

APPLICATION TO BOARD OF APPEALS

Tel. No. _____

Appeal No. _____

Date 11/7/22

TO THE ZONING BOARD OF APPEALS, WEST SENECA, NEW YORK:

I (we) Tara Bennett w/ Broadway Group of 216 Westside Square

Huntsville AL 35801, HEREBY APPEAL TO THE ZONING BOARD OF APPEALS FROM THE DECISION OF THE BUILDING INSPECTOR ON AN APPLICATION FOR A BUILDING PERMIT, WHEREBY THE BUILDING

INSPECTOR DID DENY PERMIT TO: 3 variance requests

- A PERMIT FOR USE
- A PERMIT FOR OCCUPANCY
- A TEMPORARY PERMIT OR EXTENSION THEREOF
- A CERTIFICATE OF EXISTING USE
- A CERTIFICATE OF ZONING COMPLIANCE
- AREA PERMIT

1. Applicant is the PROPERTY OWNER
 CONTRACTOR FOR THE WORK CONCERNED HEREIN
 PROSPECTIVE TENANT
 OTHER (Describe) _____

2. LOCATION OF THE PROPERTY 3030 + 3036 Seneca St.

3. State in general the exact nature of the permission required, _____

4. PREVIOUS APPEAL. No previous appeal has been made with respect to this decision of the Building Inspector or with respect to this property, except the appeal made in Appeal No. _____, dated _____, 20_____.

5. REASON FOR APPEAL.

A. A Variance to the Zoning Ordinance is requested because strict application of the ordinance would produce undue hardship, or the hardship created is unique and is not shared by all properties alike in the immediate vicinity of this property and in this use district, or the variance would observe the spirit of the ordinance and would not change the character of the district because: _____

(See Letter)

B. Interpretation of the Zoning Ordinance is requested because: _____

C. A Special or Temporary Permit or an Extension thereof Under the Zoning Ordinance is requested pursuant to Article _____, Section _____, Subsection _____, Paragraph _____ of the Zoning Ordinance, because: _____

Tara Michelle Bennett
Applicant's Signature

TO BE COMPLETED BY THE BUILDING INSPECTOR

1. Provision(s) of the Zoning Ordinance Appealed, including article, section, subsection or paragraph of the Zoning Ordinance

① 120-31(B) Front setback 40'; Requesting 9'

② 120-41(D) 63 parking spaces required; Requesting 45 spaces

2. Zoning Classification of the property concerned in this appeal ③ 120-44 B(2) 10' parking setback req;

3. Type of Appeal:

- Variance to the Zoning Ordinance.
- Interpretation of the Zoning Ordinance or Zoning Map.
- Special or Temporary Permit or an extension thereof under the Zoning Ordinance.

Requesting six areas from 0', 1', 2', 3', 3', 5'

4. A statement of any other facts or data which should be considered in this appeal. _____

Building Inspector DB



216 West Side Square, Huntsville, AL 35801 • Phone: 256-533-7287 • Fax: 256-533-7236

November 4, 2022

Town of West Seneca
1250 Union Road
West Seneca, NY 14224

RE: 3030 and 3036 Seneca Street
ZBA Area Variance Request

Dear Zoning Board,

Please accept this as our request to present our variance request at the 12/7/22 Zoning Board meeting.

As a brief overview, the "Project" includes redevelopment of property commonly known as 3030 and 3036 Seneca Street. Both lots are zoned as the C-2 District. Our plans include the demolition of the existing structures and construction of a new retail store. The proposed store will be approximately 10,640 sq ft and will provide general variety merchandise to serve the everyday needs of the surrounding community. Our plan will include storm water management, connection to public utilities, landscaping, building façade enhancements, and on-site parking spaces sufficient for store operations. Additionally, the project will require combination of the 2 lots (SBL 134.13-4-1 and 134.13-4-2). We respectfully request your approval of area variances for the building setback, parking area setback, and to reduce the required number of parking stalls to 45.

A survey and site layout of the proposed development is enclosed along with a conceptual architectural rendering of the store. We are scheduled to present the project at a sketch plan review with the Planning Board on 11/10/22.

Building Setback

Article III of the Code provides the standards applicable for Bulk Regulations.

§ 120-31 B: *In any C District. (1) Front Yard: 40 feet*

Summary Response: The triangular shaped lot has two road frontages requiring front yard setbacks. Due to this, the north side of the building is proposed with a 9 ft setback. The reduced setback is consistent with commercial development in the area. For example, the existing developments on the subject property also do not meet the full setback requirement nor does the adjacent operating business. Because the benefit to the Applicant greatly exceeds any detriment to the health, safety and welfare of the neighborhood or community, we respectfully request that the area variance be granted.

Off-street Parking

Article IV of the Code provides the standards applicable for off-street parking.

- § 120-41 D: *Individual Retail Stores - 6 spaces for each 1,000 square feet of gross floor area*
- § 120-44 B(2): *In any C or M District. No open or enclosed off-street parking space shall be permitted within 10 feet of any street line or within 10 feet of any R District boundary.*

Summary Response: Based on § 120-41 D, 63 parking spaces would be required for the proposed 10,640 sq ft store. With the operational experience of over 18,000 similar stores, the proposed store needs fewer number of spaces to function properly and not impact adjacent roadways or uses. Forty-five (45) parking spaces for a store of this size sufficiently meets the demand even during peak shopping times and seasons. The required parking spaces would eliminate greenspace and increase stormwater runoff – both of which are unnecessary negative side effects of excessive parking.

Regarding the 10 ft parking stall area setback from the street line described in § 120-44 B(2), the existing development on this site has parking and pavement extending to and even past the property boundary. The proposed project improves the current situation by providing a grassy and/or landscaped areas between the street line and the parking area. Because the benefit to the Applicant greatly exceeds any detriment to the health, safety and welfare of the neighborhood or community, we respectfully request that the area variance be granted.

Area Variance Request Criteria

The State of New York defines the standards for the Zoning Board of Appeals (“ZBA”) to apply when considering requests for variances. The applicable provisions are set forth below.

[1] In making its decision, the ZBA shall take into consideration the benefit to the applicant if the variance is granted, as weighted against the detriment to the health, safety and welfare of the community by such grant. In making such determination the Board shall also consider:

[a] 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 variance.

Response: The front yard setback does not create an undesirable change because it is consistent with the existing character of other developments which have a more narrow setback. The building is proposed to provide an elevated appearance which will complement and improve the streetscape along Center Rd.

The parking area variances reduce the overall footprint of the Project, and by extension, impervious surfaces and stormwater runoff associated therewith, the requested area variances will have a positive impact. Through thousands of similarly sized stores in operation, including several stores in the communities nearby the Town of West Seneca, the developer has demonstrated that the proposed 45 spaces are fully adequate to meet the demand of the store. Thus, the number of stalls proposed avoids negative impacts on the neighborhood or nearby properties from insufficient parking. Finally, the reduced parking area setback is consistent with existing developments in the area and is an improvement over the existing conditions on the Project site. Therefore, the variance will not produce an undesirable change.

[b] Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance.

Response: The Applicant considered alternate options but could not feasibly provide the 40 ft front yard setback, parking area setback, and full number of parking stalls without an area variance. The project site has a triangular shape and is boarded by streets on two sides which limits the layout options. Therefore, due to the unique characteristics of this property, the options available to the Applicant are not feasible to pursue.

[c] Whether the requested area variance is substantial.

Response: The requested variances are not substantial because they do not cause negative impacts on adjacent properties. Also, the parking stall variance limits the physical disturbance even though it is numerically a 28% reduction in the required spaces.

[d] Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

Response: The requested variances will have a positive impact on the physical or environmental conditions in the neighborhood or district by increasing greenspace, reducing impervious areas, and reducing stormwater runoff. It allows for a new, attractive development to elevate the appearance of these underutilized lots.

[e] 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.

Response: The difficulty is not entirely self-created. The driving factor for the variance is the triangular lot shape.

[2] The ZBA, in the granting of area variances, shall grant the minimum variance that it shall deem necessary and adequate and at the same time, preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

Response: By granting the requested variances, the ZBA would preserve and protect the character of the neighborhood without negatively impacting the health, safety and welfare of the community.

For the reasons set forth above, the Applicant believes that the requested area variances to reduce the front yard setback, parking stall setback, and number of parking stalls is in the best interests of the community and as such, should be granted.

We appreciate the consideration of our request for variance and look forward to discussing it further with the ZBA as soon as is practicable.

If further information is needed to process our request to appear before the ZBA, please contact me at tara.bennett@broadwaygroup.net or (256) 533-7287.

Sincerely,

A handwritten signature in cursive script that reads "Tara Bennett".

Tara Bennett
Development Manager

Enclosures: Site Plan, Survey, SEQR, Fee, Conceptual Architectural Rendering

Cc: Marc A. Romanowski, Esq.

Conceptual Architectural Rendering



Short Environmental Assessment Form
Part 1 - Project Information

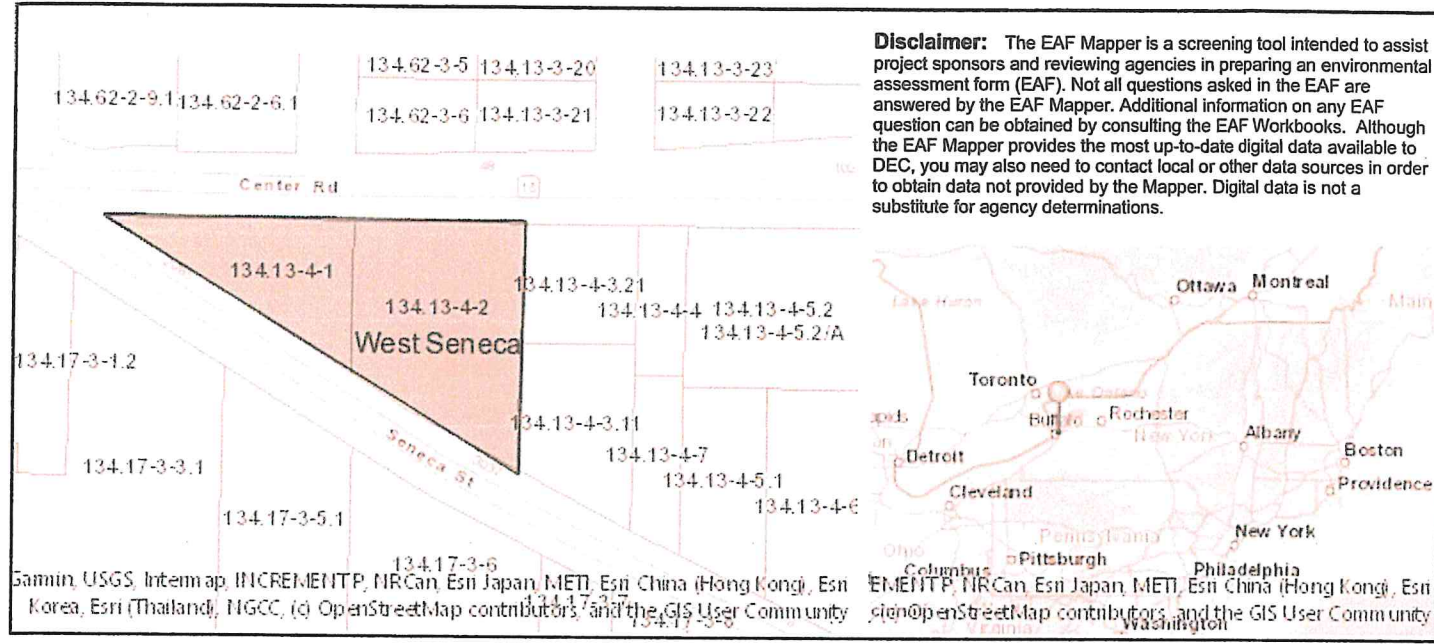
Instructions for Completing

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			
Name of Action or Project: New Retail Store - Lancaster, NY			
Project Location (describe, and attach a location map): 3030 and 3036 Seneca Street, Lancaster, NY 14224			
Brief Description of Proposed Action: Redevelopment of property to construct a +/-10,640 sq ft single-tenant retail store. The project will include parking area, exterior lighting, landscaping, and stormwater management. It will require demolition of the existing structures and revision of existing driveway locations. The project will include the combination of 2 lots and will require area variances for setback and parking stalls.			
Name of Applicant or Sponsor: The Broadway Group, LLC		Telephone: (256) 533-7287 E-Mail: tara.bennett@broadwaygroup.net	
Address: PO Box 18968			
City/PO: Huntsville		State: AL	Zip Code: 35804
1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation? 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.		NO <input type="checkbox"/>	YES <input type="checkbox"/>
2. Does the proposed action require a permit, approval or funding from any other government Agency? If Yes, list agency(s) name and permit or approval: Town (Variance, Site Approval, Bldg Permit, MS4); County (Access, ROW improvements, Utility); NYSDEC		NO <input type="checkbox"/>	YES <input checked="" type="checkbox"/>
3. a. Total acreage of the site of the proposed action? _____ 1.20 acres b. Total acreage to be physically disturbed? _____ 1.20 acres c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor? _____ 1.20 acres			
4. Check all land uses that occur on, are adjoining or near the proposed action:			
5. <input type="checkbox"/> Urban <input type="checkbox"/> Rural (non-agriculture) <input type="checkbox"/> Industrial <input checked="" 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			

5. Is the proposed action, a. A permitted use under the zoning regulations? b. Consistent with the adopted comprehensive plan?	NO	YES	N/A
	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
6. Is the proposed action consistent with the predominant character of the existing built or natural landscape?	NO	YES	
	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
7. Is the site of the proposed action located in, or does it adjoin, a state listed Critical Environmental Area? If Yes, identify: _____	NO	YES	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
8. a. Will the proposed action result in a substantial increase in traffic above present levels? b. Are public transportation services available at or near the site of the proposed action? c. Are any pedestrian accommodations or bicycle routes available on or near the site of the proposed action?	NO	YES	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
9. Does the proposed action meet or exceed the state energy code requirements? If the proposed action will exceed requirements, describe design features and technologies: _____ _____	NO	YES	
	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
10. Will the proposed action connect to an existing public/private water supply? If No, describe method for providing potable water: _____	NO	YES	
	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
11. Will the proposed action connect to existing wastewater utilities? If No, describe method for providing wastewater treatment: _____	NO	YES	
	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
12. a. Does the project site contain, or is it substantially contiguous to, a building, archaeological site, or district which is listed on the National or State Register of Historic Places, or that has been determined by the Commissioner of the NYS Office of Parks, Recreation and Historic Preservation to be eligible for listing on the State Register of Historic Places? b. Is the project site, or any portion of it, located in or adjacent to an area designated as sensitive for archaeological sites on the NY State Historic Preservation Office (SHPO) archaeological site inventory?	NO	YES	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
13. a. Does any portion of the site of the proposed action, or lands adjoining the proposed action, contain wetlands or other waterbodies regulated by a federal, state or local agency? b. Would the proposed action physically alter, or encroach into, any existing wetland or waterbody? If Yes, identify the wetland or waterbody and extent of alterations in square feet or acres: _____ _____ _____	NO	YES	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	



- Part 1 / Question 7 [Critical Environmental Area] No
- Part 1 / Question 12a [National or State Register of Historic Places or State Eligible Sites] No
- Part 1 / Question 12b [Archeological Sites] Yes
- Part 1 / Question 13a [Wetlands or Other Regulated Waterbodies] No
- Part 1 / Question 15 [Threatened or Endangered Animal] No
- Part 1 / Question 16 [100 Year Flood Plain] No
- Part 1 / Question 20 [Remediation Site] No

FILE NAME: H:\Projects\22\220673-01-WSenecaDollarGen\Eng\CAD\CAD\220673.01 Site and Landscaping C.dwg
 USER: John Schmidt

LEGEND

- BUILDING OUTLINE
- 6' TALL STRAIGHT BOARD ON BOARD PRIVACY FENCE
- STANDARD CONCRETE SIDEWALK
- HEAVY DUTY CONCRETE PAVEMENT
- STANDARD DUTY ASPHALT PAVEMENT
- HEAVY DUTY ASPHALT PAVEMENT
- PARKING ROW COUNT
- TREE PLANTINGS

CONCEPT SITE NOTES:

- THIS PLAN IS FOR CONCEPTUAL AND PLANNING PURPOSES ONLY. THIS PLAN SHALL NOT BE USED FOR CONSTRUCTION ACTIVITIES OR BE USED AS A REFERENCE FOR ANY AND ALL FIELD WORK.
- THE DATA DEPICTED IN THIS PLAN WAS GATHERED THROUGH ON-SITE OBSERVATIONS AND A TOPOGRAPHIC SURVEY PERFORMED BY FISHER ASSOCIATES. ALL DATA SHOWN WAS LOCATED WITH THE BEST AVAILABLE INFORMATION AT THE TIME. ANY AND ALL DATA SHOULD BE FIELD VERIFIED.
- SITE AREAS:**
 - 3.1. PROPERTY AREA: ±1.18 ACRES
 - 3.2. ASPHALT PARKING/DRIVE AREA: ±0.56 ACRES
 - 3.3. CONCRETE AREA: ±0.05 ACRES
 - 3.4. BUILDING AREA: ±0.24 ACRES

SITE NOTES:

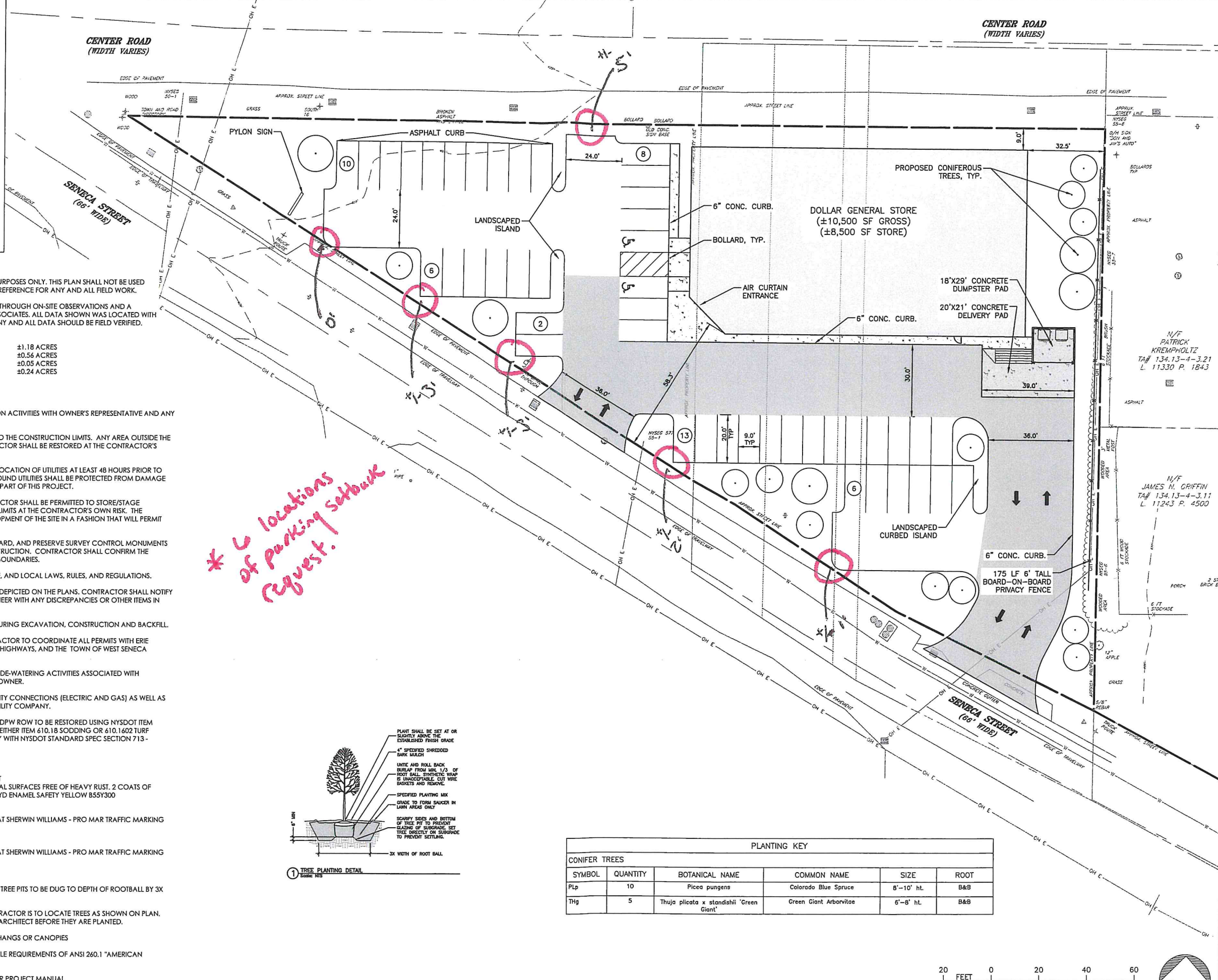
- CONTRACTOR SHALL COORDINATE CONSTRUCTION ACTIVITIES WITH OWNER'S REPRESENTATIVE AND ANY INVOLVED REGULATORY AGENCIES.
- CONSTRUCTION ACTIVITIES SHALL BE RESTRICTED TO THE CONSTRUCTION LIMITS. ANY AREA OUTSIDE THE CONSTRUCTION LIMITS DISTURBED BY THE CONTRACTOR SHALL BE RESTORED AT THE CONTRACTOR'S EXPENSE.
- CONTRACTOR SHALL CONTACT DIG SAFELY FOR LOCATION OF UTILITIES AT LEAST 48 HOURS PRIOR TO BEGINNING CONSTRUCTION. EXISTING UNDERGROUND UTILITIES SHALL BE PROTECTED FROM DAMAGE UNLESS OTHERWISE SPECIFIED FOR ALTERATION AS PART OF THIS PROJECT.
- WITH PERMISSION FROM THE OWNER, THE CONTRACTOR SHALL BE PERMITTED TO STORE/STAGE EQUIPMENT AND MATERIALS WITHIN THE PROJECT LIMITS AT THE CONTRACTOR'S OWN RISK. THE CONTRACTOR SHALL BE RESPONSIBLE FOR DEVELOPMENT OF THE SITE IN A FASHION THAT WILL PERMIT ADEQUATE STAGING.
- THE CONTRACTOR SHALL LOCATE, MARK, SAFEGUARD, AND PRESERVE SURVEY CONTROL MONUMENTS AND R.O.W. MONUMENTS IN THE AREAS OF CONSTRUCTION. CONTRACTOR SHALL CONFIRM THE LOCATION OF PROPERTY, EASEMENT AND R.O.W. BOUNDARIES.
- WORK SHALL COMPLY WITH OSHA, FEDERAL, STATE, AND LOCAL LAWS, RULES, AND REGULATIONS.
- THE CONTRACTOR SHALL VERIFY SURVEY DATA AS DEPICTED ON THE PLANS. CONTRACTOR SHALL NOTIFY OWNER, LANDSCAPE ARCHITECT AND CIVIL ENGINEER WITH ANY DISCREPANCIES OR OTHER ITEMS IN CONFLICT.
- CONTRACTOR SHALL PROTECT EXISTING UTILITIES DURING EXCAVATION, CONSTRUCTION AND BACKFILL.
- PRIOR TO CONDUCTING WORK IN R.O.W., CONTRACTOR TO COORDINATE ALL PERMITS WITH ERIE COUNTY DEPARTMENT OF PUBLIC WORKS (ECDPE) HIGHWAYS, AND THE TOWN OF WEST SENECA ENGINEERING DEPARTMENT.
- THE CONTRACTOR SHALL BE RESPONSIBLE FOR ALL DE-WATERING ACTIVITIES ASSOCIATED WITH CONSTRUCTION AT NO ADDITIONAL COST TO THE OWNER.
- CONTRACTOR IS RESPONSIBLE FOR ALL PUBLIC UTILITY CONNECTIONS (ELECTRIC AND GAS) AS WELL AS PROVIDING ALL INFRASTRUCTURES REQUIRED BY UTILITY COMPANY.
- ALL DISTURBED UNSURFACED AREAS WITHIN THE ECDPW ROW TO BE RESTORED USING NYSDOT ITEM 610.1401 TOPSOIL - REUSE ON-SITE MATERIALS AND EITHER ITEM 610.18 SODDING OR 610.1602 TURF ESTABLISHMENT - LAWNS. MATERIALS MUST COMPLY WITH NYSDOT STANDARD SPEC SECTION 713 - LANDSCAPE DEVELOPMENT MATERIALS.

STRIPING NOTES:

- YELLOW CURBING AND BOLLARDS - PARKING LOT
 - 1.1. SURFACES SHOULD BE CLEAN, DRY AND METAL SURFACES FREE OF HEAVY RUST. 2 COATS OF SHERWIN WILLIAMS - KEM 4000 ACRYLIC ALKYD ENAMEL SAFETY YELLOW B55Y300
- STRIPING - PARKING LOT
 - 2.1. SURFACES SHOULD BE CLEAN, DRY. TOP COAT SHERWIN WILLIAMS - PRO MAR TRAFFIC MARKING PAINT YELLOW - TM5495
- HANDICAP STRIPING - PARKING LOT
 - 3.1. SURFACES SHOULD BE CLEAN, DRY. TOP COAT SHERWIN WILLIAMS - PRO MAR TRAFFIC MARKING PAINT "H.C." BLUE

PLANTING NOTES:

- ALL PLANTING BEDS TO BE PREPARED AS SPECIFIED. TREE PITS TO BE DUG TO DEPTH OF ROOTBALL BY 3X THE DIAMETER.
- AFTER BEDS ARE PREPARED, THE LANDSCAPE CONTRACTOR IS TO LOCATE TREES AS SHOWN ON PLAN. LOCATIONS ARE TO BE APPROVED BY LANDSCAPE ARCHITECT BEFORE THEY ARE PLANTED.
- NO PLANTS TO BE PLANTED UNDER BUILDING OVERHANGS OR CANOPIES
- ALL TREES AND SHRUBS TO COMPLY WITH APPLICABLE REQUIREMENTS OF ANSI 260.1 "AMERICAN STANDARD FOR NURSERY STOCK"
- MAINTAIN AND WARRANTY ALL PLANT MATERIAL PER PROJECT MANUAL



PROJECT: WEST SENECA - DOLLAR GENERAL STORE
 3000 SENECA STREET
 WEST SENECA, NY 14224

CLIENT: DOLLAR GENERAL

ARCHITECT: FISHER ASSOCIATES

DATE: 10/17/2022

ISSUE DATE: 10/17/2022

PROJECT NO.: 220673.01

PROJECT MANAGER: J. SCHMIDT

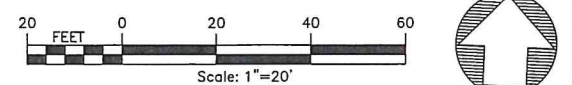
DRAWN BY: J. SCHMIDT

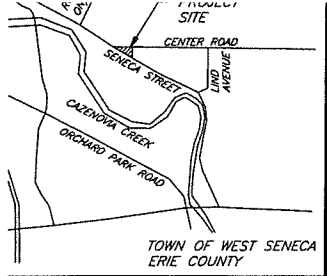
SCALE: AS SHOWN

DESCRIPTION: PRELIMINARY PLANS NOT FOR CONSTRUCTION

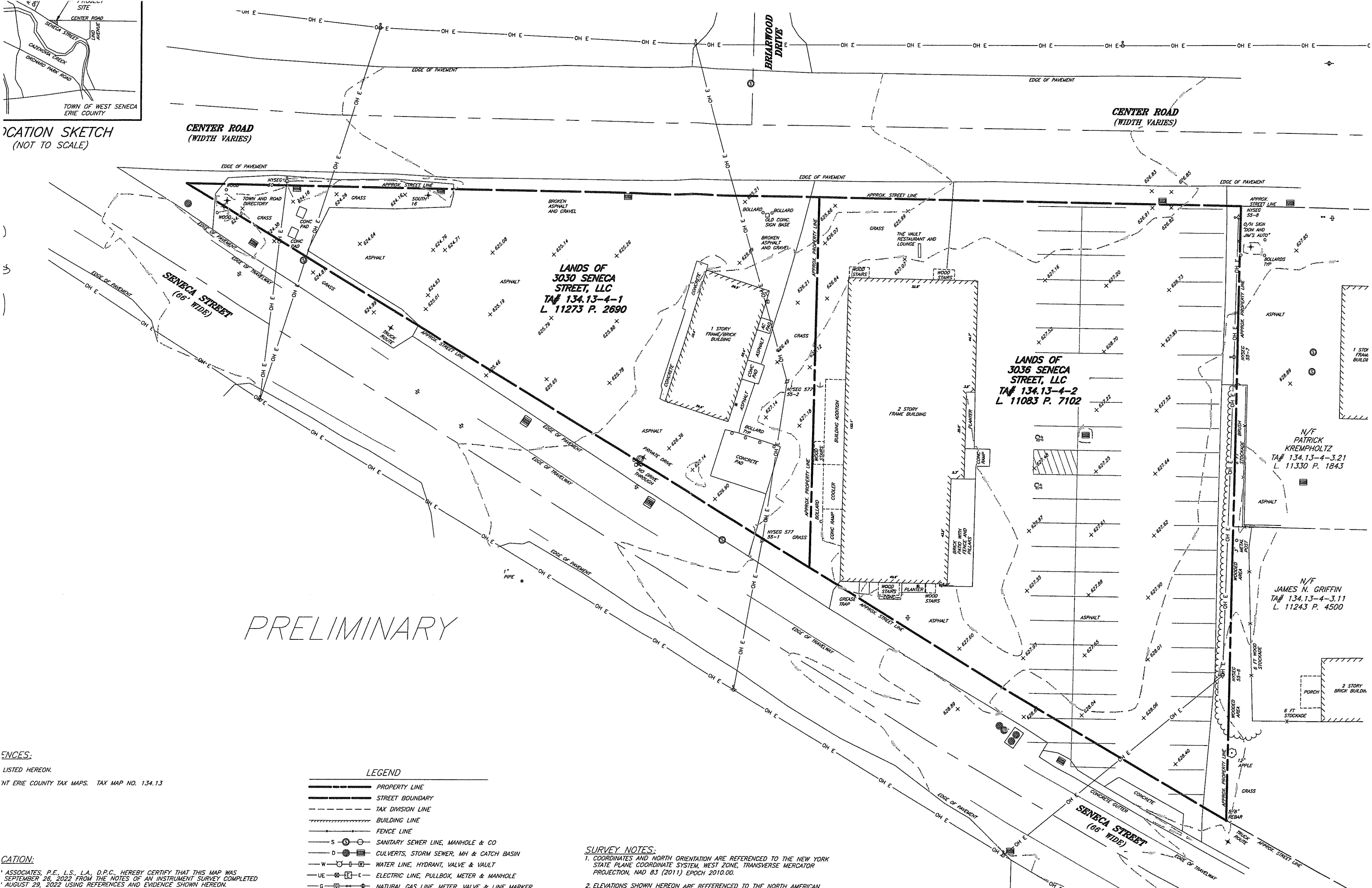
TITLE AND LANDSCAPING PLAN

DRAWING NO.: C200





LOCATION SKETCH
(NOT TO SCALE)



PRELIMINARY

ENCLOSURES:
LISTED HEREON.
WEST SENeca ERIE COUNTY TAX MAPS. TAX MAP NO. 134.13

LEGEND

	PROPERTY LINE
	STREET BOUNDARY
	TAX DIVISION LINE
	BUILDING LINE
	FENCE LINE
	SANITARY SEWER LINE, MANHOLE & CO
	CULVERTS, STORM SEWER, MH & CATCH BASIN
	WATER LINE, HYDRANT, VALVE & VAULT
	ELECTRIC LINE, PULLBOX, METER & MANHOLE
	NATURAL GAS LINE, METER, VALVE & LINE MARKER

SURVEY NOTES:
1. COORDINATES AND NORTH ORIENTATION ARE REFERENCED TO THE NEW YORK STATE PLANE COORDINATE SYSTEM, WEST ZONE, TRANSVERSE MERCATOR PROJECTION, NAD 83 (2011) EPOCH 2010.00.
2. ELEVATIONS SHOWN HEREON ARE REFERENCED TO THE NORTH AMERICAN VERTICAL DATUM OF 1988 (CEOID 18)

ASSOCIATES, P.E., L.S., L.A., D.P.C., HEREBY CERTIFY THAT THIS MAP WAS COMPLETED ON SEPTEMBER 26, 2022 FROM THE NOTES OF AN INSTRUMENT SURVEY COMPLETED ON AUGUST 29, 2022 USING REFERENCES AND EVIDENCE SHOWN HEREON.