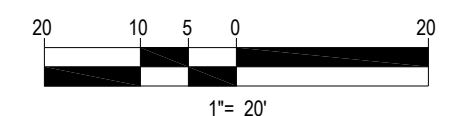
SHEET TITLE  
**SITE RENDER**

Legend:  
 Preliminary  
 80% Submittal  
 For Construction

Job No. : B210218  
Store : #05071  
Date : 04/28/2022  
Drawn By : KHB  
Checked By : TCF

Sheet  
**1**

**GENERAL NOTE**  
IT IS THE RESPONSIBILITY OF THE CONTRACTOR TO REVIEW ALL OF THE DRAWINGS AND SPECIFICATIONS ASSOCIATED WITH THE PROJECT WORK SCOPE PRIOR TO THE INITIATION OF CONSTRUCTION. SHOULD THE CONTRACTOR FIND A CONFLICT WITH THE DOCUMENTS RELATIVE TO THE SPECIFICATIONS OR APPLICABLE CODES, IT IS THE CONTRACTOR'S RESPONSIBILITY TO NOTIFY THE PROJECT ENGINEER OR RECORD IN WRITING PRIOR TO THE START OF CONSTRUCTION. FAILURE BY THE CONTRACTOR TO NOTIFY THE PROJECT ENGINEER SHALL CONSTITUTE ACCEPTANCE OF FULL RESPONSIBILITY BY THE CONTRACTOR TO COMPLETE THE SCOPE OF THE WORK AS DEFINED BY THE DRAWINGS AND ALL CONFORMANCE WITH LOCAL REGULATIONS AND CODES.



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LANDS N/F OF  
CARMELA SPINOSA  
BK. 11174, PG. 665  
SECTION 140.01 BLOCK 2 LOT 1.1

ZONE: GB  
(GENERAL BUSINESS)

LANDS N/F OF  
JAMES TRAU  
BK. 10898, PG. 687  
SECTION 140.01 BLOCK 2 LOT 6.1

LANDS N/F OF  
DIPRIMA PROPERTIES III, LLC  
BK. 10790, PG. 219  
SECTION 140.01 BLOCK 2 LOT 3

ZONE: GB  
(GENERAL BUSINESS)

LANDS N/F OF  
JOHN & CAROL VENTURA  
BK. 9825, PG. 12  
SECTION 140.01 BLOCK 4 LOT 34.22

ZONE: R-1-15  
(RESIDENTIAL)

PARCEL 2  
SECTION 140.01 BLOCK 2 LOT 6.998  
AREA: 3.617 ACRES

LANDS N/F OF  
HUNG TRAN & HA NGUYEN  
BK. 9817, PG. 450  
SECTION 140.01 BLOCK 4 LOT 34.21

LANDS N/F OF  
MICHAEL & DIANNE CURRY  
BK. 8627, PG. 527  
SECTION 140.01 BLOCK 4 LOT 34.19

LANDS N/F OF  
WILLARD & ISABELLA WALTERS  
BK. 8324, PG. 577  
SECTION 140.01 BLOCK 4 LOT 34.18

LANDS N/F OF  
MALCHO'S 2140 FAIRPORT-NINE MILE  
POINT HOLDINGS, LLC  
BK. 11776, PG. 421  
SECTION 140.01 BLOCK 2 LOT 5.1

ZONE: GB  
(GENERAL BUSINESS)

LANDS N/F OF  
2146 FAIRPORT NINE MILE POINT LLC

ZONING ANALYSIS TABLE - LOT 2-4.1IPERK			
ZONING DISTRICT	GB - GENERAL BUSINESS		
OVERLAY DISTRICT	250 / 441 OVERLAY DISTRICT		
REQUIRED PERMIT	SITE PLAN APPROVAL, CONDITIONAL USE PERMIT		
ZONE CRITERIA	REQUIRED	EXISTING	PROPOSED
MIN. LOT AREA	N/A	±1.48 ACRES	±1.93 ACRES
MIN. LOT WIDTH	N/A	±86.4'	±86.4'
MAX. BLDG COVERAGE	65%	N/A	±6.6%
MIN. FRONT SETBACK	80'	N/A	±71.65' (CANOPY) (V) / ±81.14 BLDG
MIN. SIDE SETBACK	20'	N/A	±8.32' (CANOPY) (V) / ±55.98 (BLDG)
MIN. REAR SETBACK	30'	N/A	±156.4' (CANOPY) / ±160.3' (BLDG)
MAX. BUILDING HEIGHT	40'	N/A	<±24'
MAX. IMPER. COVERAGE	70%	±83.1%	±68.9%
PARKING SPACES	81	92	±81
ACCESS. PARKING SPACES	4	3	±4
PARKING STALL CRITERIA STANDARD: 9 FT x 18 FT	USE/CATEGORY: RESTAURANT	REQUIRED PARKING: 1.5 SPACES PER 2 PERSONS OF LEGAL OCCUPANCY PLUS ONE FOR EACH EMPLOYEE CALCULATION: 94 PERSONS / 2 PERSONS * 1.5 SPACES + 10 EMPLOYEES = 81 SPACES	

ZONING ANALYSIS TABLE - LOT 6.998			
ZONING DISTRICT	GB - GENERAL BUSINESS		
OVERLAY DISTRICT	250 / 441 OVERLAY DISTRICT		
REQUIRED PERMIT	SITE PLAN APPROVAL, CONDITIONAL USE PERMIT		
ZONE CRITERIA	REQUIRED	EXISTING	PROPOSED
MIN. LOT AREA	N/A	±3.62 ACRES	±3.17 ACRES
MIN. LOT WIDTH	N/A	±14.5'	±14.5'
MAX. BLDG COVERAGE	65%	N/A	±0%
MIN. FRONT SETBACK	80'	N/A	N/A
MIN. SIDE SETBACK	20'	N/A	N/A
MIN. REAR SETBACK	30'	N/A	N/A
MAX. BUILDING HEIGHT	40'	N/A	N/A
MAX. IMPER. COVERAGE	70%	±27.2%	±27.0%
PARKING SPACES	N/A	0	0
ACCESS. PARKING SPACES	N/A	0	0



Chick-fil-A  
5200 Buffington Rd.  
Atlanta Georgia, 30349-2998

REVISIONS				
REV	DATE	COMMENT	BY	
1	2022-06-03	PER TOWN COMMENTS	KHB	
2	2022-07-07	PER TOWN COMMENTS	KHB	
3				
4				
5				
6				
7				
8				
9				
10				
11				
12				
13				
14				

W.D. GOEBEL  
PROFESSIONAL ENGINEER  
MASSACHUSETTS LICENSE No. 42664-C  
CONNECTICUT LICENSE No. 7298  
NEW HAMPSHIRE LICENSE No. 10290  
NEW YORK LICENSE No. 9490  
FLORIDA LICENSE No. 66292

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Series  
P14-SE-LARGE  
2130 FAIRPORT NINE MILE POINT  
ROAD  
TOWN OF PENFIELD  
MONROE COUNTY  
STATE OF NEW YORK

SHEET TITLE  
**SITE PLAN**

Preliminary  
 80% Submittal  
 For Construction

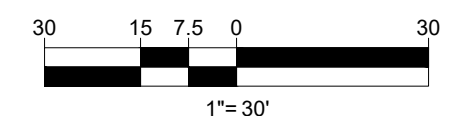
Job No. : B210218  
Store : #05071  
Date : 04/28/2022  
Drawn By : KHB  
Checked By : TCF

Sheet  
**C-2.0**

APPROVALS	
TOWN OF PENFIELD ENGINEERING AND PLANNING SIGNATURE	DATE
TOWN OF PENFIELD DIRECTOR OF PUBLIC WORKS SIGNATURE	DATE
TOWN OF PENFIELD TOWN CLERK SIGNATURE	DATE
TOWN OF PENFIELD FIRE MARSHAL SIGNATURE	DATE
TOWN OF PENFIELD PLANNING BOARD CHAIRPERSON SIGNATURE	DATE

**THIS PLAN TO BE UTILIZED FOR SITE LAYOUT PURPOSES ONLY. REFER TO GENERAL NOTES SHEET FOR ADDITIONAL NOTES**

GENERAL NOTE  
IT IS THE RESPONSIBILITY OF THE CONTRACTOR TO REVIEW ALL OF THE DRAWINGS AND SPECIFICATIONS ASSOCIATED WITH THIS PROJECT. WORK SHALL BE IN ACCORDANCE WITH ALL APPLICABLE CODES. IT IS THE CONTRACTOR'S RESPONSIBILITY TO NOTIFY THE PROJECT ENGINEER IN RECORDING WRITING PRIOR TO THE START OF CONSTRUCTION. FAILURE BY THE CONTRACTOR TO NOTIFY THE PROJECT ENGINEER SHALL CONSTITUTE ACCEPTANCE OF FULL RESPONSIBILITY BY THE CONTRACTOR TO COMPLETE THE SCOPE OF THE WORK AS DEFINED BY THE DRAWINGS AND ALL APPLICABLE REGULATIONS AND CODES.



P:\210218\210218-CAD\Drawings\Plan\_Sheet\Site Plan\B210218-SPPD-10.dwg, 01-08-2022, 10:17:14 AM, lboach, Xref:0101.dwg, User:DLK, 1.1

# **EXHIBIT 5**





## EXTERIOR ELEVATION



## EXTERIOR ELEVATION

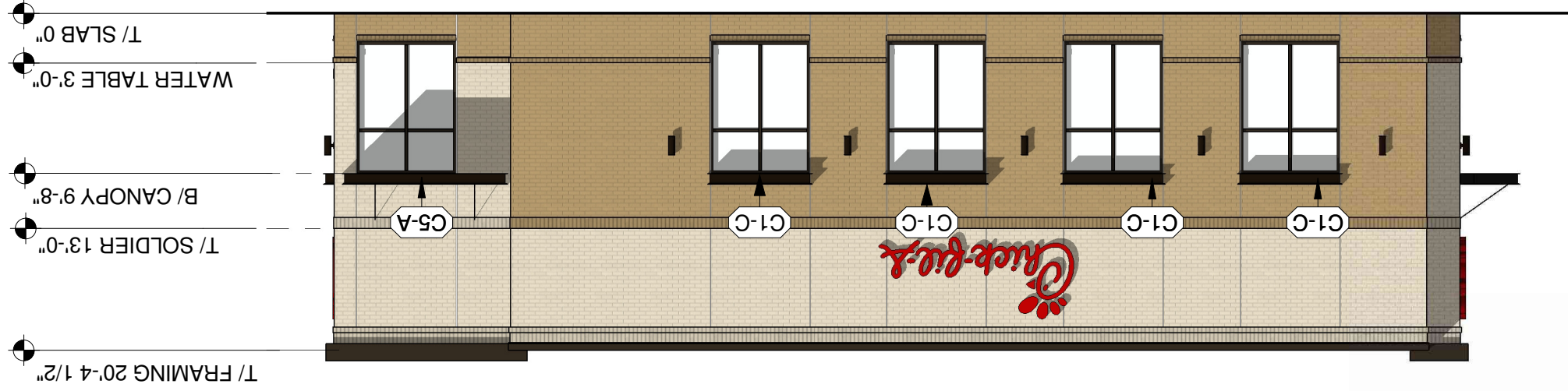
### EXTERIOR ELEVATIONS



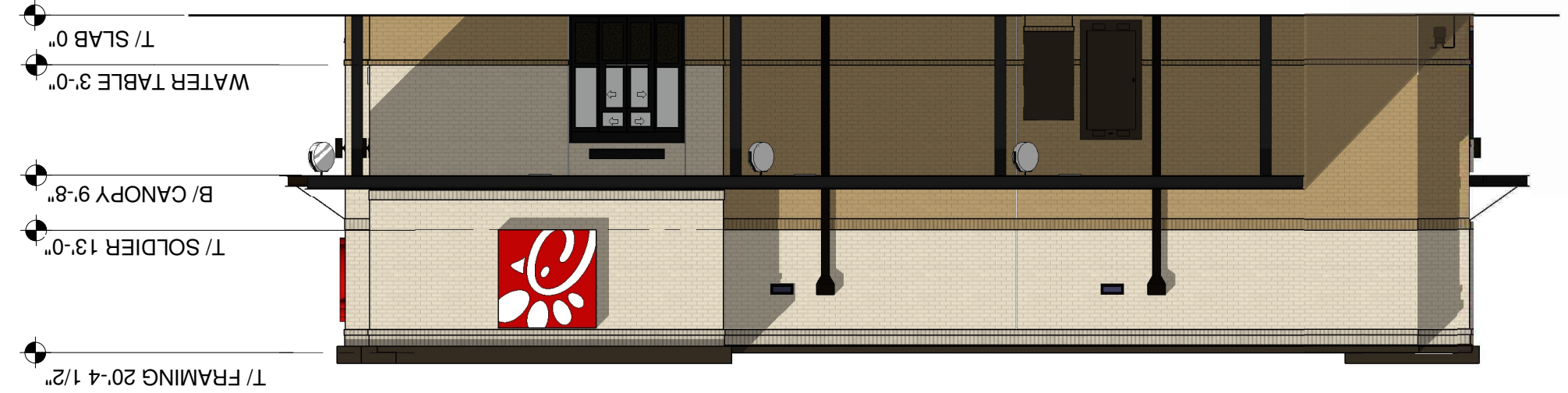
04/05/22

EXTERIOR ELEVATIONS

EXTERIOR ELEVATION



EXTERIOR ELEVATION



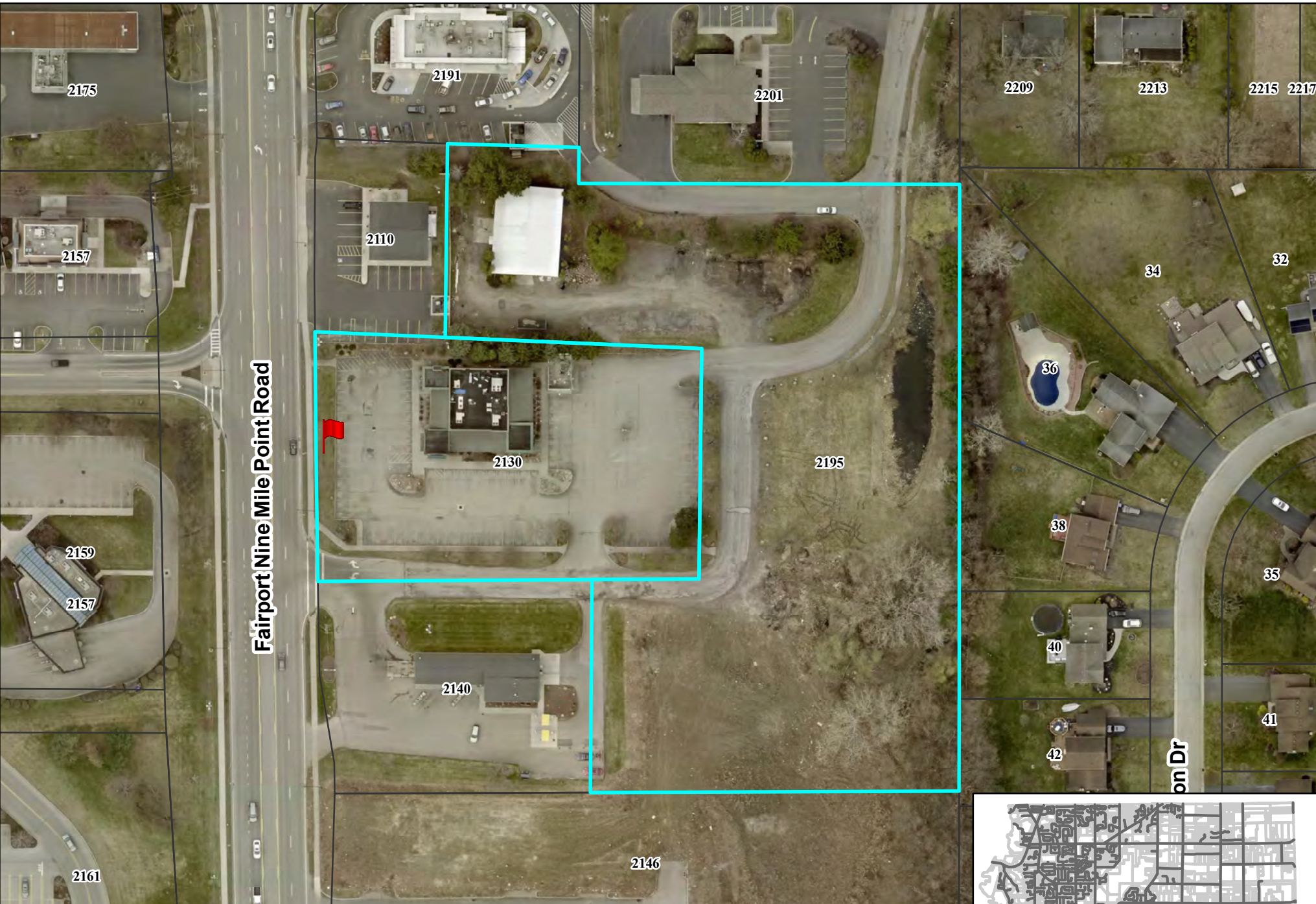
**EXTERIOR FINISHES**

<p><b>EC-1</b>                  PREFINISHED METAL COPING                  COLOR: DARK BRONZE</p> 	<p><b>BR-4</b>                  BRICK VENEER                  COLOR: V100                  SIZE: MODULAR                  MORTAR: ARGOS SAN TAN</p> 
<p><b>PI-9</b>                  EXTERIOR PAINT                  COLOR: DARK BRONZE                  FINISH: SEMI-GLOSS</p> 	<p><b>BR-3</b>                  BRICK VENEER                  COLOR: CITADEL                  SIZE: MODULAR                  MORTAR: ARGOS SAN TAN</p> 
<p><b>SI-1</b>                  STOREFRONT                  COLOR: DARK BRONZE</p> 	

**ATTACHED CANOPY SCHEDULE**

Mark	Description	Count	Width	Depth	Tie Back Mounting	Integral Lighting
C1-A	Exterior Canopy	1	3'-9"	1'-0"	0"	Yes
C1-B	Exterior Canopy	3	5'-8"	1'-0"	0"	No
C1-C	Exterior Canopy	7	6'-4"	1'-0"	0"	No
C3-B	Exterior Canopy	1	15'-0"	3'-6"	2'-4"	Yes
C4-F	Exterior Canopy	1	6'-6"	4'-0"	2'-4"	No
C4-M	Exterior Canopy	1	17'-4"	4'-0"	2'-4"	No
Grand total 14						





Fairport Nine Mile Point Road

### 2130 Frpt. Nine Mile Pt. Rd. Farmen and Sons Sign Map



The Town of Penfield certifies that this GIS document is a digital reproduction of a map or data collected in-house by the Town of Penfield for the convenience and use by the Public and Town Staff. The Town of Penfield does not make any representations, expressed or implied, as to the accuracy of such record(s). Imagery Source: EagleView, 2021

