Prepared By: Sean W. Hopkins, Esq.,
Hopkins Sorgi & McCarthy PLLC
Tel: 510-4338
E-mail: shopkins@hsr-legal.com

APPLICATION TO BOARD OF APPEALS

Tel. No. Sean Hopkins, Esq. - 510-4338

Appeal No. _____

Date October 8, 2019

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

I (we) JSEK West Seneca LLC c/o Sean Hopkins, Esq. of Hopkins Sorgi & McCarthy PLLC
5500 Main Street, Suite 343
Williamsville, New York 14221, HEREBY APPEAL TO THE ZONING BOARD OF APPEALS FROM THE DECISION OF THE BUILDING INSPECTOR ON AN APPLICATION FOR A BUILDING PERMIT NO. _____, DATED Oct. 8, , 20 19 , WHEREBY THE BUILDING INSPECTOR DID DENY TO

a request for a building permit for a proposed car wash facility as depicted on the Site Layout Plan [Drawing C-2]

- ■ A PERMIT FOR USE for a proposed commercial project
- ☐ 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 1343, 1347 and 1353 Union Road & 0 Fremont Avenue
   [Zoning Classification: C-2]
3. State in general the exact nature of the permission required. A description of the proposed car wash facility project and the requested area variances is provided at Exhibit "1". A reduced size Site Plan is provided at Exhibit "3" and a full size copy is also attached.

N/A 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: A description of the requested area variances for the proposed car wash facility project is provided at Exhibit "1" and justification for for the requested area variances pursuant to the balancing test and five criteria set set forth in NYS Town Law Section 267-b(3)(b) is provided at Exhibit "2" of this Variance Application. The Project Site is zoned C-2 pursuant to the decision of the Town Board issued on July 15, 2019.

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: _____

Counsel for Applicant *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 _____
2. Zoning Classification of the property concerned in this appeal _____
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.
4. A statement of any other facts or data which should be considered in this appeal. _____

Exhibit 1 – Project Description, Project History and Description of the Two Requested Area Variances

EXHIBIT 1 OF VARIANCE APPLICATION

PROJECT DESCRIPTION, PROJECT HISTORY AND DESCRIPTION OF THE TWO REQUESTED AREA VARIANCES

PROPOSED CAR WASH FACILITY REDEVELOPMENT PROJECT 1343, 1347 AND 1353 UNION ROAD & 0 FREEMONT AVENUE

I. Description of Proposed Car Wash Redevelopment Project[1]:

The proposed car wash redevelopment project includes a new car wash building consisting of a two-story structure along the Union Road frontage the parcels located at 1343, 1347 and 1353 Union Road and O Freemont Avenue (collectively the "Project Site") of the Project Site and the remainder of the car wash building will be a single-story structure. The size of the proposed car wash building will be approximately 6,500 sq. ft. The layout of the redevelopment project including the proposed site improvements is depicted on the full size copy of the Site Layout Plan [Drawing C-2] prepared by Schenne & Associates attached to this Variance Application. A reduced size copy of the Site Layout Plan is attached as Exhibit "3".

The Project Site is zoned C-2(S) pursuant to the decision of the Town Board issued on July 15, 2019. The Town Board also issued a negative declaration pursuant to the State Environmental Quality Review Act ("SEQRA"). A copy of the resolution adopted by the Town Board on July 15, 2019 approving an amendment of the zoning classification of the Project Site from C-1 and R-65 and C-2 and granting a special use permit for the proposed car wash facility is attached as Exhibit "4". A copy of the resolution adopted by the Town Board issuing a negative declaration pursuant to SEQRA is attached as Exhibit "5". The Project Site is also located in the Union Road

[1] A description of the two requested area variances is provided in Part II below.

Corridor, which includes site development standards as set forth in Section 120-70 of the Town of West Seneca Zoning Code ("Zoning Code").

II. Description of Requested Area Variances:

The Applicant is seeking the following two area variances from the ZBA in connection with the proposed car wash facility redevelopment project:

1. **The southern side yard setback of the driveway and stacking lane for vehicle ingress on property zoned C-2 is less than required pursuant to Section 120-31B(3)(c) of the Zoning Code [12 ft. setback required vs. 6' 10" setback proposed].**

   Note: A copy of Section 120-31 of the Zoning Code (titled "Minimum yards for other principal buildings" is attached as Exhibit "6".

2. **The northern side yard setback of the driveway for vehicle egress on property zoned C-2 is less than required pursuant to Section 120-31B(3)(c) of the Zoning Code [12 ft. setback required vs. 9' 9" setback proposed].**

Exhibit 2 – Justification for Requested Area Variances Pursuant to the Statutory Mandated Balancing Test and Five Criteria Contained In NYS Town Law Section 267-b(3)(b)

EXHIBIT 2 VARIANCE APPLICATION

JUSTIFICATION FOR REQUESTED AREA VARIANCES PURSUANT TO THE STATUTORY MANDATED BALANCING TEST AND FIVE CRITERIA CONTAINED IN NYS TOWN LAW § 267-b(3)(b)

PROPOSED CAR WASH FACILITY REDEVELOPMENT PROJECT 1343, 1347 AND 1353 UNION ROAD & 0 FREEMONT AVENUE

NYS Town Law §267-b(3)(b) sets forth a statutorily mandated balancing test to be considered by a zoning board of appeals in connection with its review of a request for area variances. The statutorily mandated balancing test requires a zoning board of appeals to balance the benefits that will be realized against the resulting detriments to the health, safety and welfare of the community.

The granting of the requested area variances for the proposed redevelopment of the Project Site as a car wash facility as depicted on the full size copy of the Site Layout Plan [Drawing C-2] prepared by Schenne & Associates attached to this is Variance Application will result in substantial benefits to the Applicant without any resulting detriments to the health, safety and welfare of the community.[1] The benefits that will be received by Applicant if the Zoning Board of Appeals ("ZBA") grants the two requested area variances include the following:

1. The Applicant will be able to develop the Project Site as a state-of-the-art car wash facility with related site improvements as depicted on the Site Layout Plan [Drawing C-2] prepared by Schenne & Associates attached to this is Variance Application.

2. The approval of the redevelopment project as proposed will result in the dilapidated Project Site consists of a former greenhouse with asbestos to be completed, resulting in a dramatic improvements of the appearance of the Project Site.

3. The Applicant will be able to develop the Project Site in a manner consistent with the project layout that has been presented to the Town Board as well as nearby

[1] A reduced size copy of the Site Layout Plan is attached as Exhibit "3".

In applying the statutorily mandated balancing test set forth above, NYS Town Law §267-b(3)(b) requires a zoning board of appeals to consider the following five criteria:

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 requested area variance.**

The granting of the requested area variances by the ZBA will not create an undesirable change in the character of the neighborhood or a detriment to nearby properties. An effort has been made during the past several months to advance the redevelopment project based on input received from many stakeholders including nearby property owners. The requested area variances will not result in any detriments to nearby properties and screening consisting a fence and landscaping on the relevant portion of the southern property line and landscaping on the relevant portion of northern property line will be provided.

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

It would not be possible for the Applicant to redevelop the Project Site in manner that would result in the Applicant receiving the benefits described above without the granting of the requested area variances. The area variances are needed in order to provide adequate stacking for the car wash facility on the southern portion of the Project Site and also provide an internal access aisle on the northern portion of the Project Site that does require vehicles exiting the car wash facility to exit directly onto Union Road.

3. **Whether the requested area variance is substantial.**

The requested area variances are not substantial given the fact that the granting of the requested area variances will not result in any significant adverse impacts. The two requested area variances will result in a project that is inappropriate for the Project Site.

The reason the magnitude of the variance is relevant is that, generally, the larger the difference the more likely it is that a negative effect would be generated. See Matter of Human Development Services of Port Chester v. Zoning Board of Appeals of the Village of Port Chester, 110 A.D.2d 135, aff'd, 67 N.Y.2d 702. However, in any particular case, the facts may demonstrate that while a variance may seem noteworthy on paper, no negative effect would be produced and, accordingly, the sought-after variance should be granted.

For example, in Matter of Frank v. Scheyer, 227 A.D.2d 558, 642 N.Y.S.2d 956 (2d Dept. 1996), the parcel was 19,983 square feet. However, the zoning code required a minimum lot size of one acre or 43,560 square feet. The variance at issue was more than 54%. Nevertheless, based the facts presented, no harm would befall the community and the Court directed the zoning board of appeals to grant the application. The Court took similar action in Matter of Shaughessy v. Roth, 204 A.D.2d 333, 611 N.Y.S.2d 281 (2d Dept. 1994), in which the premises contained 50 feet of frontage and 5,000 square feet of area. The zoning code required 80 feet of frontage and a minimum lot size of 10,000 square feet. Accordingly, the application concerned a 50% reduction in lot area coupled with a second area variance seeking a 62.5% reduction from the required frontage. Nevertheless, based on the facts in the record, the Court directed the respondents to issue the variances. Additionally, in Matter of Sasso v. Osgood, 86 N.Y.2d 374 (1995), the applicant sought area variances for a 60% reduction in lot area and a 50% reduction in lot width. Based on all of the facts presented, the Court of Appeals, our State's highest court, overturned the holding of the appellate court and directed that the requested area variances be granted.

Merely because a variance may seem noteworthy on paper does not mean that any "harm" would be generated on the surrounding community, and it is "harm" that is balanced against the interest of the applicant according to the Town Law §267-b(3) test. As mentioned previously, the

requested area variances will not result in any "harm" on the surrounding community. It is the position of the Applicant that if the requested area variances are properly viewed as required by the cases discussed above, it is clear that the requested area variances are not substantial since the granting of the two requested area variances in furtherance of the proposed car wash facility redevelopment project will not result in harm to the community.

4. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood.

The granting of the requested area variances will not have any adverse effects or impacts on physical or environmental conditions in the neighborhood. The Town Board has previously issued a negative declaration pursuant to the State Environmental Quality Review Act ("SEQRA") based on its determination that the redevelopment project will not result in any potentially significant adverse environmental impacts.[2] Additionally, the Planning Board is in the process of reviewing the pending request for Site Plan Approval, which will ensure compliance with applicable technical standards including stormwater management, landscaping and screening, lighting, etc.

5. Whether the alleged difficulty was self-created.

Town Law §267-b(3)(b) expressly states that the issue of whether an alleged difficulty is self-created cannot be utilized as the sole criteria in determining whether to grant requested area variances. It is the position of the Applicant that the alleged difficulty can be viewed as not being self-created given that the project is a redevelopment project on a previously developed site that is in a dilapidated condition. Nonetheless, if the ZBA determines that the alleged difficulty resulting

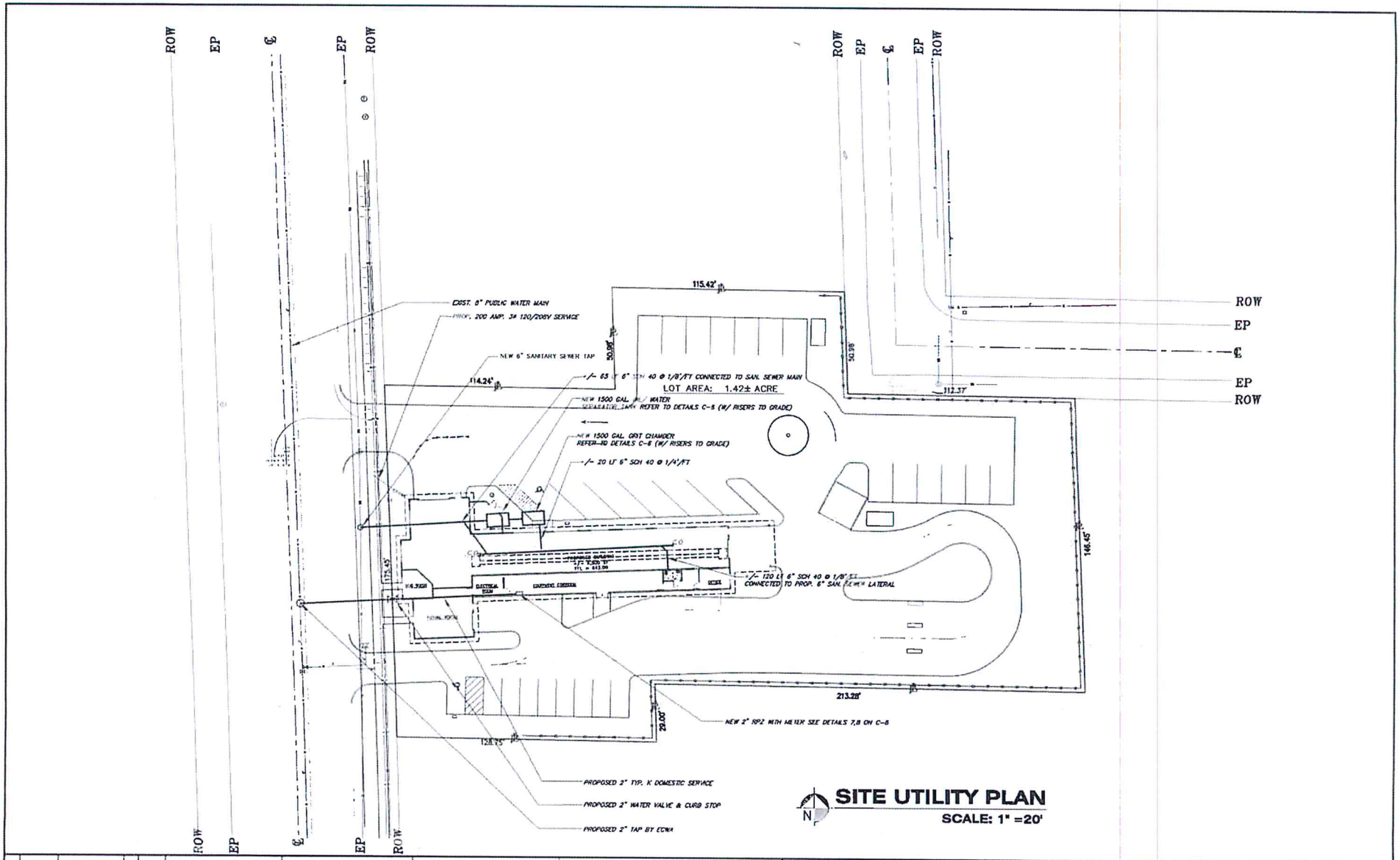
[2] A copy of the resolution adopted by the Town Board issuing a negative declaration pursuant to SEQRA is attached as Exhibit "5".

in the need for the requested area variances is due to a self-created difficulty, such a finding would not lessen the strong justification for the requested area variances per the balancing test and the other four criteria as discussed above.

CONCLUSION:

The benefits that will be received by Applicant if the two requested area variances are granted clearly outweigh any resulting detriments per the statutorily mandated balancing test. The Applicant requests that the ZBA grant the two requested area variances to allow it to move forward with the proposed car wash facility redevelopment project based on the layout depicted on the updated Site Layout Plan [Drawing C-2] attached to this Variance Application.

Exhibit 3 – Reduced Size Copy of Site Layout Plan [Drawing C-2] as Prepared by Schenne & Associates



NO	DATE	DESCRIPTION
1	10-02-19	REVISION
1	9-24-19	REVISION

ENGINEER
SCHENNE & ASSOCIATES
CONSULTING ENGINEERS
987 Luther Road
East Aurora, NY 14052
(716) 655-0991; john@schenne.com

OWNER
JSEK WEST SENECA LLC
5500 MAIN STREET, SUITE 100
WILLIAMSVILLE, NY 14221
shopkins@hsr-legal.com
TEL: 510-4338 FAX: 242-0606

PROJECT
PROPOSED CAR WASH
1353,1347,1343 UNION ROAD
WEST SENECA, NY 14224

JOB NUMBER # 18-2204

SITE UTILITY PLAN

SCALE: AS NOTED | DATE: 11-01-2018 | DWG. C-4

Exhibit 4 – Resolution Adopted by the Town Board on July 15, 2019 for the Purpose of Amending the Zoning Classification of the Project Site from C-1 and R-65 to C-2 and Granting a Special Use Permit Subject to Four Conditions

TOWN OF WEST SENECA

JACQUELINE A. FELSER
TOWN CLERK

RECEIVER OF TAXES
REGISTRAR OF VITAL STATISTICS
NOTARY PUBLIC
RECORDS MANAGEMENT OFFICER

TOWN SUPERVISOR
SHEILA M. MEEGAN

TOWN COUNCIL
EUGENE P. HART
WILLIAM P. HANLEY JR.

July 22, 2019

TOWN BOARD PROCEEDINGS
Meeting #2019-14
July 15, 2019

Legal Item #1

Motion by Supervisor Meegan, seconded by Councilman Hanley, to adopt the following resolution approving a rezoning and special permit for property located at 1343, 1347 & 1353 Union Road:

WHEREAS, JSEK West Seneca LLC made an application for rezoning of 1343, 1347 and 1353 Union Road and 0 Fremont Avenue, West Seneca, New York from R-65 and C-1 to C-2(S) with a special use permit for a car wash facility; and

WHEREAS, the matter was heard before the Planning Board and referred to the Town Board; now, therefore, be it

RESOLVED, the West Seneca Town Board does hereby adopt Local Law No. 2019-03 amending the zoning classification of 1343, 1347 & 1353 Union Road and 0 Fremont Avenue, West Seneca, New York from R-65 and C-1 to C-2(S) and grants a special use permit for a car wash facility, noting the special use permit is subject to the following conditions:

1. The only allowed principal use of the portion of the Project Site to be rezoned from R-65 to C-2 shall be a portion of the single-story portion of the car wash building. No other principal uses allowed in the C-2 zoning district as set forth in Section 120-20A (expressly permitted principal uses) and Section 120-20B (uses requiring a special use permit) of the Zoning Code shall be permitted on the portion of the Project Site to be rezoned from C-1 to C-2.

2. The only allowed accessory uses of the portion of the Project Site to be rezoned from R-65 to C-2 shall be those accessory uses incidental to the proposed car wash project such as stacking spaces, parking spaces, stormwater management improvements, landscaping and screening, lighting, etc.

JACQUELINE A. FELSER
TOWN CLERK

RECEIVER OF TAXES
REGISTRAR OF VITAL STATISTICS
NOTARY PUBLIC
RECORDS MANAGEMENT OFFICER

3. There shall not be any driveway or roadway connection from the Project Site to Fremont Avenue. This condition shall be permanent.

4. The Applicant shall be required to record a Declaration of Restrictions at the Erie County Clerk's Office restricting the use of the Project Site in accordance with special use permit conditions No. 1, 2 and 3 upon receiving site plan approval for the proposed car wash project from the Planning Board. The Declaration of Restrictions shall state that the restrictions are enforceable upon the successors and assigns of the Applicant and shall run with the land and that the Declaration of Restrictions cannot be modified unless approved by a majority vote of the Town Board after holding a public hearing. A copy of the recorded Declaration of Restrictions and recording receipt shall be provided to the Town Clerk's Office, Town Attorney's Office and Code Enforcement Officer.

Ayes: All Noes: None Motion Carried

STATE OF NEW YORK)
COUNTY OF ERIE) SS:
OFFICE OF THE CLERK OF THE
TOWN OF WEST SENECA

This is to certify that I, JACQUELINE A FELSER, Town Clerk and Registrar of Vital Statistics of the Town of West Seneca in said County of Erie, have compared the foregoing copy of resolution with the original resolution now on file in my office, and which was passed by the Town Board of the Town of West Seneca in said County of Erie, on the 15th day of July, 2019 and that the same is a correct and true transcript of such original resolution and whole thereof.

IN WITNESS WHEREOF, I HAVE HERE UNTO SET MY HAND AND AFFIXED THE SEAL OF SAID TOWN THIS 22ND DAY OF JULY, 2019.

Jacqueline A. Felser

TOWN CLERK AND REGISTRAR OF VITAL STATISTICS, TOWN OF WEST SENECA

Exhibit 5 – Resolution Adopted by the Town Board on July 15, 2019 for the Purpose of Issuing a Negative Declaration Pursuant to the State Environmental Quality Review Act ("SEQRA")

TOWN OF WEST SENECA

JACQUELINE A. FELSER
TOWN CLERK

RECEIVER OF TAXES
REGISTRAR OF VITAL STATISTICS
NOTARY PUBLIC
RECORDS MANAGEMENT OFFICER

TOWN SUPERVISOR
SHEILA M. MEEGAN

TOWN COUNCIL
EUGENE P. HART
WILLIAM P. HANLEY JR.

July 22, 2019

TOWN BOARD PROCEEDINGS
Meeting #2019-14
July 15, 2019

Legal Item #1

Motion by Supervisor Meegan, seconded by Councilman Hart, to adopt the following resolution issuing a negative declaration with regard to SEQR for the above project:

WHEREAS, the Town Board of the Town of West Seneca, as lead agency acting pursuant to the State Environmental Quality Review Act, Article 8 of the New York State Environmental Conservation Law, has reviewed Part I of the Short Environmental Assessment Form ("EAF") prepared by the applicant for property located at 1343, 1347 and 1353 Union Road and 0 Fremont Avenue ("Subject Property"), for construction of a car wash facility, associated parking, landscaping, storm water design and utilities (the "Project") and reviewed the draft completed Part II of the EAF analyzing the potential for the Project to result in any significant adverse environmental impacts and has otherwise taken a hard look at the identified potential environmental impacts utilizing the criteria specified in 6 NYCRR 617.7(c); and

WHEREAS, upon review of Parts I and II of the EAF and documentation and plans submitted by the applicant in connection with the review of the Project, the Town Board has not identified any potentially significant adverse environmental impacts associated with the proposed use of the Subject Property, has determined that preparation of an Environmental Impact Statement is not necessary and that the issuance of a Negative Declaration is therefore appropriate; now, therefore, be it

RESOLVED, that pursuant to 6 NYCRR 617.7(a) the Town Board does hereby adopt a Negative Declaration with respect to the Project based on its determination that the Project will not result in any potentially significant adverse environmental impacts.

Ayes: All Noes: None Motion Carried

STATE OF NEW YORK)
COUNTY OF ERIE) SS:
OFFICE OF THE CLERK OF THE
TOWN OF WEST SENECA

This is to certify that I, JACQUELINE A FELSER, Town Clerk and Registrar of Vital Statistics of the Town of West Seneca in said County of Erie, have compared the foregoing copy of resolution with the original resolution now on file in my office, and which was passed by the Town Board of the Town of West Seneca in said County of Erie, on the 15th day of July, 2019 and that the same is a correct and true transcript of such original resolution and whole thereof.

IN WITNESS WHEREOF, I HAVE HERE UNTO SET MY HAND AND AFFIXED THE SEAL OF SAID TOWN THIS 22ND DAY OF JULY, 2019.

Jacqueline A Felser

TOWN CLERK AND REGISTRAR OF VITAL STATISTICS, TOWN OF WEST SENECA

Exhibit 6 – Copy of Section 120-31 of the Town of West Seneca Zoning Code

§ 120-31. Minimum yards for other principal buildings.

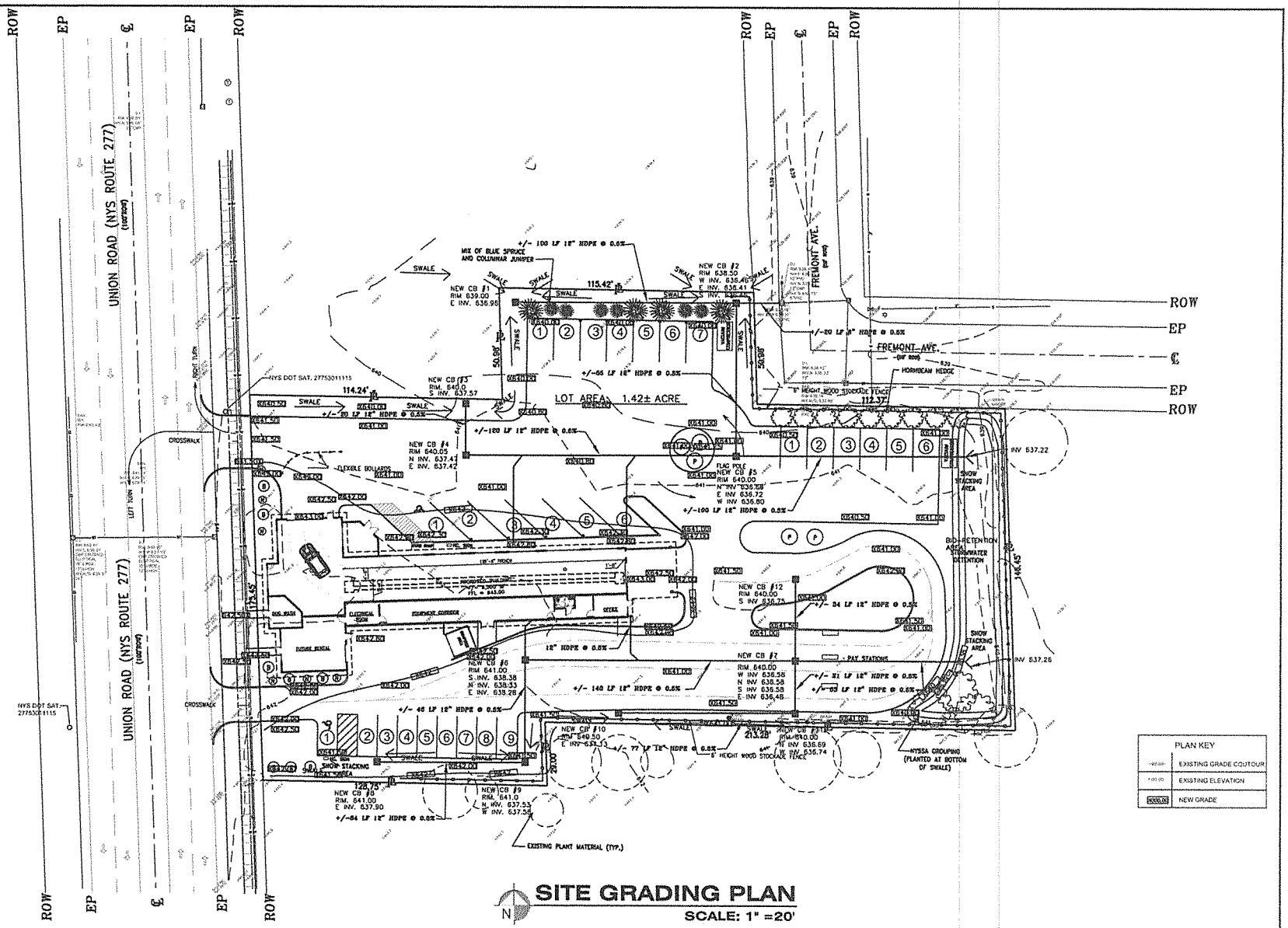
A. In R Districts.
   (1) Front yard in any R District: as required for dwellings.
   (2) Rear yard in any R District: as required for dwellings.
   (3) Side yards (two required).
      (a) In R-50 or R-60A Districts: as required for multifamily dwellings.
      (b) In all other R Districts: each side yard 30 feet or a distance equal to the height of such principal building, whichever is greater.
   (4) A thirty-foot drive for ingress and egress shall be provided for all multifamily and special developments. If separate drives are provided for ingress and egress, they shall be a minimum of 20 feet. **[Added 9-24-1990]**

B. In any C District.
   (1) Front yard: 40 feet.
   (2) Rear yard: 10 feet; except where a rear yard abuts an R District boundary, the rear yard shall be 30 feet or a distance equal to the height of the principal building, whichever is greater.
   (3) Side yards: none required, except:
      (a) Where a side yard is provided, it shall be not less than five feet in width.
      (b) Where a side yard abuts an R District boundary, its width shall be not less than that required for side yards for multifamily dwellings or buildings of mixed occupancy in such abutting R District.
      (c) Where a side yard is used for either vehicular ingress or egress, it shall be not less than 12 feet in width.
      (d) Where a side yard is used for ingress and egress, it shall be not less than 25 feet in width.
      (e) A required side yard may not be used for ingress or egress in the multifamily or special development projects. The Town Board shall have the power to allow this, upon showing of special circumstances or hardship. **[Added 9-24-1990]**
   (4) A thirty-foot drive for ingress and egress shall be provided for all multifamily and special developments. If separate drives are provided for ingress and egress, they shall be a minimum of 20 feet. **[Added 9-24-1990]**

C. In M Districts:
   (1) Front yards: 25 feet; except when opposite any R District or when used for off-street parking, the front yard shall be not less than 50 feet.

(2) Rear yard.
   (a) In M-1 Districts: 10 feet; except where a rear yard abuts an R District boundary, the rear yard shall be not less than 50 feet.
   (b) In M-2 Districts: 10 feet; except where a rear yard abuts an R District boundary, the rear yard shall be not less than 75 feet.

(3) Side yards (two required).
   (a) In M-1 Districts: 10 feet; except where a side yard abuts an R District boundary, the side yard shall be 50 feet.
   (b) In M-2 Districts: 10 feet; except where a side yard abuts an R District boundary, the side yard shall be 75 feet.



SITE GRADING PLAN

SCALE: 1" =20'

NO	DATE	DESCRIPTION	NO	DATE	DESCRIPTION
4	11-07-19	REVISION			
3	10-24-19	REVISION			
2	10-02-19	REVISION			
1	9-24-19	REVISION	4	11-05-19	REVISION

STATE OF NEW YORK — JOHN ROBERT SCHENNE — No. 059952 — LICENSED PROFESSIONAL ENGINEER

ENGINEER
SCHENNE & ASSOCIATES
CONSULTING ENGINEERS
967 Luther Road
East Aurora, NY 14052
(716) 655-4991; john@schenne.com

OWNER
JSEK WEST SENECA LLC
5500 MAIN STREET, SUITE 100
WILLIAMSVILLE, NY 14221
shopkins@hsr-legal.com
TEL: 510-4338 FAX: 242-0606

PROJECT
PROPOSED CAR WASH
1353,1347,1343 UNION ROAD
WEST SENECA, NY 14224

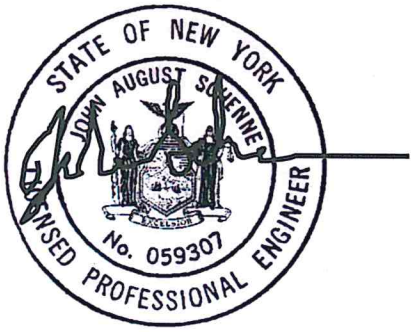
JOB NUMBER # 19-2208

SITE GRADING PLAN

SCALE: AS NOTED | DATE: 08-05-2019 | DWG. C-3

STORMWATER MANAGEMENT REPORT

Proposed Carwash
1353 Union Road
West Seneca, New York



November 2019

PREPARED FOR:

2JSEK West, LLC
5500 Main Street
Williamsville, New York 14221

PREPARED BY:

SCHENNE & ASSOCIATES
ENGINEERS & GEOLOGISTS
967 Luther Road
East Aurora, New York 14052
Phone (716) 655-4991

TABLE OF CONTENTS

		Page
1.0	INTRODUCTION	3
	1-1 Applicability	3
	1-2 Project	3
	1-3 Goals and Objectives	3
	1-4 Site Description	4
	1.4.1 Project Description	4
	1.4.2 Pre-Development Conditions	4
	1.4.3 Post-Development Conditions	4
2.0	CONSTRUCTION PHASING	5
3.0	POLLUTION PREVENTION	6
4.0	HYDROLOGIC/HYRAULIC ANALYSES	13

Appendices

Appendix A: Calculations

1.0 INTRODUCTION

The proposed reuse of the existing site at 1353, 1347 and 1343 Union Road as a car wash facility.

1.1 APPLICIBILITY

Because the disturbance associated with the project is more than 1 acre, coverage under the Phase II State Pollutant Discharge Elimination System (SPDES) General Permit for Construction Activities is required. The estimated area of disturbance for the project is approximately 1.3 acres.

1.2 PROJECT

The project will involve the disturbance of more than 1 acre of land and is located within the Town of West Seneca on the East side of Union Road.

1.3 GOALS AND OBJECTIVES

The goal of each stormwater project is to document the means and methods by which the proposed project will comply with state and local rules and regulations. Specific stormwater management objectives include:

- Maximize erosion protection from the site both during construction and after development.
- Assure the adequacy of proposed stormwater conveyance systems to attenuate post-development peak flows to pre-development levels.
- Enhance the quality of stormwater runoff to prevent water quality degradation in receiving waters.

This stormwater management plan has been prepared in accordance with the following guidance documents:

1. Reducing the Impacts of Stormwater Runoff from New Development, by New York State Department of Environmental Conservation.
2. New York Guidelines for Urban Erosion and Sediment Control, by Urban Soil Erosion and Sediment Control Committee.
3. Appendices D, E and F of the NYS General Permit for Construction Activities, by New York State Department of Environmental Conservation.

This plan is intended to be a "living" document. The document should be revised and updated by a qualified professional whenever site conditions dictate. Any proposed revisions shall undergo review by the owner prior to incorporation in the plan and implementation at the site. Any proposed modifications shall be in accordance with the New York State Department of

Environmental Conservation's technical standards.

The plan is generally organized in the following manner:

- Section 1 provides background on the project and a description of the pre-and post-development conditions.
- Section 2 discusses construction phasing of the activities.
- Section 3 presents many of the applicable Best Management Practices for construction activities and identifies those that are applicable to this project. This section also outlines the responsible party for each of the practices.
- Section 4 includes hydrologic and hydraulic analyses conducted for the site to address post-development water quality and water quantity requirements for the project.

1.4 SITE DESCRIPTION

This section provides a detailed description of the project, a discussion of the pre-development conditions of the site, and a discussion of the post-development conditions of the site.

1.4.1 PROJECT DESCRIPTION

This project is proposed to have a single building, sidewalks, pavement (parking and driveways) and landscaping of lawns. Specific details for the project are presented in a set of engineering drawings to be submitted separately. The total project is intended to be fully developed in accordance with these separate engineering drawings.

1.4.2 PRE-DEVELOPMENT CONDITIONS

The site of the proposed development comprises the disturbance of approximately 0.35 acres. Presently, stormwater drainage on the primarily sheet flows to the north of the site into existing City sewers. A review of the topographic survey indicates that general topographic conditions within the project area consist of slopes between 0.5% and 1.0%.

The USDA-SCS Soil Survey of Erie County was utilized to determine the soil characteristics on the project site. The soils of the project site are defined as being a Group D hydrologic soil.

1.4.3 POST-DEVELOPMENT CONDITIONS

It is estimated that the maximum area of soil disturbance associated with the project is approximately 1.33 acres. Aside from the footprint of the building all disturbed areas will be repaved to minimize the permanent effect on stormwater runoff at the site. The project is expected to be completed during the 2020 construction seasons, including final site stabilization activities. The existing and proposed site conditions are shown on the design drawings submitted separately to the Town.

2.0 CONSTRUCTION PHASING

2.1 DESCRIPTION OF CONSTRUCTION PHASING

It is anticipated that the construction of the project will begin in the spring of 2020. The contractor is required to provide for protection of the existing waterways from soil erosion and sedimentation during the construction period. The following list is a recommended sequence of major construction activities to meet the NYSDEC Phase II erosion and sediment control requirements:

1. Install stabilized construction entrance and silt fence as indicated on the plans at project limits.
2. Clear and grub for detention basin.
3. Construct drainage swales (if required) and detention pond to bypass off-site runoff. Seed swales.
4. Continue clearing and grubbing over remainder of site as required.
5. Stockpile topsoil/fill material onsite at locations specified by the Engineer or Owner's Representative.
6. Stabilize all denuded areas and stockpiles within 14 days of the last construction activity within that area or stockpile.
7. Continue with installation of all utilities and storm sewers. Place temporary check dams at all locations where runoff may enter new storm system/utility manholes.
8. Construct buildings.
9. Apply stone to all future parking areas and roadways. Proceed with construction of all new structures (e.g., show ring) as detailed in the construction documents.
10. Place final pavement sections on parking areas/roadways.
11. Clean out any sedimentation in the drainage swales and detention pond.
12. Remove silt fence and any other temporary erosion control measures that remain and reseed/repair any areas damaged during removal.

Of these activities, this plan is primarily concerned with those activities that result in the disturbance of soils. These include clearing and grubbing; major/minor grading; excavation for and installation of the footings; backfill and grading; and landscaping, including the placement of topsoil and seed and the installation of trees and shrubs. Best Management Practices should be

implemented to ensure that other project activities do not result in the increased potential for the pollution of stormwater runoff.

3.0 POLLUTION PREVENTION

Pollution prevention measures shall be used to prevent construction materials with the potential for polluting stormwater (e.g., litter, construction chemicals and construction debris) from coming into contact with runoff. Measures include good housekeeping and proper disposal of construction and demolition debris (C&D debris), equipment fuel, lubricants, paints and solvents, asphalt, concrete, topsoil and other materials, as well as controls which prevent sediments from being tracked off-site by construction vehicles, and proper control of the non-stormwater flows on the site.

3.1 WASTE DISPOSAL AND MANAGEMENT

Best Management Practices (BMPs) are schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the United States. BMPs also include treatment requirements, operating procedures, and practices to control site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage. With regard to construction, these may include structural controls or nonstructural practices that are designed to prevent pollutants from entering water or to direct the flow of water away from potential sources of pollution.

For construction sites, there are three main types of BMPs, those that prevent erosion, others which prevent pollutants from the construction materials from mixing with stormwater, and those which trap pollutants before they can be discharged.

Table 3-1 presents many of the most common construction materials and wastes with greatest potential for adversely affecting stormwater quality. Those that are applicable to this project, have been selected and the appropriate BMPs and responsible parties have been identified.

3.1 TABLE – Potential Materials Located on Site

Material	Yes/ No	**Applicable BMPs**	**Responsible**
Construction Wastes:			
Trees and shrubs removed during clearing and grubbing or other phases of construction	Yes	(1),(4)	Prime Contractor
Packaging materials (including wood, paper, plastic, etc.)	Yes	(1)	Prime Contractor
Scrap or surplus building material, e.g. scrap metals, rubber, plastic and glass pieces, masonry products, and other solid waste materials	Yes	(1), (4)	Prime Contractor
Paints and pain thinners	Yes	(1), (2), (3)	Prime Contractor
Materials resulting from the demolition of structures (rubble)	No	(1) (4)	N/A
Hazardous Products			
Paints	Yes	(2), (3)	Prime Contractor
Acids for cleaning masonry surfaces	No	(2), (3)	N/A
Cleaning solvents	No	(2), (3)	N/A
Chemical additives used for soil stabilization (e.g. palliative such as calcium chloride)	No	(2), (3)	N/A
Concrete curing compounds and additives	Yes	(2), (3)	Prime Contractor
Concrete	Yes	(4), (5)	Prime Contractor
Sanitary/Septic waste	Yes	(6)	Prime Contractor
Potential Risk Materials			
Pesticides	No	(7)	N/A
Petroleum products	Yes	(8)	Prime Contractor
Fertilizers and detergents (nutrients)	No	(9)	N/A
Natural Geologic Drainage	No	(10)	N/A
Other			Update as needed

1 BMPs for each category are identified on the following pages.

(1) BMPs for Constructional Waste

Select a designated waste collection area onsite.

Provide an adequate number of containers with lids or covers that can be placed over the containers prior to rainfall.

- When possible, locate containers in a covered area.
- Arrange for waste collection before containers overflow.
- If a container does spill, provide cleanup immediately.

Plan for additional containers and more frequent pickups during the demolition phase of construction.

Make sure that construction waste is collected, removed, and disposed of only at authorized disposal areas.

Check with the local solid waste management agency for specific guidance.

(2) BMPs for Hazardous Waste Disposal

Check with local waste management authorities to determine what the requirements are for disposing of hazardous materials.

Use the entire product before disposing of the container.

Do not remove the original product label from the container, it contains important information.

Do not mix products together unless specifically recommended by the manufacturer.

The correct method of disposal of these products varies with the product used.

Follow the manufacturer's recommended method, which is often found on the label.

Coordinate with the Department of Environmental Conservation.

(3) BMPs for Hazardous Products Management

Have equipment to contain and clean up spills of hazardous materials in the areas where these materials are stored or used.

Contain and clean up spills immediately after they occur.

Keep materials in a dry covered area.

Coordinate with the Department of Environmental Conservation.

(4) BMPs for Off-Site Disposal

Provide a certification to the Engineer, from the intended disposal site stating that the owner of the site has agreed to accept the material and assumes responsibility for the material once it is delivered to the site.

Provide a USGS topographic m ap or equivalent showing the proposed location of off-site disposal.

If applicable, the specific classification of waste shall be identified.

No material shall be disposed of in a Federal or State wetlands.

(5) BMPs for Residential Concrete Disposal

Emptying or wash out of excess concrete may be allowed on site. Excess concrete and wash water should be disposed of in a manner that prevents contact between these materials and stormwater discharges from the site. For example, dikes could be constructed around the area to contain these materials until they harden, at which time they may be properly disposed.

(6) BMPs for Sanitary and Septic Wastes

Sanitary or septic wastes that are generated onsite should be treated or disposed of in accordance with State or local requirements.

If self-contained, temporary facilities are used, then domestic waste haulers should be contracted to regularly remove the sanitary and septic wastes and to maintain the facilities in good working order.

Wastes should be treated to an appropriate level before discharging.

Facilities should be properly hooked into the sanitary sewer system to prevent illicit discharges.

Untreated, raw sewage or septic should never be discharged or buried onsite.

Contact local government and State regulatory agencies to ensure the compliance with State or local requirements.

If sewage is being discharged to the sanitary sewer, the local Publicly Owned Treatment Works (POTW) should be contacted.

(7) BMPs for Pesticides

Store pesticides in a dry covered area.

Provide curbs or dikes to contain the pesticide if it should spill.

Have measures on site to contain and clean up spills of pesticides.

Strictly follow recommended application rates, recommended application methods (i.e., only apply the amounts necessary for the job).

Only a Certified Applicator shall use pesticides.

(8) BMPs for Petroleum Products

Have equipment to contain and clean up petroleum spills in fuel storage areas or on-board maintenance and fueling vehicles.

Where possible, store petroleum products and fuel vehicles in covered areas and construct dikes to contain any spills.

Contain and clean up petroleum spills immediately.

Use preventive maintenance for onsite equipment (e.g., check for and fix gas or oil leaks in construction vehicles on a regular basis).

Proper application of asphaltic substances (see manufacturers' instructions) will also reduce the risk of a spill.

Oversee all filling operations.

(9) BMPs for Fertilizers and detergents

Limit the application of fertilizers to the minimum area and the minimum recommended amounts.

Reduce exposure of nutrients to stormwater runoff by working the fertilizer deep into the soil (depth 4 to 6 inches).

Apply fertilizer more frequently, but at lower application rates.

Hydro seeding where lime and fertilizers are applied to the ground surface in one application should be limited, where possible.

Limit the use of detergents onsite: wash water containing detergents should not be discharged to the stormwater system.

Implement good erosion and sediment control to help reduce the amount of fertilizers that can leave the site as well as sediments.

Apply fertilizers and use detergents only in the recommended manner and only in recommended amounts.

(10) BMPs for Natural Geologic

Seal fractures in the bedrock with grout and bentonite, this method will often reduce the amount of acid or alkaline seepage.

3.2 SPILLS MANAGEMENT

Construction site supervisors should create and adopt a spill control plan which would include measures to:

Stop the source of the spill.

Contain the spill.

Clean up the spill.

Dispose of materials contaminated by the spill.

Identify and train personnel responsible for spill prevention and control.

The following measures would be appropriate for a spill prevention and response plan:

Store and handle materials to prevent spills.

Tightly seal containers.

Make sure all containers are clearly labeled.

Stack containers neatly and securely.

Where possible, store containers on pallets in a covered area.

Reduce stormwater contact if there is a spill.

Have cleanup procedures clearly posted.

Have cleanup materials readily available.

Contain any liquid.

Stop the source of the spill.

Cover spill with absorbent material such as kitty litter or sawdust.

Dispose of contaminated materials according to manufacturer's instructions or according to State or local requirements.

Identify personnel responsible for responding to a spill of toxic or hazardous Materials.

Provide personnel spill response training

Post names of spill response personnel.

Keep the spill area well ventilated.

If necessary, use a private firm that specializes in cleanup.

3.3 NON-STORMWATER DISCHARGE

Stormwater permits for construction activities typically include a prohibition against non-stormwater discharges. However, permits may list some non-stormwater discharges that, when combined with stormwater discharges, may be authorized by the permit. These exemptions may be allowed provided they are addressed in the Stormwater Pollution Prevention Plan for the site. The following is a list of non-stormwater discharges which are typically permitted. Those that are applicable to this project are noted as such (Table 3-2).

Table 3-2 Potential Non-Stormwater Discharges

Non-Stormwater Discharge	Applicable
Discharges from firefighting activities	**No**
Fire Hydrant flushings	**Yes**
Portable water sources (including waterline flushings)	**Yes**
Uncontaminated ground water (including dewatering ground water infiltration)	**Yes**
Foundation or footing drains where flows are not contaminated with process materials such as solvents	**Yes**
Springs, riparian habitats and wetlands	**No**
Irrigation water	**No**
Exterior building washdown	**Yes**
Pavement was waters where spills or leads of toxic or hazardous materials have not occurred and where detergents are not used.	**Yes**
Air conditioning condensate	**No**

If a non-stormwater discharge is necessary, and is not included as one of the exempt activities, the contractor shall do the following:

Eliminate the source of the discharge.

Apply for a separate permit of the discharge.

Direct the discharge to a sanitary system. This should not occur until the operator of the sanitary sewer and treatment plant is contacted and approves of the discharge. If any non-stormwater discharges are anticipated for the project, specific BMPs that will be used to prevent pollution from these discharges should be implemented.

3.4 GOOD HOUSEKEEPING

Good housekeeping practices are inexpensive, relatively easy to implement, and are often effective in preventing stormwater contamination. Specific activities that should be completed by the contractor include the following:

Neatly and orderly store any chemicals, pesticides, fertilizers, fuels, etc., that are being stored at the site.

Regularly dispose of garbage, rubbish, construction waste, and sanitary waste.

Promptly cleanup any spills of liquid or dry materials that have occurred.

Cleanup sediments that have been tracked by vehicles or personnel have been transported by wind or stormwater to other areas of the site, to adjacent properties, or onto adjacent roadways.

This should be done at regular intervals and whenever deemed necessary by the site engineer.

For severe sites, an equipment and personnel rinsing pad may be appropriate. This pad should be in a manner to minimize the potential for stormwater contamination and should be approved by the engineer or the Owner's Representative prior to construction and its use.

4.0 HYDROLOGIC/HYRAULIC ANALYSIS

Soils

The USDA-SCS Soil Survey of Erie County was utilized to determine the soil characteristics on the project site. These soil types are a Group D hydrologic soil.

Post-Development Conditions

The development is proposed to support a single existing building (with parking, driveways, sidewalks, and ancillary facilities). Specific details for the project are presented in a set of

engineering drawings to be submitted separately. The total project is intended to be fully developed in accordance with these separate engineering drawings.

When fully developed the project will have less than 5 employees.

Detention

Detention refers to a practice designed to temporarily store stormwater and provide for its gradual release over a period of time. A detention system, as well as a water quality system is proposed for this project site. In general, the detention system will receive stormwater conveyed across the site by means of sheet flow and stormwater piping.

Detention basin storage will be utilized to collect the stormwater from the developed Project site's watershed areas. A gradual stormwater release from the detention basin storage will be accomplished through the installation of hydraulically sized outlets in the detention basin's outlet structure.

4.1 CALCULATIONS

The stormwater analysis consists of the design of proper detention facilities using the SCS unit hydrograph method. The facilities were also required to be designed to meet State pollutant goals, reduce channel erosion, prevent overbank flooding, and help control extreme floods.

Pre-Development

A hydrograph was developed for the site drainage area and for 1.33 acres of existing greenspace using criteria from the modeling software for a 2-year storm considering predevelopment conditions (as discussed in Section 2.0). A Type II synthetic rainfall distribution was used for this analysis. A Type II rainfall is a model of an intense, brief rainfall event for a portion of the State in which the subject site is located. Based on the predevelopment grades, one (1) distinct drainage area exists on the site. This drainage area is referred to as Pre-A.

A computer hydrograph was developed for the predevelopment drainage area using criteria from the SCS Unit Hydrograph Method modeling software for the 10-year storm considering predevelopment conditions. Appendix A contains the calculations and computer printout of the hydrograph analyses. The peak discharges and total volumes of the hydrographs for predevelopment conditions were determined to be:

Storm Event		**Peak Flow**	**Total Volume**
		(cfs)	(acre-feet)
10-Year		1.68	0.190

Post-Development

A hydrograph was developed for the post development site drainage areas using criteria from the modeling software also for 10-year storm considering developed conditions. The peak discharges and total volumes of the hydrographs for post development conditions were determined to be:

Storm Event		Peak Flow	Total Volume
		(cfs)	(acre-feet)
10-Year		1.47	0.290

Stormwater Detention and Treatment

As indicated by the calculations, the post development runoff has increased from predeveloped conditions for the overall Project site. A buried bio retention detention basin is proposed along the eastern portion of the site which will detain flows and release them at a rate of 1.47 cfs.

Note, the properties to the North have had drainage problems in the past. We have proposed to install a catch basin along our the North property line along with some offsite grading to improve drainage in this area of the site.

All the calculations for the sizing of the basin and outlet structure are provided in Appendix A. The construction of the basin and outlet structure were performed in accordance with applicable sections of the *New York State Stormwater Management Design Manual* and the *New York State Guideline for Erosion and Sediment Control.*

Appendix A: Calculations