

**CITY OF RYE  
1051 BOSTON POST ROAD  
RYE, NY 10580  
AGENDA**

**REGULAR MEETING OF THE CITY  
COUNCIL VIA ZOOM CONFERENCE  
Wednesday, January 6, 2021  
6:30 p.m.**

*PURSUANT TO GOVERNOR CUOMO'S EXECUTIVE ORDER No. 202.1, REQUIREMENTS UNDER THE OPEN MEETINGS LAW HAVE BEEN SUSPENDED AND PUBLIC BODIES MAY MEET WITHOUT ALLOWING THE PUBLIC TO BE PHYSICALLY PRESENT. FOR THE HEALTH AND SAFETY OF ALL, CITY HALL WILL REMAIN CLOSED. THE MEETING WILL BE HELD VIA ZOOM VIDEO-CONFERENCING WITH NO IN-PERSON LOCATION AND WILL BE BROADCAST ON THE CITY WEBSITE. A FULL TRANSCRIPT OF THE MEETING WILL BE MADE AVAILABLE AT A FUTURE DATE.*

City of Rye residents may participate in the public meeting via the zoom link below. A resident wishing to speak on a topic should raise his or her hand and, when admitted to speak, should provide name and home address, and limit comment to no more than three minutes.

Please click the link below to join the webinar:

<https://zoom.us/j/99389990604?pwd=dGRHRldoOFhtcHVlSlZndisxWncvQT09>

Or phone: (646) 558-8656 or (301) 715-8592 or (312) 626-6799

Webinar ID: 993 8999 0604

Password: 815298

*[The Council will convene via ZOOM CONFERENCE at 5:15 p.m. and it is expected they will adjourn into a teleconference Executive Session at 5:16 p.m. to discuss attorney-client privileged matters, personnel matters, and/or labor negotiations.]*

1. Roll Call
2. Draft unapproved minutes of the Regular Meeting of the City Council held December 16, 2020.
3. Continue a public hearing to consider a petition from Midland Rye LLC to amend the City of Rye Zoning Code to expand the list of permissible uses in the B-5 "Interchange Office Building" Zoning District. All public hearing comments should be emailed to [publichearingcomments@ryeny.gov](mailto:publichearingcomments@ryeny.gov) with "Midland Rye LLC" as the subject no later than 3:00 pm on the day of the hearing.

4. Consideration of SEQRA determination of significance in connection with a petition from Midland Rye LLC to amend the City of Rye Zoning Code to expand the list of permissible uses in the B-5 “Interchange Office Building” Zoning District.
5. Residents may be heard on matters for Council consideration that do not appear on the agenda.
6. Resolution to adopt provisions of Executive Order 202.83 suspending the requirements of renewal applications as a condition to granting exemptions under sections 459-C and 467 of the Real Property Tax Law.
7. Resolution to amend the 2021 Adopted Fees and Charges for the Boat Basin to increase various rates for summer 2021.
8. Consideration of a request by the Rye Little League to approve a parade to kickoff Opening Day of the 63rd Little League Season on Saturday, April 10, 2021 beginning at 12:00 p.m.
9. Resolution to declare Fire Department Ladder 26 surplus.
10. Appointment of the 2021 Deputy Mayor by the Mayor.
11. Designation of the City Council’s Audit Committee by the Mayor.
12. Designation of the City Council Liaisons by the Mayor.
13. Designation of official City newspaper.
14. Designation of the amounts of faithful performance bonds:

A. City Comptroller	\$ 1,000,000
B. City Clerk	\$ 500,000
C. City Marshall	\$ 100,000
15. Adjourn until January 20, 2021 the public hearing for consideration of a petition from The Miriam Osborn Memorial Home to amend the text of the City of Rye Zoning Code Association to create new use and development standards for “Senior Living Facilities” in the R-2 Zoning District. All public hearing comments should be emailed to [publichearingcomments@ryeny.gov](mailto:publichearingcomments@ryeny.gov) with “Osborn Zoning Change” as the subject no later than 3:00 pm on the day of the hearing.
16. Appointments to Boards and Commissions by the Mayor with Council approval.
17. Old Business/New Business.
18. Adjournment

\* \* \* \* \*

The next regular meeting of the City Council will be held on Wednesday, January 20, 2021 at 6:30 p.m.

\*\* City Council meetings are available live on Cablevision Channel 75, Verizon Channel 39, and on the City Website, indexed by Agenda item, at [www.ryeny.gov](http://www.ryeny.gov) under "RyeTV Live".

***UNAPPROVED MINUTES*** of the Regular  
Meeting of the City Council of the City of Rye held in  
City Hall on December 16, 2020, at 6:30 P.M.

**PRESENT:**

JOSH COHN, Mayor  
SARA GODDARD  
CAROLINA JOHNSON  
RICHARD MECCA  
JULIE SOUZA  
BENJAMIN STACKS  
PAMELA TARLOW  
Councilmembers

**ABSENT:**

None

The Council convened at 5:15 P.M. by videoconference pursuant to Governor Cuomo's Executive Order 202.1 waiving requirements of the Open Meetings Law. Councilman Mecca made a motion, seconded by Councilwoman Souza, to adjourn briefly into executive session to discuss litigation and personnel matters. The Council reconvened in a public videoconference at 6:30 P.M. The meeting was streamed live at [www.ryeny.gov](http://www.ryeny.gov) for public viewing.

1. Roll Call.

Mayor Cohn asked the City Clerk to call the roll; a quorum was present to conduct official City business.

2. Draft unapproved minutes of the Regular Meeting of the City Council held December 2, 2020 as well as the minutes from the Budget Work Sessions on November 17 & 23, 2020.

City Clerk D'Andrea stated that Councilman Stacks' recusal during the Midland Rye LLC agenda item would be noted.

Councilman Mecca made a motion, seconded by Councilwoman Souza, to adopt the minutes of December 2, 2020, and the budget work sessions of November 17 and 23, 2020.

3. Continue a public hearing to consider a petition from Midland Rye LLC to amend the City of Rye Zoning Code to expand the list of permissible uses in the B-5 "Interchange Office Building" Zoning District. All public hearing comments should be emailed to [publichearingcomments@ryeny.gov](mailto:publichearingcomments@ryeny.gov) with "Midland Rye LLC" as the subject no later than 3:00 pm on the date of the hearing.

Councilman Stacks recused himself from this agenda item.

***UNAPPROVED MINUTES*** – Regular Meeting - City Council

December 16, 2020 - Page 2

Mayor Cohn introduced the continuation of the Public Hearing for Midland Rye LLC to amend the City's zoning code to expand the list of permissible uses in the B5 Zoning District.

Mayor Cohn noted that there is still concern regarding the definition of "light finishing and assembly" as well as the language regarding chemicals. He offered to provide a more specific definition of each for consideration. He also spoke to the neighbors' concerns about traffic and the potential for greater community engagement from Midland Rye LLC.

Steven Wrabel, McCullough Goldberger & Staudt, attorney for the applicant, addressed the Council. He recounted the events that have happened since Midland Rye LLC was last before the council on December 2, 2020. Mr. Wrabel stated that Peter Duncan was able to speak with neighbors on the property, as well as meet with Rye Colony's Board President. Mr. Wrabel noted that an effort had been made to make the language regarding chemical storage more straightforward.

Mr. Wrabel offered to take questions from the Council.

Mayor Cohn offered his own suggestion for potential language for the light finishing and assembly use. He also offered more specific language against having toxic, hazardous or explosive materials on the property.

Mr. Wrabel agreed to take a look at that language.

Mayor Cohn invited the public to speak.

Jessie, resident of Rye Colony, spoke about traffic concerns. (Resident did not identify her last name for the record).

Pamela Hass, a Rye Colony resident, spoke to the need for a master plan.

Danielle Tagger Epstein, Rye resident, also spoke to the need for a master plan to ensure that capital improvements are consistent with community goals.

Josh Frank, a resident of Rye Colony, expressed his concern that there would be potential for a tenant to stretch the rules after the zoning change has been made. He requested more specific language.

Thomas Monahan, a resident of The Gables, stated that the uses are very open-ended, and it is hard to know what to expect in regard to traffic, or anything else associated with the property.

Mayor Cohn asked Christian Miller, Rye's City Planner, to explain why the City is proceeding with a zoning text amendment that is general in nature and how the public would participate in any decisions for site plan changes in the future.

City Planner Miller noted that the property, as currently permitted by the zoning code, is not economically viable and that it is important to figure out what other uses might be

acceptable. Because the applicant does not yet have a tenant, it is important to expand the list of uses in order to better market the property to potential tenants.

Mr. Miller stated that after the zoning has been approved, a future application would go to the Planning Commission, and the Commission would make decisions consistent with the zoning that the City Council establishes.

Mayor Cohn asked if a potential tenant, who is not a straightforward office user, would need to provide a site plan.

Mr. Miller said that a potential tenant would need to go before the Planning Commission under most circumstances.

Councilwoman Johnson stated that residents will have another chance to speak when a potential tenant goes before the Planning Commission with a site plan.

Councilwoman Souza asked if there had been outreach to the neighbors.

Peter Duncan, George Comfort & Sons, stated that there had been a meeting with the Rye Colony board as well as a meeting with several residents of Rye Colony.

Councilwoman Tarlow asked if the proposed changes to the zoning text amendment apply to all buildings in the B5 District.

Mr. Miller confirmed that the changes would apply to all three private properties in the B-5 District.

Councilwoman Souza asked if, under the existing zoning code, the property could be turned into a hotel.

Mr. Miller confirmed that it could.

Councilman Mecca noted that after the pandemic ends and commuters have returned to their normal commuting schedules, under the current zoning code, employees and commuters will be leaving the area at the same time. He suggested that reallocating the property to other uses could prevent potential rush hour traffic.

Mr. Miller reiterated that the zoning text amendment allows for a mix of uses.

Councilwoman Goddard stated that it's difficult to predict the traffic impacts because of the general nature of the amendment changes.

Mr. Wrabel stated that the current zoning code lends itself to underutilized space.

Councilwoman Goddard stated that with the greater flexibility of the uses, there is a greater unknown in what can be expected by the community.

Mayor Cohn asked if office use was a higher traffic generator than the other proposed uses.

Mr. Wrabel confirmed that based on the data from the traffic engineers, at peak hours, office uses typically produces more traffic than other uses.

Kevin Masciovecchio, JMC, traffic engineer for the applicant, summarized potential traffic impacts based on the various potential uses.

Councilwoman Goddard noted that the traffic study is helpful conceptually, and it helps to understand the general context.

Mr. Miller noted that the traffic analysis provides detailed framework without having to know who the tenant will be.

Councilwoman Tarlow asked if there are weight restrictions on Peck Ave. and expressed concerns regarding how the truck traffic will get back to the interstate.

There was general discussion on traffic impacts in the neighborhood.

Peter Feroe, AKRF, noted that the specific traffic impacts of the uses will be looked at by the Planning Commission in the context of the current traffic patterns.

Councilwoman Tarlow asked what type of resources the Council can use to provide the neighborhood with more peace of mind regarding traffic.

Mr. Duncan detailed Midland Rye LLC's attempts to address the Council's concerns, the neighbors' concerns, and the Planning Commissions' concerns.

Mayor Cohn asked if the plan was still to maintain the property's wooded areas and greenspace.

Mr. Duncan confirmed that that was still the case.

Councilwoman Tarlow thanked Mr. Duncan for caring about the City and the neighborhood.

Mayor Cohn thanked Midland Rye LLC.

Councilwoman Souza made a motion, seconded by Councilman Mecca and unanimously carried, to set a public hearing for January 6, 2021 to continue consideration of a petition from Midland Rye LLC to amend the City of Rye Zoning Code to expand the list of permissible uses in the B-5 "Interchange Office Building" Zoning District.

4. Continue the public hearing on the 2021 Budget.

There being no one from the public to speak on the 2021, Councilwoman Souza made a motion, seconded by Councilwoman Tarlow and unanimously carried, to close the public hearing.

5. Open the public hearing to adopt a Local Law to override the State enacted tax levy limitation, if necessary.

This item was not discussed, as the budget that was approved did not override the state-enacted tax levy limitation.

6. Resolution to adopt the 2021 Budget and establish the 2021 tax levy and 2021 tax rate.  
Roll Call.

Councilwoman Souza made a motion, seconded by Councilman Mecca, to adopt the 2021 budget as follows:

**WHEREAS**, on November 4, 2020 the 2021 Tentative Budget was presented to the City Council, and;

**WHEREAS**, on November 4, 2020 Councilwoman Souza made a motion, seconded by Councilwoman Tarlow, to adopt the following changes to the proposed 2021 budget;

**NOW THEREFORE BE IT RESOLVED:** the City of Rye proposed 2021 be amended to include the following:

- Decrease 2021 Budgeted General Fund Mooring Fee Revenue by \$20,000 and Increase the 2021 Budgeted Boat Basin Fund Mooring Fee Revenue by \$20,000;
- Decrease 2021 Budgeted General Fund Inter-Fund Golf Club Non-Resident Surcharge Revenue by \$20,000 and Decrease the 2021 Budgeted Golf Club Fund Inter-Fund General Fund Non-Resident Surcharge Expense by \$20,000.

**RESOLVED**, that the City Council does hereby certify to the City Comptroller the 2021 City of Rye tax rate of \$187.88 per \$1,000 taxable assessed valuation and the 2021 City of Rye tax levy of \$26,556,114 and be it further;

**RESOLVED**, that the City Council does hereby direct the City Comptroller to apportion and extend against each taxable property listed upon the assessment roll at the tax rate certified in this resolution to produce the tax levy certified in this resolution, and to render tax notices for, and receive and collect, the several sums so computed and determined, with interest as provided by law, and any special assessments heretofore authorized and approved.

ROLL CALL

AYES: Mayor Cohn, Councilmembers Goddard, Johnson, Mecca, Souza, Stacks, Tarlow

NAYS: None  
ABSENT: None

7. Resolution authorizing the City Comptroller to make the necessary year-end closing transfers.

Councilwoman Tarlow made a motion, seconded by Councilman Mecca, to adopt the following resolution:

**RESOLVED**, that the City Comptroller is hereby authorized to make the necessary 2020 fiscal year-end budget transfers in City accounts, provided a list of such transfers over \$10,000 is furnished to the City Council after completion of such transfers.

**ROLL CALL**

AYES: Mayor Cohn, Councilmembers Goddard, Johnson, Mecca, Souza, Stacks, Tarlow  
NAYS: None  
ABSENT: None

8. Resolution authorizing the City Manager to waive permit and application fees related to local government projects.

City Manager Usry explained that there are situations in which the City of Rye owns land in other jurisdictions, and other municipalities own land within the City of Rye. He explained that from time to time, there are requests for certain land use permits or applications. In the interest of a better relationship with these entities, he recommended that the Council give the City Manager the ability to waive fees and permits for other municipalities where the city has a similar agreement.

Mayor Cohn talked about instances of large projects in which the City Manager would use his or her discretion to protect the city.

Councilman Stacks made a motion, seconded by Councilwoman Johnson, to adopt the following resolution:

**RESOLUTION AUTHORIZING THE CITY MANAGER TO WAIVE PERMIT AND  
APPLICATION FEES RELATED TO LOCAL GOVERNMENT PROJECTS**

**WHEREAS**, on occasion, the City of Rye receives applications from other local governmental entities to review, inspect and approve projects located on municipally owned land (“Municipal Projects”); and

**WHEREAS**, in an effort to assist local governmental entities in reducing expenses of such Municipal Projects, the City of Rye believes it is in the public interest to waive application fees and other municipal related costs typically charged to other non-governmental entities;

**NOW, THEREFORE, BE IT RESOLVED THAT:**

The City Manager may waive any permit, application or other municipal fee as they relate to the City's review and/or approval of Municipal Projects on the following conditions:

- a. The Municipal Project is not being funded through a third-party grant or other funding source where such fees and costs are being reimbursed to the local municipality; and
- b. The benefiting municipality offers the same fee/cost waiving courtesy to the City of Rye.

**BE IT FURTHER RESOLVED**, that any third party costs incurred by the City relating to the review, processing or inspection of the Municipal Project will be charged to the local municipality unless a separate arrangement is made.

This Resolution shall take effect immediately.

**ROLL CALL**

AYES: Mayor Cohn, Councilmembers Goddard, Johnson, Mecca, Souza, Stacks, Tarlow  
NAYS: None  
ABSENT: None

9. Resolution to appropriate Building & Vehicle Maintenance Fund Balance for the refurbishment of Ladder 25 and authorizing the City Manager to enter into a rental agreement for temporary replacement.

Public Safety Commissioner Robert Falk and Fire Lt. John McDwyer addressed the Council. They explained that Ladder 25 failed the New York State fire apparatus structural testing due to rust, and that refurbishment was needed. There was discussion among the Council and staff about the process and temporary replacement needed.

Councilman Mecca made a motion, seconded by Councilman Stacks, to adopt the following resolution:

**RESOLUTION TO APPROPRIATE BUILDING VEHICLE MAINTENANCE FUND  
BALANCE FOR THE REFURBISHMENT OF LADDER 25 AND AUTHORIZING THE  
CITY MANAGER TO ENTER INTO A RENTAL AGREEMENT FOR TEMPORARY  
REPLACEMENT**

**WHEREAS**, the City of Rye Fire Department fire truck, Ladder 25, failed the New York State fire apparatus structural testing due to rust extending into the frame of the ladder, making it unsafe for fire service; and

**WHEREAS**, the City of Rye Fire Department is in receipt of a proposal in the amount of \$295,000 to refurbish the ladder structure, turntable, hydraulic pistons, and associated wiring as well as refurbishing the outriggers, hydraulic pistons, associated wiring, and sensors on Ladder 25 to factory new standards; and

**WHEREAS**, the City of Rye Fire Department recommends that the City of Rye enter into said agreement, based on the facts that the refurbishment project will result in an additional 10 years of service out of Ladder 25 for the City and all repairs come with a limited manufactures warrantee, providing operational efficiencies and cost savings; and

**WHEREAS**, the refurbishment project is expected to take five months to be completed and the City of Rye will need a replacement truck in the interim while Ladder 25 is refurbished; and

**WHEREAS**, the City of Rye Fire Department has received a quote from Hudson Valley Fire Equipment, LLC for a short term rental of a truck in the amount of \$8,500.00 per month; and

**WHEREAS**, the City of Rye Fire Department recommends that the City of Rye enter into said rental agreement as a replacement in the interim is needed and the overall project will provide operational efficiencies and cost savings; and

**WHEREAS**, the total costs expected for the refurbishment project, including short term rental and transportation costs is approximately \$400,000.00; and

**WHEREAS**, there are sufficient funds in the fund balance of the Building and Vehicle Maintenance Fund to appropriate for this refurbishment project;

**NOW THEREFORE BE IT RESOLVED THAT:** The City Council authorizes that the Building and Vehicle Maintenance Fund balance be appropriated in the amount of \$400,000.00 to fund the refurbishment of Ladder 25. The City of Rye reserves its right to reimburse the Building and Vehicle Maintenance Fund by issuing bonds.

**BE IT FURTHER RESOLVED THAT:** The City Council authorizes the City Manager to enter into temporary rental agreement with Hudson Valley Fire Equipment, LLC for replacement truck in the interim period of time while Ladder 25 is being refurbished.

**ROLL CALL**

AYES: Mayor Cohn, Councilmembers Goddard, Johnson, Mecca, Souza, Stacks, Tarlow  
NAYS: None  
ABSENT: None

10. Resolution authorizing the City Manager pursuant to City Code 191-6 “One Way Streets” to take the necessary steps to make Hewlett Avenue one way from Forest Avenue to Milton Road when school is in session M-F from 8:00 a.m. to 3:30 p.m. until June 25, 2021.

Councilwoman Souza made a motion, seconded by Councilman Mecca and unanimously carried, to adopt the following resolution:

**RESOLVED**, that the City Manager is hereby authorized pursuant to City Code 191-6 “One Way Streets” to take the necessary steps to make Hewlett Avenue one way from Forest Avenue to Milton Road when school is in session M-F from 8:00 a.m. to 3:30 p.m. until June 25, 2021.

10a. Resolution to authorize Corporation Counsel to enter into a settlement with Save the Sound.

Councilwoman Souza made a motion, seconded by Councilwoman Tarlow, to adopt the following resolution:

**RESOLVED**, that Corporation Counsel is hereby authorized to enter into a settlement agreement with Save the Sound on the following conditions:

- 1) Modifying the benefit project with the default project recipient being stream restoration of the Blind Brook and/ or Red Maple Swamp; and
- 2) Finalize the payment of fees not exceed \$290,000.

ROLL CALL

AYES: Mayor Cohn, Councilmembers Goddard, Johnson, Mecca, Souza, Stacks, Tarlow  
NAYS: None  
ABSENT: None

11. Residents may be heard on matters for Council consideration that do not appear on the agenda.

Robert Alexander, 290 Stuyvesant Avenue, addressed the Council. He said that he was responding to a zoning petition that was submitted to the City by Row America and the Wainwright House. He spoke against the petition and expressed concerns such as effect on the neighborhood, and commercializing Milton Point.

Libby Alexander, 290 Stuyvesant Avenue, also expressed concern over the zoning petition. She said it was the burden of the applicant to provide comfort to its neighbors that the neighborhood would not be adversely affected. She mentioned a written petition of neighbors against the application.

12. Resolution authorizing the Mayor to execute an agreement with the Rye Free Reading Room to furnish library services for 2021.

Roll Call.

Councilwoman Johnson made a motion, seconded by Councilwoman Tarlow, to adopt the following resolution:

**RESOLVED**, that the Mayor be and hereby is authorized to execute an agreement with the Rye Free Reading Room to furnish library services for 2021.

**ROLL CALL**

AYES: Mayor Cohn, Councilmembers Goddard, Johnson, Mecca, Souza, Stacks, Tarlow  
NAYS: None  
ABSENT: None

13. 2021 Participation in the Tree City program.

This item was discussed at a prior Council meeting.

14. Approve three appointments to the Rye Golf Club Commission for a three-year term expiring December 31, 2023, and three reappointments of current commissioners to fill 3 vacancies.

Mayor Cohn and the Council approved the appointments to the Rye Golf Club for a term of three years and three reappointments in the following manner:

Elliot Chait 3-year term (expiring December 31, 2023)  
James Mulcahy 3-year term (expiring December 31, 2023)  
Darren Johnston 3-year term (expiring December 31, 2023)

The Rye Golf Club Commission further recommends the extension of term for:  
Mack Cunningham 1 year (2021),  
Terry McCartney 2 year (2021 & 2022)  
Akhil Kumar 2 year (2021 & 2022)

Councilman Stacks, liaison to the Golf Commission, thanked Michael Harrington for his three years of service to the commission, as well as Art Tiedemann for his service.

15. Old Business/New Business.

There was nothing discussed under this agenda item.

16. Adjournment.

There being no further business to discuss, Councilman Mecca made a motion, seconded by Councilwoman Souza and unanimously carried, to adjourn the regular meeting of the City Council at 8:32 P.M.

Respectfully submitted,

Carolyn D'Andrea  
Rye City Clerk



# CITY COUNCIL AGENDA

DEPT.: Planning

DATE: December 31, 2020

CONTACT: Christian Miller, City Planner

**AGENDA ITEM:** Continue a public hearing to consider of a petition from Midland Rye LLC to amend the City of Rye Zoning Code to expand the list of permissible uses in the B-5 "Interchange Office Building" Zoning District. All public hearing comments should be emailed to [publichearingcomments@ryeny.gov](mailto:publichearingcomments@ryeny.gov) with "Midland Rye LLC" as the subject no later than 3:00 pm on the date of the hearing.

**FOR THE MEETING OF:**

January 6, 2021

**RYE CITY CODE,**

**RECOMMENDATION:** That the City Council continue the public hearing.

**IMPACT:** ☐ Environmental ☐ Fiscal ☒ Neighborhood ☐ Other:

**BACKGROUND:**

The former Avon property at 601-602 Midland Avenue was purchased by Midland Rye LLC. The petitioner believes the proposed zoning changes would allow them to better market the property and make use of the underutilized site by providing more flexibility in pursuing potential tenants. The original petition was previously referred to the Planning Commission, which provided its advisory recommendation to the City Council in November 2019 memorandum (attached hereto). The Petitioner's September 18, 2020 and November 24, 2020 submissions revised the original zoning text amendment and are attached hereto. The latest submission of December 31, 2020, reflecting changes that address the December 2nd and 16th City Council meetings is attached at the end. These edits further define and limit the proposed light finishing and assembling use and place even greater restrictions on chemicals that may be used on the premises. The Petitioner also provides for additional screening requirements to further protect the existing trees on Peck Avenue. The local law now supplies clear factors to consider in making a comparison to an otherwise permitted office use.

McGULLOUGH, GOLDBERGER & STAUDT, LLP

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COUNSEL

FRANK S. McCULLOUGH (1905-1998)  
EVANS V. BREWSTER (1920-2005)

November 24, 2020

Honorable Mayor Josh Cohn  
and Members of the City Council  
City of Rye  
1050 Boston Post Road  
Rye, New York 10580

Re: 601-621 Midland Avenue  
Zoning Text Amendment

Dear Mayor Cohn and Members of the City Council:

This office represents Midland Rye LLC<sup>1</sup> (hereinafter “Petitioner” or “George Comfort”). Petitioner is the owner of a 14.84-acre lot identified as 601 Midland Avenue (the “Property”) and the 3.25-acre lot identified as 621 Midland Avenue, which is vacant. The Property is primarily located in the B-5 “Interchange Office Building” Zoning District and is currently improved with the now-vacant Avon office building. Petitioner is proposing a Zoning Text Amendment (the “Amendment”) to expand the list of permissible uses in the B-5 District in order to better market the Property to prospective tenants in an increasingly difficult environment for office uses.

Following our discussion with the Council at its November 18<sup>th</sup> meeting, additional changes have been made to the Amendment to address the Council’s comments and better refine the proposed use regulations. All newly proposed uses are now explicitly prohibited from utilizing the Peck Avenue entrance for truck traffic. Additional language has also been included to ensure that principal signage for a self-storage use must be directed at the railroad or Interstate-95 and may not face Peck Avenue or Midland Avenue.

We have also limited the proposed product finishing/assembly use to light finishing and assembly. The local law now makes it clear that any materials, equipment, or finished products associated with an assembly use may not be stored outside. This distinction will prohibit heavier assembly tenants, which would require outdoor storage to accommodate a more intensive use. Moreover, the permitted use terminology has been revised to reflect “light” assembly, and the Planning Commission must describe a specific light assembly use as part of the Site Plan approval process. This will ensure a heavy assembly use may not be permitted on the Property.

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<sup>1</sup> Midland Rye LLC is a Delaware limited liability company licensed to do business in the State of New York, under common control with George Comfort & Sons, Inc.

Please find enclosed a copy of the proposed zoning language, together with a redline showing the most recent changes to the Amendment. We look forward to discussing this matter with the Council in greater detail at the December 2<sup>nd</sup> public hearing.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Steve Wrabel', written in a cursive style.

Steven Wrabel

cc: Greg G. Usry  
Kristen Wilson, Esq.  
Christian Miller  
George Comfort & Sons, Inc.  
AKRF, Inc.  
JMC Engineering

**CITY COUNCIL  
CITY OF RYE, NEW YORK**

**LOCAL LAW NO. \_\_\_\_-2020**

**A LOCAL LAW TO REVISE THE ZONING ORDINANCE  
OF THE CITY OF RYE TO EXPAND THE LIST OF PERMITTED USES WITHIN THE  
B-5 ZONING DISTRICT TO INCLUDE SELF-STORAGE, MEDICAL OFFICE,  
DAYCARE, PRODUCT TESTING, AND PRODUCT FINISHING/ASSEMBLY**

**Be it enacted by the City Council of the City of Rye as follows:**

**Section One.** Section 197-1 of the City of Rye Zoning Ordinance shall be amended by adding a new defined term entitled “Self-Storage”, which shall state as follows:

**SELF-STORAGE**

A fully enclosed commercial and/or business establishment providing varying sizes of individual compartmentalized and/or controlled access to stalls or lockers for the storage of business and personal property. Such facilities shall not include warehouse or distribution uses.

**Section Two.** Section 197-12 of the City of Rye Zoning Ordinance shall be amended by adding new sections .C. and .D., which shall state as follows:

- C. Nothing shall prohibit two or more principal uses on any one property within the B-5 District, provided all applicable standards and requirements are met pursuant to this Chapter.
- D. Sites in the B-5 District improved with one or more uses subject to additional standards and requirements in accordance with Section 197-86 of this Chapter shall have their primary access, including all access for delivery vehicles, from a State or County highway.

**Section Three.** Section 197-86 of the City of Rye Zoning Ordinance shall be amended by adding new sections (3), (4), (5), (6) and (7) to Table B, Column 2, under the heading “B-5 Interchange Office Building District”, which shall state as follows:

- (3) Medical offices for physicians or dentists, exclusive of bed care of patients. Said offices shall comply with all dimensional regulations applicable to office buildings within the B-5 District and shall have a minimum parking requirement of 5.0 parking spaces per 1,000 square feet of gross floor area.

- (4) Self-storage, provided the following criteria are met:
- (a) Signage must comply with all elements of the Rye Sign Ordinance (Chapter 165). No signage, other than necessary directional or minor signage, may face a local or County Road.
  - (b) Unless expressly provided otherwise, self-storage uses shall comply with all other dimensional requirements applicable to office buildings within the B-5 District.
  - (c) No self-storage use shall exceed 2/3 of the usable floor area of any existing or proposed building within the B-5 District.
  - (d) Self-storage facilities shall not be constructed to appear industrial in nature or out of keeping with the character of the surrounding neighborhood.
  - (e) Self-storage facilities shall have a minimum parking requirement of 0.25 parking spaces per 1,000 square feet of gross floor area.
  - (f) Storage of chemicals in such state and quantities so as to be “reportable” as defined by Section 313 of the Emergency Planning and Community Right-to-Know Act (“EPCRA”), shall not be permitted, regardless of the number of employees on site.
- (5) Duly licensed daycare and child-care facilities, which shall comply with all dimensional regulations applicable to office buildings within the B-5 District, and shall have a minimum parking requirement of 4.0 parking spaces per 1,000 square feet of gross floor area.
- (6) Light finishing or assembling of products within a fully enclosed building, subject to the following requirements:
- (a) Manufacturing shall not be permitted, and any associated machinery shall be incidental to the assembly or finishing of products. For purposes of this section, manufacturing uses are those that are engaged in basic processing of materials from extracted or raw materials. Manufacturing uses differ from finishing or assembling uses in their size, scale, traffic, intensity of energy usage, and pollution potential.
  - (b) No outside storage of equipment, materials, or finished products shall be permitted.
  - (c) Light finishing and/or assembling facilities shall have a minimum parking requirement of 2.0 parking spaces per 1,000 square feet of gross floor area.
  - (d) Storage of chemicals in such state and quantities so as to be “reportable” as defined by Section 313 of the EPCRA shall be generally prohibited, regardless of the number of employees on site. The use of one or more chemicals in amounts that are “reportable” may be permitted if it can be demonstrated to the satisfaction of the Planning Commission that such chemicals shall be handled, stored, and disposed of in a manner that is protective of the health and safety of neighboring properties and the environment, inclusive of the sanitary sewer system.
  - (e) The Planning Commission shall make a finding that the proposed use in the specific location contemplated will not result in greater impacts to adjoining residence districts than an otherwise permitted office building use.
  - (f) The Planning Commission shall describe the specific light finishing and assembly use, including the size, scope, and potential impacts of any ancillary or accessory uses thereof, being permitted as part of any Site Plan approval.
  - (g) Any light finishing/assembly facility shall comply with all dimensional regulations applicable to office buildings within the B-5 District.

- (7) Testing of products, subject to the following requirements:
- (a) Manufacturing shall not be permitted, and any associated machinery shall be incidental to the testing of products. For purposes of this section, manufacturing uses are those that are engaged in basic processing of materials from extracted or raw materials. Manufacturing uses differ from finishing or assembling uses in their size, scale, traffic, intensity of energy usage, and pollution potential.
  - (b) No outside storage of equipment or materials shall be permitted.
  - (c) Any product testing that occurs outside shall not be visible from a residential district.
  - (d) Testing shall have a minimum parking requirement of 2.0 parking spaces per 1,000 square feet of gross floor area.
  - (e) Storage of chemicals in such state and quantities so as to be “reportable” as defined by Section 313 of the EPCRA shall be generally prohibited, regardless of the number of employees on site. The use of one or more chemicals in amounts that are “reportable” may be permitted if it can be demonstrated to the satisfaction of the Planning Commission that such chemicals shall be handled, stored, and disposed of in a manner that is protective of the health and safety of neighboring properties and the environment, inclusive of the sanitary sewer system.
  - (f) The Planning Commission shall make a finding that the proposed use in the specific location contemplated will not result in greater impacts to adjoining residence districts than an otherwise permitted office building use.
  - (g) Any product testing facility shall comply with all dimensional regulations applicable to office buildings within the B-5 District.

**Section Four.** If any section, subsection, clause, phrase or other portion of this Local Law is, for any reason, declared invalid, in whole or in part, by any court, agency, commission, legislative body or other authority of competent jurisdiction, such portion shall be deemed a separate distinct and independent portion. Such declaration shall not affect the validity of the remaining portions hereof, which other portions shall continue in full force and effect.

**Section Five.** This Local Law shall take effect immediately upon filing with the Secretary of State.

RECEIVED  
CITY OF RYE  
2020 SEP 21 AM 11:51  
MCGULLOUGH, GOLDBERGER & STAUDT  
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KEVIN E. STAUDT  
STEVEN M. WRABEL

September 18, 2020

CHARLES A. GOLDBERGER  
COUNSEL

Honorable Mayor Josh Cohn  
and Members of the City Council  
City of Rye  
1050 Boston Post Road  
Rye, New York 10580

Re: 601-621 Midland Avenue  
Zoning Text Amendment

Dear Mayor Cohn and Members of the City Council:

This office represents Midland Rye LLC<sup>1</sup>, (hereinafter, "Petitioner" or "George Comfort"). Petitioner is the owner of a tract of land totaling approximately 18.09 acres of real property, which consists of the 14.84-acre lot identified as 601 Midland Avenue (the "Property") and the 3.25-acre lot identified as 621 Midland Avenue (the "Vacant Lot"). Until recently, both sites were owned by Avon Capital Corporation and Avon Products, Inc. ("Avon"), which operated on the Property since the late 1950's.

The Property is primarily located in the B-5 "Interchange Office Building" Zoning District and is currently improved with an office building.<sup>2</sup> The building was initially used as a warehouse and distribution center for Avon, and was later converted into Avon's data center and accompanying office space. This office building has now become vacant.

As discussed in our last meeting with the Council and further detailed in the enclosed memorandum from AKRF, Inc., it is difficult to attract tenants for a straightforward office use in the current Westchester market, which has seen a number of office developments become vacant. For this reason, Petitioner is proposing a Zoning Text Amendment (the "Amendment") to expand the list of permissible uses in the B-5 District. The Amendment will give Petitioner greater flexibility in pursuing new tenants for this underutilized site. It is not anticipated that any of the uses contemplated in the Amendment will require changes to the existing building.

<sup>1</sup> Midland Rye LLC is a Delaware limited liability company licensed to do business in the State of New York, under common control with George Comfort & Sons, Inc.

<sup>2</sup> A small corner of the site containing a driveway lies within the adjacent R-2 "One-Family" Zoning District.

Petitioner last appeared before the Council at its September 18, 2019 meeting, and was duly referred to the Rye Planning Commission for its review and recommendation. The Commission's review of the proposed Amendment is now complete, and it is our understanding that the Commission's recommendation has been provided to the Council.

Over the course of the Planning Commission's review, Petitioner made a number of revisions to the proposed Amendment. First, the Commission asked that Petitioner look more closely at child-care/daycare uses, which are already permitted as an accessory use in the B-5 District. As a result of the Commission's input, the Amendment was updated to include child-care facilities as a permitted principal use, subject to additional standards and requirements. The revised Amendment would allow for a daycare facility on the Property independent of any other building tenant. This change will provide further flexibility to Petitioner in marketing the Property, and will also provide a potential benefit to the larger community by allowing for new daycare facilities.

Similarly, based on market demand, Petitioner has added finishing and/or assembling of products as a new principal use subject to additional standards and requirements. This use is not industrial in nature, as all materials would be prefabricated elsewhere and assembled on site by a potential tenant. Pursuant to input from the Planning Commission, the Amendment has been further revised include several criteria related to this use to ensure compatibility with the surrounding neighborhood.

Similarly, to accommodate market demand, Petition has also added product testing as a new principal use subject to additional standards and requirements. This use would involve the examination of items that have already been built and would also not be industrial in nature. To ensure proper controls are in place, Petitioner is proposing similar criteria to those developed for product finishing/assembly.

The Planning Commission also requested Petitioner provide parking ratios and supporting rationale for each use. JMC Engineering ("JMC") reviewed relevant parking standards prescribed by the Institute of Transportation Engineers as well as standards in nearby municipalities for the relevant uses. See JMC Parking Memorandum, enclosed herewith. Pursuant to this analysis, the Amendment was revised to include parking ratios that best suit each use. New and revised language was also added to the Amendment to better define the proposed self-storage use, and to clarify that two or more principal uses may be accommodated on the same lot.

Enclosed please find the following materials in support of the petition to the City Council:

- 1) Revised Petition for Amendments to the City of Rye Zoning Ordinance (the "Petition"), dated September 11, 2020, together with the Amendment to the City of Rye Zoning Ordinance and a Planning Study prepared by AKRF, Inc., dated September 3, 2020;
- 2) Redline of the changes made to the Amendment since our last Council appearance;

- 3) Parking Memorandum prepared by JMC, dated September 11, 2020; and
- 4) Revised Full Environmental Assessment Form ("EAF"), prepared by AKRF, Inc., dated September 3, 2020, relating to the proposed changes.<sup>3</sup>

Please place this matter on the next available City Council agenda to consider setting a public hearing. We look forward to discussing this important matter with you.

Very truly yours,



Steven Wrabel

cc: Greg G. Usry  
Kristen Wilson, Esq.  
Christian Miller  
George Comfort & Sons, Inc.  
AKRF, Inc.  
JMC Engineering

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<sup>3</sup> You will note that because the proposed action is a zoning text amendment only, several sections of the EAF are not required to be filled out. Nevertheless, we have provided as much information as possible for the Council's convenience, in order to better facilitate your review.

# **Petition for Amendment to City of Rye Zoning Ordinance (with Exhibits)**

CITY OF RYE CITY COUNCIL  
COUNTY OF WESTCHESTER: STATE OF NEW YORK

-----X  
In the Matter of the Petition of

MIDLAND RYE LLC  
Petitioner,

**PETITION FOR  
AMENDMENT TO  
CITY OF RYE  
ZONING ORDINANCE**

For Amendment to the City of Rye  
Zoning Ordinance.

Parcels: 139-20-1-3, 139-20-1-5  
-----X

TO THE MAYOR AND MEMBERS OF THE CITY COUNCIL OF THE CITY OF RYE:

PETITIONER, MIDLAND RYE LLC (“Petitioner”), with its principal place of business at 200 Madison Avenue, 26<sup>th</sup> Floor, New York, New York hereby petitions the City Council of the City of Rye (“Rye”) for amendments to the Zoning Ordinance of Rye as follows:

**INTRODUCTION**

1. Petitioner is a duly formed and existing Delaware limited liability company licensed to do business in the State of New York, with its principal place of business at 200 Madison Avenue, 26<sup>th</sup> Floor, New York, NY 10016.

2. Petitioner is the owner of a tract of land totaling approximately 18.09 acres of real property, which consist of (a) the 14.84-acre lot identified as 601 Midland Avenue, City of Rye, County of Westchester, State of New York, shown and designated on the City of Rye Tax Map as Tax Parcel 139-20-1-3 (hereinafter referred to as the “Property”); and (b) the 3.25-acre lot identified as 621 Midland Avenue, shown and designated as Tax Parcel 139-20-1-5, which is located north of the Property, between Interstate-95 and Interstate-287, and which is presently unimproved (the “Vacant Lot”). Until recently, the Property was used by Avon Capital Corporation and Avon Products, Inc. (“Avon”), who had operated on the Property since the late 1950’s.

3. The Property is primarily located in the B-5 "Interchange Office Building" Zoning District. A small corner of the Property, which is improved with a driveway, lies within the adjacent R-2 "One-Family" Zoning District.

4. The Property is a corner lot located on the west side of Midland Avenue and the north side of Peck Avenue. The southernmost parcel, 601 Midland Avenue, is a corner lot with frontage on both Midland Avenue and Peck Avenue. The Property is bordered by Interstate-95 to the north and by the Metro North railroad and I-95 to the west. To the east, across Midland Avenue, are access roads to the highway, as well as offices of the Federal Bureau of Investigation. To the south, across Peck Avenue are the Gables Condominiums.

5. The Property is currently improved with a vacant office building. The building was initially used as a warehouse and distribution center for Avon, and was later converted into Avon's data center and accompanying office space. Consequently, Petitioner is proposing to expand the list permissible uses within the B-5 District, to better utilize the Property.

6. Therefore, Petitioner is hereby requesting that the City Council of Rye amend the Rye Zoning Ordinance to add four (4) new permitted uses in the B-5 Zoning District, specifically medical office, self-storage, daycare/child-care, finishing/assembling of products, and product testing which would each be permitted as uses subject to additional standards and requirements (otherwise referred to as "special exception uses").

#### **PROPOSED TEXT AMENDMENTS TO ZONING ORDINANCE**

7. Petitioner respectfully requests the adoption of a Local Law codifying a Zoning Text Amendment consisting of modifications to the Table of Use Regulations for Business Districts to permit medical office, self-storage, daycare/child-care, finishing/assembling of products, and product testing as special exception uses in the B-5 District.

8. A copy of the proposed Local Law for said Zoning Text Amendment is attached hereto and made a part hereof as Exhibit A.

9. The Zoning Text Amendment would not have any adverse impact on the Zoning Ordinance or the City of Rye for several reasons. First, the proposed Zoning Text Amendment will only impact the B-5 District, which affects a very limited number of properties in Rye totaling approximately 32 acres, including lots now owned by the Thruway Authority, which will likely not be impacted by any change in zoning.

10. Secondly, the proposed uses would be consistent with other permitted uses in the B-5 District and would not substantially change the character of the Property, which is already developed as a commercial site, and would be consistent with regional trends in the use of commercial development. See Planning Study prepared by AKRF, Inc., dated February 13, 2020, attached hereto as Exhibit B.

11. Moreover, all proposed uses can be accommodated within the existing building on the Property, which was originally designed to house a much more impactful distribution facility for Avon.

12. Finally, in light of the current office market in Westchester, the proposed Zoning Text Amendment will allow Petitioner to better market the Property and make use of the underutilized site, by providing more flexibility in pursuing potential tenants. This will be beneficial to both Petitioner and Rye, as it will help ensure the financial viability of the Property in the future.

13. For all of the foregoing reasons, it is respectfully submitted that the proposed Zoning Ordinance Amendments should be granted.

**WHEREFORE**, Petitioners respectfully request that the City Council of Rye amend the Zoning Ordinance of Rye as set forth above.

Dated: New York, New York  
September 11, 2020

Respectfully submitted,  
**MIDLAND RYE LLC**,  
a Delaware limited liability company

By: **MIDLAND RYE JOINT VENTURE LLC**, a Delaware  
limited liability company

By: **GCS MIDLAND LLC**, a Delaware limited liability company,  
its managing member

By:   
Peter S. Duncan, Manager

EXHIBIT A

PROPOSED ZONING TEXT

**CITY COUNCIL  
CITY OF RYE, NEW YORK**

**LOCAL LAW NO. \_\_\_\_-2020**

**A LOCAL LAW TO REVISE THE ZONING ORDINANCE  
OF THE CITY OF RYE**

**Be it enacted by the City Council of the City of Rye as follows:**

**Section One.** Section 197-1 of the City of Rye Zoning Ordinance shall be amended by adding a new defined term entitled “Self-Storage”, which shall state as follows:

**SELF-STORAGE**

A fully enclosed commercial and/or business establishment providing varying sizes of individual compartmentalized and/or controlled access to stalls or lockers for the storage of business and personal property. Such facilities shall not include warehouse or distribution uses.

**Section Two.** Section 197-12 of the City of Rye Zoning Ordinance shall be amended by adding a new section .C., which shall state as follows:

- C. Nothing shall prohibit two or more principal uses on any one property within the B-5 District, provided all applicable standards and requirements are met pursuant to this Chapter.

**Section Three.** Section 197-86 of the City of Rye Zoning Ordinance shall be amended by adding new sections (3), (4), (5), (6) and (7) to Table B, Column 2, under the heading “B-5 Interchange Office Building District”, which shall state as follows:

- (3) Medical offices for physicians or dentists, exclusive of bed care of patients. Said offices shall comply with all dimensional regulations applicable to office buildings within the B-5 District and shall have a minimum parking requirement of 5.0 parking spaces per 1,000 square feet of gross floor area.
- (4) Self-storage, provided the following criteria are met:
- (a) Signage must comply with all elements of the Rye Sign Ordinance (Chapter 165).
  - (b) Unless expressly provided otherwise, self-storage uses shall comply with all other dimensional requirements applicable to office buildings within the B-5 District.
  - (c) No self-storage use shall exceed 2/3 of the usable floor area of any existing or proposed building within the B-5 District.
  - (d) Self-storage facilities shall not be constructed to appear industrial in nature or out of keeping with the character of the surrounding neighborhood.

- (e) Self-storage facilities shall have a minimum parking requirement of 0.25 parking spaces per 1,000 square feet of gross floor area.
  - (f) Storage of chemicals in such state and quantities so as to be “reportable” as defined by Section 313 of the Emergency Planning and Community Right-to-Know Act (“EPCRA”), shall not be permitted, regardless of the number of employees on site.
- (5) Duly licensed daycare and child-care facilities, which shall comply with all dimensional regulations applicable to office buildings within the B-5 District, and shall have a minimum parking requirement of 4.0 parking spaces per 1,000 square feet of gross floor area.
- (6) Finishing or assembling of products within a fully enclosed building, provided the following standards are met:
- (a) Manufacturing shall not be permitted, and any associated machinery shall be incidental to the assembly or finishing of products.
  - (b) Finishing and assembling of products shall not result in any dust, fumes, or offensive noise or vibrations beyond the property boundary of the site on which the use is located.
  - (c) Finishing and/or assembling facilities shall have a minimum parking requirement of 2.0 parking spaces per 1,000 square feet of gross floor area.
  - (d) Storage of chemicals in such state and quantities so as to be “reportable” as defined by Section 313 of the EPCRA shall be generally prohibited, regardless of the number of employees on site. The use of one or more chemicals in amounts that are “reportable” may be permitted if it can be demonstrated to the satisfaction of the Planning Commission that such chemicals shall be handled, stored, and disposed of in a manner that is protective of the health and safety of neighboring properties and the environment, inclusive of the sanitary sewer system.
- (7) Testing of products, provided the following standards are met:
- (a) Manufacturing shall not be permitted, and any associated machinery shall be incidental to the testing of products.
  - (b) Testing of products shall not result in any dust, fumes, or offensive noise or vibrations beyond the property boundary of the site on which the use is located.
  - (c) Testing shall have a minimum parking requirement of 2.0 parking spaces per 1,000 square feet of gross floor area.
  - (d) Storage of chemicals in such state and quantities so as to be “reportable” as defined by Section 313 of the EPCRA shall be generally prohibited, regardless of the number of employees on site. The use of one or more chemicals in amounts that are “reportable” may be permitted if it can be demonstrated to the satisfaction of the Planning Commission that such chemicals shall be handled, stored, and disposed of in a manner that is protective of the health and safety of neighboring properties and the environment, inclusive of the sanitary sewer system.

**Section Four.** If any section, subsection, clause, phrase or other portion of this Local Law is, for any reason, declared invalid, in whole or in part, by any court, agency, commission, legislative body or other authority of competent jurisdiction, such portion shall be deemed a separate distinct and independent portion. Such declaration shall not affect the validity of the remaining portions hereof, which other portions shall continue in full force and effect.

**Section Five.** This Local Law shall take effect immediately upon filing with the Secretary of State.

EXHIBIT B

AKRF PLANNING STUDY



***Environmental, Planning, and Engineering Consultants***

34 South Broadway  
Suite 401  
White Plains, NY 10601  
tel: 914 949-7336  
fax: 914 949-7559  
[www.akrf.com](http://www.akrf.com)

## **Memorandum**

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**To:** City of Rye City Council  
**From:** AKRF, Inc. (Peter Feroe, AICP)  
**Date:** September 3, 2019; Revised September 3, 2020  
**Re:** Proposed Zoning Text Amendment

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### **A. INTRODUCTION**

AKRF, Inc. (“AKRF”) has been retained by Midland Rye LLC, Delaware LLC under common control with George Comfort & Sons, Inc. (the “Applicant”), to prepare a land use, zoning, and public policy analysis for the existing 160,000 square foot (sf) office building located at 601 and 621 Midland Avenue in the City of Rye (the “Project Site”). The Project Site is located in the B-5 Zoning District, “Interchange Office Buildings,” and is approximately 18.09 acres. The B-5 district permits, among other uses, hotels, professional offices, and schools. To increase the flexibility of the B-5 Zoning District, and to facilitate the re-tenanting of the existing building, the Applicant is proposing a zoning text amendment to expand the list permissible uses within the B-5 District to include “medical office,” “self storage,” “finishing or assembling of products,” and “testing of products” as “special exception” uses (the “Proposed Action”).

The Proposed Action requires a zoning text amendment from the City of Rye’s City Council. As such, the Proposed Action is required to comply with the State Environmental Quality Review Act (SEQRA) and its implementing regulations (6 NYCRR Part 617). AKRF understands that, as part of the SEQRA review, the City of Rye (the “City”) would like to evaluate the need for medical offices, self-storage facilities, and finishing and assembly uses in context with the Project Site. The Applicant does not have a specific user or tenant fit-out program, and therefore is not pursuing site plan approval at this time.

This memorandum analyzes the consistency of the Proposed Action with applicable policy documents of the City and County, as well as with land-use trends affecting professional office, medical office, self-storage, and finishing and assembly uses in the region.

### **PROJECT LOCATION AND SITE HISTORY**

The Project Site is bounded by Interstate 95 (I-95) to the north, Peck Avenue to the south, Midland Avenue to the east, and the Metro-North railroad tracks to the west. The Project Site is located in a mixed-use area with a neighborhood of low-rise multi-family apartments and townhouses to the south of Peck Avenue, commercial and retail uses to the north, office uses to the west, and transportation uses to the east.

The Project Site is currently improved with an approximately 160,000 sf office building that was formerly owned by the Avon Capital Corporation. The building was constructed as an office and distribution center

in the 1950s, and was initially approved for use by up to 445 employees. Over time, the number of employees increased to a peak of 600. From 2016-2017, the Avon Capital Corporation reduced the number of employees on-site to 500. By the end of 2018, there were approximately 325 employees on the Project Site. AKRF understands that Avon most recently used the Project Site for a mix of professional office, data center, and call center uses. In July 2019, the Applicant purchased the Project Site from the Avon Capital Corporation with the intention of re-tenanting the existing building.

## PURPOSE AND NEED

In order to provide flexibility with respect to potential new tenants of the existing building, thereby providing tax certainty to the City, the Applicant is requesting that the City permit medical office, self-storage facilities, finishing and product assembly uses, and product testing *in addition to* the currently permitted office use. As described in more detail below, the demand for stand-alone office space in Westchester County peaked in the 1980s and has experienced a steep decline since that time. Many former stand-alone office buildings or corporate parks have experienced significant, and sometimes complete, vacancies. As these buildings or office parks have become underutilized, the assessed value, and subsequently the property taxes generated, have also decreased, sometimes significantly. Given the continuing decline in demand for stand-alone office buildings, it has become increasingly difficult to re-tenant vacant office buildings with traditional office users. In order to return vacant office buildings or corporate parks to productive use—uses that increase the assessed value and the property taxes generated by a site—many communities have found it necessary to expand the range of uses permitted on these sites. By increasing the number of permitted uses on these formerly office-only sites, communities have been able to attract new investment, realize increased assessed value of these sites, and collect increased property tax revenue from these sites.

Therefore, the Applicant is requesting that the City expand the uses permitted on the Project Site, in a carefully controlled manner, in order to return the Site to productive use and to provide the City of Rye with stable property tax payments into the future.

## FISCAL CONSIDERATIONS

The Project Site is comprised of two parcels: 601 Midland Avenue, a 14.84-acre parcel that is improved with an existing office building and parking lots; and, 601 Midland Avenue, a 3.25-acre unimproved parcel bounded by the ramps to I-287 and I-95 to the north and south and the Metro North Railroad tracks to the west. The two parcels have a combined assessed value (2019) of \$592,513, which translates into an estimated full market value of \$37.98 million<sup>1</sup> (see **Table 1**). Based on this assessed value, the two parcels generate approximately \$639,979 in property taxes per year to various taxing jurisdictions, including approximately \$104,733 to the City of Rye and \$379,398 to the Rye School District.

In 2019, the Applicant purchased the Project Site for approximately \$23.1 million. Based on the City's 2019 equalization rate, a full market value of \$23.1 million is equal to an assessed value of \$360,360 – approximately 39 percent less than the Site's current assessed value. If the Project Site's assessment were based on the purchase price, the property taxes generated by the Site would similarly be approximately 39 percent lower than what the Site currently generates (see **Table 1**). The Applicant has filed a tax certiorari proceeding requesting that the Site's assessed value be modified to more closely reflect the purchase price.

---

<sup>1</sup> The 2019 equalization rate for the City of Rye is 1.56%.

**Table 1**  
**Project Site Property Taxes**

		2019 Assessed Value (\$592,513)			Assessed Value at Purchase Price of \$23.1 million (\$360,360)		
	Tax Rate per \$1,000	601 Midland	621 Midland	Total	601 Midland	621 Midland	Total
City of Rye	\$176.76	\$94,917	\$9,815	<b>\$104,733</b>	\$57,728	\$5,969	<b>\$63,697</b>
County	\$207.88	\$111,628	\$11,543	<b>\$123,172</b>	\$67,891	\$7,020	<b>\$74,912</b>
Rye City School District	\$640.32	\$343,842	\$35,556	<b>\$379,398</b>	\$209,121	\$21,625	<b>\$230,746</b>
County Refuse Disposal District #1	\$17.57	\$9,435	\$976	<b>\$10,410</b>	\$5,738	\$593	<b>\$6,332</b>
Blind Brook County Sewer District	\$37.58	\$20,180	\$2,087	<b>\$22,267</b>	\$12,273	\$1,269	<b>\$13,542</b>
<b>Total</b>	<b>\$1,080.11</b>	<b>\$580,003</b>	<b>\$59,976</b>	<b>\$639,979</b>	<b>\$352,751</b>	<b>\$36,477</b>	<b>\$389,228</b>

**Sources:** City of Rye 2019 Assessment Roll; <https://www.westchestergov.com/property-tax-rates>

## B. CONSISTENCY WITH PUBLIC POLICY

### CITY OF RYE COMPREHENSIVE PLAN

The *City of Rye 1985 Development Plan* (“the Plan”) is the comprehensive master plan of record. The City initiated the process of updating its comprehensive plan in 2017, but this document is not yet available.

The *Plan*, which documents the development pressures and economic trends of the 1980s, notes the trend towards corporate office buildings and corporate parks. The *Plan* identifies Midland Avenue, and the Project Site specifically, as one of two areas within the City where office buildings are concentrated and that have access to I-95. The Avon building is identified as a “notable development” that has the permission to expand to a maximum of 967,000 sf through a three phased development plan. At full build-out, the Avon building was projected to have a total of 2,000 workers and 2,400 vehicles arriving and departing. However, Phases II and III were never constructed.

The Plan sets forth a number of goals and policies to guide future development within the City of Rye. Specific to the Business Development (BD) Districts and the Project Site, the Plan establishes the following goal:

*Maintain the City's existing economic base without making substantial changes in scale. (pg. 27)*

To implement this goal, the Plan sets forth the following policy:

*Limit retail uses outside the CBD [Central Business District] to neighborhood business areas in order to preserve the residential integrity of the neighborhood and the retail strength of the CBD. (pg. 27)*

The Proposed Action, which would facilitate the adaptive reuse of an existing office building, is consistent with both this goal and policy. The Proposed Action would increase the flexibility of the future use of the Project Site. The Proposed Action would expand the permitted uses within the B-5 Zoning District, which would enhance the ability to adaptively reuse the existing office building and keep development consistent with its current scale. In fact, should the existing building be re-occupied with a new use, it would be significantly smaller than the Avon building envisioned in the 1985 *Plan*. The proposed medical office, self-storage, and product finishing, assembling and testing uses are not traditional downtown uses, such as retail or restaurant. As such, they are not anticipated to compete with the CBD and would not adversely affect its strength. Therefore, the Proposed Action would be consistent with the goals and policies of the *Plan*.

## CITY OF RYE LOCAL WATERFRONT REVITALIZATION PROGRAM

The City of Rye adopted its Local Waterfront Revitalization Plan (LWRP) in June 1991. In the vicinity of the Project Site, the landward boundary of the LWRP follows Midland Avenue north to Grace Church Street, and then follows Grace Church Street into Port Chester. Therefore, the Project Site does not fall within the boundary of the LWRP.

## PATTERNS FOR WESTCHESTER

In 1996, the Westchester County Planning Board developed and published a document entitled *Patterns for Westchester: The Land and the People*. This document provides a general policy framework for Westchester County's review of local applications and major development proposals, defined as 50,000 or more sf of commercial floor area, or 25 or more housing units. *Patterns for Westchester* sets forth general policies for Westchester County's involvement in local and regional land use planning. It recommends strategies to balance economic growth with a sound environment by directing growth to centers, reinventing developed corridors as multiuse places, and factoring open space elements into the development process.

*Patterns* documented that during the late 1980s vacancy rates for traditional office and commercial space increased, eroding the tax base and weakening the construction industry. One of the strategies identified in the *Patterns* document is for municipalities to, "permit new uses in underutilized office buildings." The Proposed Action is consistent with this strategy as it proposes new uses within the B-5 Zoning District to facilitate the repurposing of an existing underutilized office building.

## WESTCHESTER 2025

*Westchester 2025* is a countywide planning effort that emphasizes the importance of regional planning and makes planning resources accessible to communities and their residents. As part of that effort, the *2025 Context for County and Municipal Planning and Policies to Guide County Planning* (the "Context") was adopted by the Westchester County Planning Board in 2008 and amended in 2010. This document replaces and updates the "Assumptions and Policies" section of *Patterns for Westchester* with new principles and policies for development in Westchester County.

The *2025 Context* notes that greenfield development, "is a shrinking component of new construction" and that, "the future of development in Westchester will be found in redevelopment." The *Context* recommends that development be channeled to existing community centers and should be "consistent with defined community character." Consistent with the *Context*, the Proposed Action would facilitate the repurposing of an existing underutilized office building with convenient access to multiple modes of transportation, and within an existing business area. By facilitating adaptive reuse of existing structures, the Proposed Action would preserve existing community character.

## C. LAND-USE TRENDS

### PROFESSIONAL OFFICE

The demand for professional office space in a corporate park setting has declined since its peak in the 1980s. This trend is evidenced by the repurposing and redevelopment of corporate office buildings throughout Westchester County, and most notably the "Platinum Mile" in nearby Harrison, NY. In 2017, Commercial Real Estate Services ("CBRE") reported that the number of office buildings in Westchester County severely decreased over the past decade. Specifically, office space decreased from 33,202,550 sf (282 buildings) in 2011 to 27,911,304 sf (208 buildings) in 2017. In total, Westchester County office inventory dropped 16%, equivalent to a loss of 5,291,246 sf or approximately 74 buildings.<sup>2</sup>

The decrease in demand for traditional corporate office space has been attributed to millennial influence on the workplace setting. There is a rising demand for more dynamic, fluid, and interactive workspaces as

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<sup>2</sup> Cuddy, William. "Westchester County Market Overview and Development Trends." Alfred B. DelBello Land Use and Sustainable Development Conference, 7 Dec 2017, Pace University, White Plains, NY.

today's workers prefer collaborative spaces, transparency, and freedom of choice.<sup>3</sup> In terms of space, this means a more open floorplan with shared spaces and fewer dedicated offices.<sup>4</sup> As a result of this trend, the amount of office space per worker dropped 8% in the United States from 2009 to 2018, and 6% in Westchester County during the same period.<sup>5</sup>

There is also strong demand for office space that is near public transportation, as it creates better access to quality labor and a broader demographic pool of employees. Transit-oriented developments (TODs) have attracted corporations away from traditional office parks and into central business districts. According to CBRE, as reported in the *Westchester Business Journal Daily Voice Plus*, some office tenants relocating to TODs have been able to shrink their footprints even though their employee counts have remained the same or increased. Transit access, combined with lower space needs per employee, have contributed to the trend away from traditional isolated office buildings and instead towards TOD. This trend towards TOD is projected to continue and to increase going forward.<sup>6</sup>

These changing workplace trends have influenced the corporate office market, and jeopardized the future of some corporate office buildings due to size, location, and demand. In Westchester County, this trend has resulted in standalone office buildings either being converted or demolished to develop new uses, while office buildings within downtown core areas, such as White Plains, have continued to attract tenants due to their proximity to public transportation and services. This is reflected in office vacancy rates—southern Westchester has a vacancy rate of 8.8%, whereas northern Westchester has a vacancy rate of 21.2%.<sup>7</sup>

The removal of some of these older, standalone office buildings from the existing office stock has helped to improve the overall office market in Westchester County. As reported in *Westchester Magazine*, the repurposing of obsolete office properties has affected supply and demand. Major conversions underway in 2019 include the former IBM campus in Somers, two Harrison Platinum Mile buildings (104 Corporate Park Drive and 3 Westchester Park Drive), and 900 King Street in Rye Brook. The repurposing of these and other properties reduced the Westchester office space inventory from 32 million sf to 26.7 million sf, and helped to lower the overall vacancy rate to 16.5%.<sup>8</sup>

The trend towards flexible workspaces close to public transportation and the downtown core contributed to the decline and increased vacancy rates of the Platinum Mile. To address the underutilization and deterioration of office park properties along the Platinum Mile, the Town of Harrison updated its comprehensive plan to establish a new vision that meets current real estate needs. A driving factor in this effort was the preservation of the tax base created by corporate office development. To meet these needs, the Town is considering a new SB-MX (mixed-use) Zoning District to permit new land uses and increase flexibility. The new Zoning District would utilize special use permits to give the Town additional oversight in the development review process.

Based on the above data, demand for standalone office buildings like the Avon building is decreasing. This is due to evolving market trends, office space needs, work styles, and transit access. The Proposed Action, which would increase the flexibility of the B-5 Zoning District, would facilitate the repurposing an existing

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<sup>3</sup> Cuddy, William. "Westchester County Market Overview and Development Trends." Alfred B. DelBello Land Use and Sustainable Development Conference, 7 Dec 2017, Pace University, White Plains, NY.

<sup>4</sup> CBRE Research. "Solving for the Future with Agility, Americas Occupier Survey Report." 2018.

<sup>5</sup> Cushman & Wakefield. "Space Matters, Key Office Trends and Metrics for US Occupiers." Spring 2018.

<sup>6</sup> Katz, Peter. "Reports Show Westchester Office Market Trending Up." *Westchester Business Journal Daily Voice Plus*, April 12, 2019.

<sup>7</sup> Donelson, Dave. "Development Boom Strengthens commercial Real Estate Market." *Westchester Magazine*, Q2 2019.

<sup>8</sup> Donelson, Dave. "Development Boom Strengthens commercial Real Estate Market." *Westchester Magazine*, Q2 2019.

and underutilized office building. The existing office building does not meet the needs of the current corporate office market due to its location, size, and floorplate. It is not located in a central business district. Although it is within 0.5 miles of the Rye Metro-North Station, the site is isolated from other amenities that characterize a TOD. Best access to the Project Site is from I-95, which is desirable for potential self storage and medical office uses. The reuse of this building would help preserve the commercial tax base within the City of Rye, without adding new structures or altering community character.

### **ADAPTIVE REUSE - MEDICAL OFFICE**

While traditional corporate office space has declined over the last decade, the need for medical office has increased. As reported in Westchester Magazine, this trend is evident in Westchester County where healthcare companies have torn down or repurposed vacant office buildings to meet the specific needs of the healthcare industry. In Westchester, this trend is driven by the migration of major hospitals to the County and the County's aging population. Healthcare companies expanding in Westchester County include WESTMED, CareMount Medical (formerly Mount Kisco Medical Group), Montefiore Medical Center, and ENT and Allergy Associates. There is high demand for spaces that can provide ambulatory care where services are delivered on an outpatient basis. These services can be provided in healthcare facilities that are easily accessible to intergenerational users, such as repurposed office parks and even retail centers. Medical office space also requires adequate and easily accessible parking, generally at ratios higher than traditional office space. These parking needs can be accommodated in traditional office park locations where there is a greater amount of land than in central business districts.<sup>9</sup>

In a 2017 report on medical office buildings, CBRE stated that the, "absorption of medical office space has outpaced completions of new supply for the past seven years, driving steady decreases in the national vacancy rate, which was 8% as of the first quarter of 2017."<sup>10</sup> In Westchester County specifically, William Cuddy of CBRE reported that 2,113,952 sf of office space was repurposed for medical office use between 2001 and 2017. These buildings were predominately located along the I-287 corridor in former office park locations.<sup>11</sup>

As reported in Westchester Magazine, Cornell University projects that Westchester's 65-and-older population grow at, "nearly four times the rate of the total population from 2010-2025," and is the largest consumer of healthcare.<sup>12</sup> It is worth noting that this specific population bracket accounts for the highest per-capita health care spending overall, and that the precipitous increase of the 65-and-older population and their anticipated need for in-office physician services, signals a continued rising need for medical office space.<sup>13</sup>

The Proposed Action is consistent with the above trends, as it would facilitate the transitioning of former office space to medical office use. The Project Site location, with easy access to I-95 and the Rye Metro-North Station, is well suited for medical office use. While a site plan has not been developed as tenants have not been secured, it is presumed that the building would ultimately contain a mix of permitted uses. As such, the higher parking needs of medical office space could be balanced by the lower parking needs of a potential self-storage use.

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<sup>9</sup> Donelson, Dave. "Healthcare Generates Big Demand for Westchester Commercial Real Estate – Medical Tenants are Prescribing More Space." *Westchester Magazine*, Q3 2014.

<sup>10</sup> CBRE Research. "U.S Medical Office Buildings – a Cure for Market Vitality." August 2017.

<sup>11</sup> Cuddy, William. "Westchester County Market Overview and Development Trends." Alfred B. DelBello Land Use and Sustainable Development Conference, 7 Dec 2017, Pace University, White Plains, NY.

<sup>12</sup> Donelson, Dave. "Healthcare Generates Big Demand for Westchester Commercial Real Estate – Medical Tenants are Prescribing More Space." *Westchester Magazine*, Q3 2014.

<sup>13</sup> CBRE Research. "U.S Medical Office Buildings – a Cure for Market Vitality." August 2017.

## ADAPTIVE REUSE - SELF-STORAGE FACILITIES

Self-storage facilities are a growing \$39 billion industry with an annual growth of 3.1%.<sup>14</sup> Vacancy rates for self-storage in the New York-Newark-Jersey City mega market have fallen for three consecutive years, reaching 6 percent in 2019.<sup>15</sup> According to IBIS World, demand for self-storage facilities is typically from households that rent rather than own their residences. However, as disposable income rises and homeowners purchase more items, demand for self-storage increases from this demographic as well.<sup>16</sup> County Executive George Latimer's office estimated in 2019 that 16,000 new rental units were under construction or planned for Westchester in the near future. This represents an 11% increase from 2017, and this growing rental market supports the demand for new self-storage facilities.<sup>17</sup> In Rye, a 95-unit luxury condominium development for active adults age 55 and over is under development. This, and similar developments geared towards downsizers in the luxury market within Rye, also support the demand for new self-storage facilities.<sup>18</sup>

Another market that is driving the need for self-storage space is growing small businesses. Private businesses comprise 19% of customers at a typical storage complex. As businesses expand, or relocate to smaller footprint offices in the central business district, self-storage facilities offer a cost-effective option compared to office or retail rents. Businesses use these facilities to house items such as excess inventory or records.<sup>19</sup> With office vacancy rates decreasing and rental rates rising in central business districts in Westchester,<sup>20</sup> the adaptive re-use of suburban office space by businesses for self-storage fills the vacancy left by the relocating office tenant and is a cost effective solution for their storage needs.

In terms of re-purposing spaces for self-storage use, vacant office park properties are the sites most readily available in Westchester. There is very little industrial or warehouse space within Westchester County, and the demand for this space is being driven up by industrial tenants relocating from the Bronx. Supply is further restricted by the loss of industrial inventory due to multi-family conversions in prime locations within the County.<sup>21</sup> Therefore, the Proposed Action would meet current market needs by adding self-storage as a new use within the B-5 Zoning District, and permit the potential conversion of existing and underutilized office space to self-storage use.

AKRF identified two self-storage uses within the Town of Rye and obtained their 2019 assessed value and estimated building size. (The Town of Rye was chosen as the City of Rye does not currently contain a self-storage use.) As shown in **Table 2**, the two self-storage uses identified in the Town of Rye have assessed values of between \$102 per square foot and \$123 per square foot. While the Applicant is not proposing a self-storage use of the same kind evaluated in the Town (i.e., "Westy's,") it is reasonable to assume that a self-storage use on the Project Site could result in a similar, or greater, per square foot assessed value as the facilities in the Town of Rye.

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<sup>14</sup> IBIS World. "Storage & Warehouse Leasing Industry in the US – Market Research Report." July 2019.

<sup>15</sup> Marcus & Millichap. "2019 Self-Storage U.S. Investment Forecast." 2019.

<sup>16</sup> IBIS World. "Storage & Warehouse Leasing Industry in the US – Market Research Report." July 2019.

<sup>17</sup> Donelson, Dave. "Development Boom Strengthens commercial Real Estate Market." *Westchester Magazine*, Q2 2019.

<sup>18</sup> Matsuda, Akiko. "St. Regis Residences Draws Empty-Nesters Seeking Luxury Living and a Downsized Lifestyle." *LoHud*, July 8, 2019.

<sup>19</sup> Marcus & Millichap. "2019 Self-Storage U.S. Investment Forecast." 2019.

<sup>20</sup> Greenberg, Howard. "Westchester Commercial Real Estate Market is Healthier than It Has Been in Decades." *Westchester Business Journal Daily Voice Plus*, August 5, 2019.

<sup>21</sup> Greenberg, Howard. "Westchester Commercial Real Estate Market is Healthier than It Has Been in Decades." *Westchester Business Journal Daily Voice Plus*, August 5, 2019.

**Table 2**  
**Self-Storage and Office Assessed Value**

Name-Address	Tax Lot	Acreage (approximate)	2019 Assessed Value	Building GSF (approximate)	Assessed Value per GSF
Westy's 251 N. Main Street, Port Chester	136.80-1-4	1.54 ac	\$15,432,700	125,000 sf	\$123.46
Westy's 299 Boston Post Road, PC	142.45-1-11	1.8 ac	\$14,812,400	145,000 sf	\$102.15
<b>Notes:</b> Town of Rye assesses property at 100% of market value.					
<b>Sources:</b> 2019 Town of Rye Assessment Roll; Town of Rye GIS for storage building sizes					

## ADAPTIVE REUSE – FINISHING AND PRODUCT ASSEMBLY FACILITIES

Finishing and product assembly is often the last step before project delivery, but perhaps the most time- and quality sensitive. This process can be separate from the manufacturing and production of materials and often relies on highly skilled labor, technical expertise, and advanced machinery to ensure that product quality and custom designs can be made to order. The impacts of this use, therefore, are often considerably less than traditional manufacturing uses. In fact, the special permit standards proposed by the Applicant would prohibit any use from resulting in dust, fumes, or offensive noise or vibrations beyond the Project Site. As proposed, all uses would be conducted within enclosed facilities and would not cause a nuisance to other proximate uses. An example of this use, while not necessarily one that the Applicant is contemplating, is custom computer assembly. In this example, computer parts, including cases, screens, keyboards, hard drives, processors, graphic cards, etc., would be stored at the Site and assembled into a finished computer system based on a unique consumer order.

While the Applicant is not proposing to locate manufacturing uses on the Site, nor would the Proposed Zoning permit manufacturing uses, the finishing and assembling of products use proposed is intimately related to manufacturing uses. As stated in *Westchester Magazine*, “even though Westchester has not been a hotbed of manufacturing for decades, a surprising number of companies in several industries are managing to grow in the County by creating highly specialized, high-return niche products that sell around the world.”<sup>22</sup> Food manufacturing, computer and electronic product manufacturing, and fabricated metal product manufacturing are among the top manufacturing industries that employ thousands of workers in Westchester County today.<sup>23</sup> Locating a facility that can provide finishing and assembly services for these and other products, that is both close to the manufacturer and close to the consumer, could represent a competitive advantage.

Another important factor in locating assembly and finishing operations is access to skilled labor, which is increasingly important to the final assembly of many modern products. In this respect, the Project Site benefits from being located within a County that has a highly skilled workforce—49.1 percent of Westchester’s population has a Bachelor’s degree compared to 37.2 percent within the State as a whole and 32.6 percent in the country as a whole.<sup>24</sup>

As previously described, the demand for stand-alone office buildings is declining in Westchester. However, the supply of quasi-industrial and production spaces has had trouble keeping up with growing demand in the County. This fact, when combined with the trends described above, indicates that allowing the assembly or finishing of products on the Project Site would meet current market needs and allow the potential conversion of existing and underutilized office space on the Project Site into a productive use.

<sup>22</sup> Donelson, Dave. “Westchester Manufacturers Are Navigating to Success.” *Westchester Magazine*.

<sup>23</sup> Donelson, Dave. “Westchester Manufacturers Are Navigating to Success.” *Westchester Magazine*.

<sup>24</sup> 2018 American Community Survey. U.S. Census.

## **ADAPTIVE REUSE – PRODUCT TESTING FACILITIES**

As with the finishing and assembly use described above, the proposed “testing of products” use is separate from the manufacturing and production of materials and would rely on skilled labor, technical expertise, and specialty tools and machinery. Therefore, the impacts of the “testing” use would be considerably less than traditional manufacturing uses. In order to further minimize the potential for impacts from this use, the Applicant proposes the same special permit standards for the “testing” use as the “finishing and assembly” use, which standards would prohibit the use from resulting in dust, fumes, or offensive noise or vibrations beyond the Project Site. Therefore, the proposed “testing of products” use, as is the case with the finishing and assembling use, is a low-impact use that could allow the conversion of the existing underutilized office space on the Project Site into a productive use.

## **D. CONCLUSION**

Although corporate office buildings on Westchester’s Platinum Mile and Westchester Avenue have declined over the past two decades, the affected communities have been able to adapt and preserve their tax base by permitting the re-purposing or adaptive reuse of these properties. The Proposed Action would build on this trend by updating the zoning text to permit medical office, self-storage uses, and the finishing, assembling, or testing of products—uses that are in demand. This zoning text change would facilitate the adaptive reuse of underutilized office buildings in the B-5 Zoning District, such as the former Avon building. Adaptive reuse of vacant and underutilized office space is consistent with the City of Rye’s comprehensive plan, as well as Westchester County’s *2025 Context for County and Municipal Planning and Policies to Guide County Planning*. By amending the current B-5 Zoning District to include medical office, self-storage uses, and the finishing, assembling, or testing of products, the Proposed Action would enable contextual reuse of existing building stock and would help sustain the City’s commercial tax base.

# **Local Law redline**

**CITY COUNCIL  
CITY OF RYE, NEW YORK**

**LOCAL LAW NO. \_\_\_\_-~~2019~~2020**

**A LOCAL LAW TO REVISE THE ZONING ORDINANCE  
OF THE CITY OF RYE**

**Be it enacted by the City Council of the City of Rye as follows:**

**Section One.** Section 197-1 of the City of Rye Zoning Ordinance shall be amended by adding a new defined term entitled “~~Personal~~Self-Storage”, which shall state as follows:

**~~PERSONAL~~SELF-STORAGE**

A fully enclosed commercial and/or business establishment providing varying sizes of individual compartmentalized and/or controlled access to stalls or lockers for the storage of ~~business and personal property~~individual vehicles and business, recreation, and/or household goods. Such facilities shall not include warehouse or distribution uses.

~~**Section Two.** Section 197-28.A of the City of Rye Zoning Ordinance shall be amended by adding a new use to the Schedule of Off Street Parking Requirements, as follows:~~

~~A. Schedule of parking requirements. Off-street automobile parking facilities shall be provided as follows:~~

Use	Number of Spaces per Unit (by Parking District)			Unit of Measurement and Conditions
	A	B	C	
Personal Storage	1	1	1	100 storage units

~~**Section Two.** Section 197-12 of the City of Rye Zoning Ordinance shall be amended by adding a new section .C., which shall state as follows:~~

~~C. Nothing shall prohibit two or more principal uses on any one property within the B-5 District, provided all applicable standards and requirements are met pursuant to this Chapter.~~

**Section Three.** Section 197-86 of the City of Rye Zoning Ordinance shall be amended by adding new sections (3), ~~(4)~~, ~~(5)~~, ~~(6)~~ and ~~(7)~~ to Table B, Column 2, under the heading “B-5 Interchange Office Building District”, which shall state as follows:

- (3) Medical offices for physicians or dentists, exclusive of bed care of patients. Said offices shall comply with all dimensional regulations applicable to office buildings within the B-5 District and shall have a minimum parking requirement of 5.0 parking spaces per 1,000 square feet of gross floor area.
- (4) ~~Personal~~ Self-storage, provided the following criteria are met:
- (a) Signage must comply with all elements of the Rye Sign Ordinance (Chapter 165).
  - (b) Unless expressly provided otherwise, ~~personal~~ self-storage uses shall comply with all other dimensional requirements applicable to office buildings within the B-5 District.
  - (c) No self-storage use shall exceed 2/3 of the usable floor area of any existing or proposed building within the B-5 District.
  - (d) Self-storage facilities shall not be constructed to appear industrial in nature or out of keeping with the character of the surrounding neighborhood.
  - (e) Self-storage facilities shall have a minimum parking requirement of 0.25 parking spaces per 1,000 square feet of gross floor area.
  - (f) Storage of chemicals in such state and quantities so as to be “reportable” as defined by Section 313 of the Emergency Planning and Community Right-to-Know Act (“EPCRA”), shall not be permitted, regardless of the number of employees on site.
- (5) Duly licensed daycare and child-care facilities, which shall comply with all dimensional regulations applicable to office buildings within the B-5 District, and shall have a minimum parking requirement of 4.0 parking spaces per 1,000 square feet of gross floor area.
- (6) Finishing or assembling of products within a fully enclosed building, provided the following standards are met:
- (a) Manufacturing shall not be permitted, and any associated machinery shall be incidental to the assembly or finishing of products.
  - (b) Finishing and assembling of products shall not result in any dust, fumes, or offensive noise or vibrations beyond the property boundary of the site on which the use is located.
  - (c) Finishing and/or assembling facilities shall have a minimum parking requirement of 2.0 parking spaces per 1,000 square feet of gross floor area.
  - (d) Storage of chemicals in such state and quantities so as to be “reportable” as defined by Section 313 of the EPCRA shall be generally prohibited, regardless of the number of employees on site. The use of one or more chemicals in amounts that are “reportable” may be permitted if it can be demonstrated to the satisfaction of the Planning Commission that such chemicals shall be handled, stored, and disposed of in a manner that is protective of the health and safety of neighboring properties and the environment, inclusive of the sanitary sewer system.
- (7) Testing of products, provided the following standards are met:
- (a) Manufacturing shall not be permitted, and any associated machinery shall be incidental to the testing of products.
  - (b) Testing of products shall not result in any dust, fumes, or offensive noise or vibrations beyond the property boundary of the site on which the use is located.

- (c) Testing shall have a minimum parking requirement of 2.0 parking spaces per 1,000 square feet of gross floor area.
- (d) Storage of chemicals in such state and quantities so as to be “reportable” as defined by Section 313 of the EPCRA shall be generally prohibited, regardless of the number of employees on site. The use of one or more chemicals in amounts that are “reportable” may be permitted if it can be demonstrated to the satisfaction of the Planning Commission that such chemicals shall be handled, stored, and disposed of in a manner that is protective of the health and safety of neighboring properties and the environment, inclusive of the sanitary sewer system.

**Section Four.** If any section, subsection, clause, phrase or other portion of this Local Law is, for any reason, declared invalid, in whole or in part, by any court, agency, commission, legislative body or other authority of competent jurisdiction, such portion shall be deemed a separate distinct and independent portion. Such declaration shall not affect the validity of the remaining portions hereof, which other portions shall continue in full force and effect.

**Section Five.** This Local Law shall take effect immediately upon filing with the Secretary of State.

# **JMC memo**



Site Planning  
Civil Engineering  
Landscape Architecture  
Land Surveying  
Transportation Engineering

Environmental Studies  
Entitlements  
Construction Services  
3D Visualization  
Laser Scanning

## MEMORANDUM

DATE: September 11, 2020

TO: Hon. Mayor Josh Cohn and Members of the City of Rye Council

FROM: James Ryan, RLA, JMC  
Marc Petraro, PE, PTOE, JMC

RE: JMC Project 19109  
Proposed Redevelopment  
601 & 621 Midland Avenue  
City of Rye, New York

### **Recommended Parking Requirements**

We have prepared this memorandum to provide a recommendation for off-street parking requirements within the City of Rye for the proposed land uses for the above mentioned redevelopment that contain no or limited information in the city zoning ordinance. The City of Rye Zoning Code does not specify a definition or provide off-street parking requirements for day care centers and is limited in the requirements provided for an office for physicians and dentists. Section 197-28 of the Code specifies 4 spaces per each doctor in practice on the site on the first floor and 2 spaces per each doctor in practice on the site on other floors in Parking District A (Core Central Business District), 2 spaces per each doctor in practice on the site in Parking District B (Peripheral Central Business District), and at least 4 spaces per each doctor in practice on the site in Parking District C (Remainder of City of Rye) for an office for physicians and dentists. The information presented on parking generation rates is based on industry standards as well as nearby communities within Westchester County.

### **Parking Generation:**

The Institute of Transportation Engineers (ITE) publication, “Parking Generation Manual, 5<sup>th</sup> Edition”, dated January 2019, presents data and information to assist in forecasting parking demand by time of day on a specific day of the week, at a specific land use. ITE provides data on the 85<sup>th</sup> percentile parking demand ratio for each specific land use code. The 85<sup>th</sup> percentile parking demand represents the point at which 85 percent of the studied parking demands fall at or below. Parking requirements have also been presented below from the City of Yonkers, City of White Plains and the Town of Greenburgh.

Medical-dental office building (ITE Land Use Code 720) is defined by ITE as a facility that provides diagnoses and outpatient care on a routine basis but is unable to provide prolonged in-house medical and surgical care. One or more private physicians or dentists generally operate this type of facility. The 85<sup>th</sup> percentile parking demand ratio provided by ITE is 4.59 and 1.12 spaces per 1,000 square feet for a weekday and Saturday, respectively. The City of Yonkers, City of White Plains, and Town of Greenburgh require 5.0 spaces per 1,000 square feet of GFA for medical offices.

Self-storage (ITE Land Use 151) is defined by ITE as a building in which a number of storage units or vaults are rented for the storage of goods. The 85<sup>th</sup> percentile parking demand ratio provided by ITE is 0.25 and 0.14 spaces per 1,000 square feet for a weekday and Saturday, respectively. The City of Yonkers requires 1 parking space for the office plus 0.13 parking spaces per 1,000 square feet of gross floor area (GFA). The Town of Greenburgh requires 10 spaces or 0.20 spaces per 1,000 square feet of GFA, whichever is greater.

Day care center (ITE Land Use Code 565) is defined by ITE as a facility where care for pre-school age children is provided, normally during the daytime hours. Day care facilities generally include classrooms, offices, eating areas, and playgrounds. Some centers also provide after-school care for school-age children. The 85<sup>th</sup> percentile parking demand ratio provided by ITE for a weekday is 3.74 spaces per 1,000 square feet or 1.78 spaces per employee or 0.34 spaces per student. The City of Yonkers requires 1 space per employee, plus 1 space per each facility vehicle, plus 0.05 spaces per student; the City of White Plains requires 1.0 space per 1,000 square feet of gross GFA; and the Town of Greenburgh requires 1 space per employee, plus 1 space per each facility vehicle, plus 0.20 spaces per student.

Finishing or assembling use is categorized as a general light industrial use by ITE. ITE defines general light industrial (ITE Land Use 110) as a facility having an emphasis on activities other than manufacturing and typically has minimal office space. The 85<sup>th</sup> percentile parking demand ratio provided by ITE is 1.94 spaces per 1,000 square feet for a weekday.

Product testing use is categorized as a general light industrial use by ITE. ITE defines general light industrial (ITE Land Use 110) as a facility having an emphasis on activities other than manufacturing and typically has minimal office space. The 85<sup>th</sup> percentile parking demand ratio provided by ITE is 1.94 spaces per 1,000 square feet for a weekday.

#### Conclusion:

Based upon the information published by ITE and the current parking requirements in other nearby Westchester communities, our office recommends the following parking ratios. We recommend 5.0 spaces per 1,000 square feet of GFA for a medical office. We recommend 0.25 spaces per 1,000 square feet of GFA for a self-storage. We recommend 4.0 parking spaces per 1,000 square feet of GFA for a day-care center. We recommend 2.0 spaces per 1,000 square feet of GFA for a finishing or assembling use. We recommend 2.0 spaces per 1,000 square feet of GFA for a product testing use.

# Full EAF

**Full Environmental Assessment Form**  
**Part 1 - Project and Setting**

**Instructions for Completing Part 1**

**Part 1 is to be completed by the applicant or project sponsor.** 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; indicate whether missing information does not exist, or is not reasonably available to the sponsor; and, when possible, generally describe work or studies which would be necessary to update or fully develop that information.

Applicants/sponsors must complete all items in Sections A & B. In Sections C, D & E, most items contain an initial question that must be answered either "Yes" or "No". If the answer to the initial question is "Yes", complete the sub-questions that follow. If the answer to the initial question is "No", proceed to the next question. Section F allows the project sponsor to identify and attach any additional information. Section G requires the name and signature of the applicant or project sponsor to verify that the information contained in Part 1 is accurate and complete.

**A. Project and Applicant/Sponsor Information.**

Name of Action or Project: Proposed Zoning Text Amendment		
Project Location (describe, and attach a general location map): 601 and 621 Midland Ave, Rye, NY 10580.		
Brief Description of Proposed Action (include purpose or need):  The Applicant is proposing a zoning text amendment to expand the list permissible uses within the B-5 District to include "medical office", "self storage," "finishing or assembling of products," and "testing of products" as "special exception" uses (the "Proposed Action"). The Proposed Action would facilitate the adaptive reuse of an existing 160,000 square foot (sf) office building located at 601 and 621 Midland Avenue in the City of Rye (the "Project Site"). The Project Site is located in the B-5 Zoning District, "Interchange Office Buildings," and is approximately 18.09 acres.  The Proposed Action requires a zoning text amendment from the City of Rye's City Council. As such, the Proposed Action is required to comply with the State Environmental Quality Review Act (SEQRA) and its implementing regulations (6 NYCRR Part 617). The Applicant does not have a specific user, and therefore is not pursuing site plan approval at this time.		
Name of Applicant/Sponsor: Midland Rye LLC	Telephone: (212) 481-1137 E-Mail: pduncan@gcomfort.com	
Address: c/o George Comfort & Sons, Inc., 200 Madison Avenue, 26th Floor		
City/PO: New York	State: NY	Zip Code: 10016
Project Contact (if not same as sponsor; give name and title/role):	Telephone: E-Mail:	
Address:		
City/PO:	State:	Zip Code:
Property Owner (if not same as sponsor):	Telephone: E-Mail:	
Address:		
City/PO:	State:	Zip Code:

## B. Government Approvals

**B. Government Approvals, Funding, or Sponsorship.** (“Funding” includes grants, loans, tax relief, and any other forms of financial assistance.)

Government Entity	If Yes: Identify Agency and Approval(s) Required	Application Date (Actual or projected)
a. City Counsel, Town Board, <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No or Village Board of Trustees	City of Rye City Council - zoning amendment for special exceptions in the B-5 zoning district.	Fall 2019
b. City, Town or Village Planning Board or Commission <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Zoning petition referral	Fall 2019
c. City, Town or Village Zoning Board of Appeals <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
d. Other local agencies <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
e. County agencies <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	239-m referral	TBD
f. Regional agencies <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
g. State agencies <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
h. Federal agencies <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
i. Coastal Resources. i. Is the project site within a Coastal Area, or the waterfront area of a Designated Inland Waterway? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No  ii. Is the project site located in a community with an approved Local Waterfront Revitalization Program? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No iii. Is the project site within a Coastal Erosion Hazard Area? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		

## C. Planning and Zoning

### C.1. Planning and zoning actions.

Will administrative or legislative adoption, or amendment of a plan, local law, ordinance, rule or regulation be the only approval(s) which must be granted to enable the proposed action to proceed? ☒ Yes ☐ No

- If Yes, complete sections C, F and G.
- If No, proceed to question C.2 and complete all remaining sections and questions in Part 1

### C.2. Adopted land use plans.

a. Do any municipally- adopted (city, town, village or county) comprehensive land use plan(s) include the site where the proposed action would be located? ☒ Yes ☐ No

If Yes, does the comprehensive plan include specific recommendations for the site where the proposed action would be located? ☒ Yes ☐ No

b. Is the site of the proposed action within any local or regional special planning district (for example: Greenway; Brownfield Opportunity Area (BOA); designated State or Federal heritage area; watershed management plan; or other?) ☐ Yes ☒ No

If Yes, identify the plan(s):

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c. Is the proposed action located wholly or partially within an area listed in an adopted municipal open space plan, or an adopted municipal farmland protection plan? ☐ Yes ☒ No

If Yes, identify the plan(s):

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### C.3. Zoning

a. Is the site of the proposed action located in a municipality with an adopted zoning law or ordinance. ☒ Yes ☐ No

If Yes, what is the zoning classification(s) including any applicable overlay district?

The Project Site is zoned B-5, "Interchange Office Buildings" This zone permits, among other uses, hotels, professional offices, and schools. The applicant proposes a zoning text amendment to add medical office, self-storage, finishing, assembling and testing facilities as "special exception uses" in the district.

b. Is the use permitted or allowed by a special or conditional use permit? ☐ Yes ☒ No

c. Is a zoning change requested as part of the proposed action? ☒ Yes ☐ No

If Yes,

i. What is the proposed new zoning for the site? Amend to allow med office, self-storage, finishing or assembly, product testing uses in the District

### C.4. Existing community services.

a. In what school district is the project site located? Rye City School District

b. What police or other public protection forces serve the project site?

Rye Police Department

c. Which fire protection and emergency medical services serve the project site?

Rye Fire Department

d. What parks serve the project site?

Abendroth Park, Garibaldi Park, Columbus Park, Playland Park, Gagliardo Park

### D. Project Details

#### D.1. Proposed and Potential Development

a. What is the general nature of the proposed action (e.g., residential, industrial, commercial, recreational; if mixed, include all components)? Zoning text amendment to facilitate the re-tenanting of an existing office building.

b. a. Total acreage of the site of the proposed action? +/-18.09 acres

b. Total acreage to be physically disturbed? 0 acres

c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor? +/-18.09 acres

c. Is the proposed action an expansion of an existing project or use? ☐ Yes ☒ No

i. If Yes, what is the approximate percentage of the proposed expansion and identify the units (e.g., acres, miles, housing units, square feet)? % Units:

d. Is the proposed action a subdivision, or does it include a subdivision? ☐ Yes ☒ No

If Yes,

i. Purpose or type of subdivision? (e.g., residential, industrial, commercial; if mixed, specify types)

ii. Is a cluster/conservation layout proposed? ☐ Yes ☐ No

iii. Number of lots proposed?

iv. Minimum and maximum proposed lot sizes? Minimum Maximum

e. Will the proposed action be constructed in multiple phases? ☐ Yes ☒ No

i. If No, anticipated period of construction: months

ii. If Yes:

- Total number of phases anticipated

- Anticipated commencement date of phase 1 (including demolition) month year

- Anticipated completion date of final phase month year

- Generally describe connections or relationships among phases, including any contingencies where progress of one phase may determine timing or duration of future phases:

f. Does the project include new residential uses? <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span> If Yes, show numbers of units proposed.				
	<u>One Family</u>	<u>Two Family</u>	<u>Three Family</u>	<u>Multiple Family (four or more)</u>
Initial Phase	_____	_____	_____	_____
At completion	_____	_____	_____	_____
of all phases	_____	_____	_____	_____

g. Does the proposed action include new non-residential construction (including expansions)? <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span> If Yes,	
i. Total number of structures _____ ii. Dimensions (in feet) of largest proposed structure: _____ height; _____ width; and _____ length iii. Approximate extent of building space to be heated or cooled: _____ square feet	

h. Does the proposed action include construction or other activities that will result in the impoundment of any liquids, such as creation of a water supply, reservoir, pond, lake, waste lagoon or other storage? <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span> If Yes,	
i. Purpose of the impoundment: _____ ii. If a water impoundment, the principal source of the water: <input type="checkbox"/> Ground water <input type="checkbox"/> Surface water streams <input type="checkbox"/> Other specify: _____ iii. If other than water, identify the type of impounded/contained liquids and their source. _____ iv. Approximate size of the proposed impoundment. Volume: _____ million gallons; surface area: _____ acres v. Dimensions of the proposed dam or impounding structure: _____ height; _____ length vi. Construction method/materials for the proposed dam or impounding structure (e.g., earth fill, rock, wood, concrete): _____ _____	

**D.2. Project Operations**

a. Does the proposed action include any excavation, mining, or dredging, during construction, operations, or both? <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span> (Not including general site preparation, grading or installation of utilities or foundations where all excavated materials will remain onsite) If Yes:	
i. What is the purpose of the excavation or dredging? _____ ii. How much material (including rock, earth, sediments, etc.) is proposed to be removed from the site? • Volume (specify tons or cubic yards): _____ • Over what duration of time? _____ iii. Describe nature and characteristics of materials to be excavated or dredged, and plans to use, manage or dispose of them. _____ _____ iv. Will there be onsite dewatering or processing of excavated materials? <span style="float: right;"><input type="checkbox"/> Yes <input type="checkbox"/> No</span> If yes, describe. _____ _____ v. What is the total area to be dredged or excavated? _____ acres vi. What is the maximum area to be worked at any one time? _____ acres vii. What would be the maximum depth of excavation or dredging? _____ feet viii. Will the excavation require blasting? <span style="float: right;"><input type="checkbox"/> Yes <input type="checkbox"/> No</span> ix. Summarize site reclamation goals and plan: _____ _____ _____	

b. Would the proposed action cause or result in alteration of, increase or decrease in size of, or encroachment into any existing wetland, waterbody, shoreline, beach or adjacent area? <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span> If Yes:	
i. Identify the wetland or waterbody which would be affected (by name, water index number, wetland map number or geographic description): _____ _____	

*ii.* Describe how the proposed action would affect that waterbody or wetland, e.g. excavation, fill, placement of structures, or alteration of channels, banks and shorelines. Indicate extent of activities, alterations and additions in square feet or acres:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

*iii.* Will the proposed action cause or result in disturbance to bottom sediments? ☐ Yes ☐ No  
If Yes, describe: \_\_\_\_\_

*iv.* Will the proposed action cause or result in the destruction or removal of aquatic vegetation? ☐ Yes ☐ No  
If Yes:

- acres of aquatic vegetation proposed to be removed: \_\_\_\_\_
- expected acreage of aquatic vegetation remaining after project completion: \_\_\_\_\_
- purpose of proposed removal (e.g. beach clearing, invasive species control, boat access): \_\_\_\_\_
- proposed method of plant removal: \_\_\_\_\_
- if chemical/herbicide treatment will be used, specify product(s): \_\_\_\_\_

*v.* Describe any proposed reclamation/mitigation following disturbance: \_\_\_\_\_

\_\_\_\_\_

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*c.* Will the proposed action use, or create a new demand for water? ☐ Yes ☒ No  
If Yes:

*i.* Total anticipated water usage/demand per day: \_\_\_\_\_ gallons/day

*ii.* Will the proposed action obtain water from an existing public water supply? ☐ Yes ☐ No  
If Yes:

- Name of district or service area: \_\_\_\_\_
- Does the existing public water supply have capacity to serve the proposal? ☐ Yes ☐ No
- Is the project site in the existing district? ☐ Yes ☐ No
- Is expansion of the district needed? ☐ Yes ☐ No
- Do existing lines serve the project site? ☐ Yes ☐ No

*iii.* Will line extension within an existing district be necessary to supply the project? ☐ Yes ☐ No  
If Yes:

- Describe extensions or capacity expansions proposed to serve this project: \_\_\_\_\_
- Source(s) of supply for the district: \_\_\_\_\_

*iv.* Is a new water supply district or service area proposed to be formed to serve the project site? ☐ Yes ☐ No  
If Yes:

- Applicant/sponsor for new district: \_\_\_\_\_
- Date application submitted or anticipated: \_\_\_\_\_
- Proposed source(s) of supply for new district: \_\_\_\_\_

*v.* If a public water supply will not be used, describe plans to provide water supply for the project: \_\_\_\_\_

*vi.* If water supply will be from wells (public or private), what is the maximum pumping capacity: \_\_\_\_\_ gallons/minute.

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*d.* Will the proposed action generate liquid wastes? ☐ Yes ☒ No  
If Yes:

*i.* Total anticipated liquid waste generation per day: \_\_\_\_\_ gallons/day

*ii.* Nature of liquid wastes to be generated (e.g., sanitary wastewater, industrial; if combination, describe all components and approximate volumes or proportions of each): \_\_\_\_\_

\_\_\_\_\_

*iii.* Will the proposed action use any existing public wastewater treatment facilities? ☐ Yes ☐ No  
If Yes:

- Name of wastewater treatment plant to be used: \_\_\_\_\_
- Name of district: \_\_\_\_\_
- Does the existing wastewater treatment plant have capacity to serve the project? ☐ Yes ☐ No
- Is the project site in the existing district? ☐ Yes ☐ No
- Is expansion of the district needed? ☐ Yes ☐ No

<ul style="list-style-type: none"> <li>• Do existing sewer lines serve the project site? _____</li> <li>• Will a line extension within an existing district be necessary to serve the project? _____</li> </ul> <p>If Yes:</p> <ul style="list-style-type: none"> <li>• Describe extensions or capacity expansions proposed to serve this project: _____          _____          _____</li> </ul>	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No	
<p>iv. Will a new wastewater (sewage) treatment district be formed to serve the project site? _____</p> <p>If Yes:</p> <ul style="list-style-type: none"> <li>• Applicant/sponsor for new district: _____</li> <li>• Date application submitted or anticipated: _____</li> <li>• What is the receiving water for the wastewater discharge? _____</li> </ul>	<input type="checkbox"/> Yes <input type="checkbox"/> No	
<p>v. If public facilities will not be used, describe plans to provide wastewater treatment for the project, including specifying proposed receiving water (name and classification if surface discharge or describe subsurface disposal plans): _____          _____          _____</p>		
<p>vi. Describe any plans or designs to capture, recycle or reuse liquid waste: _____          _____          _____</p>		
<p>e. Will the proposed action disturb more than one acre and create stormwater runoff, either from new point sources (i.e. ditches, pipes, swales, curbs, gutters or other concentrated flows of stormwater) or non-point source (i.e. sheet flow) during construction or post construction? _____</p> <p>If Yes:</p> <p>i. How much impervious surface will the project create in relation to total size of project parcel?</p> <p style="margin-left: 40px;">_____ Square feet or _____ acres (impervious surface)</p> <p style="margin-left: 40px;">_____ Square feet or _____ acres (parcel size)</p> <p>ii. Describe types of new point sources. _____</p> <p>iii. Where will the stormwater runoff be directed (i.e. on-site stormwater management facility/structures, adjacent properties, groundwater, on-site surface water or off-site surface waters)? _____          _____</p> <ul style="list-style-type: none"> <li>• If to surface waters, identify receiving water bodies or wetlands: _____          _____</li> <li>• Will stormwater runoff flow to adjacent properties? _____</li> </ul>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No	
<p>iv. Does the proposed plan minimize impervious surfaces, use pervious materials or collect and re-use stormwater? _____</p>		
<p>f. Does the proposed action include, or will it use on-site, one or more sources of air emissions, including fuel combustion, waste incineration, or other processes or operations? _____</p> <p>If Yes, identify:</p> <p>i. Mobile sources during project operations (e.g., heavy equipment, fleet or delivery vehicles) _____</p> <p>ii. Stationary sources during construction (e.g., power generation, structural heating, batch plant, crushers) _____</p> <p>iii. Stationary sources during operations (e.g., process emissions, large boilers, electric generation) _____</p>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
<p>g. Will any air emission sources named in D.2.f (above), require a NY State Air Registration, Air Facility Permit, or Federal Clean Air Act Title IV or Title V Permit? _____</p> <p>If Yes:</p> <p>i. Is the project site located in an Air quality non-attainment area? (Area routinely or periodically fails to meet ambient air quality standards for all or some parts of the year) _____</p> <p>ii. In addition to emissions as calculated in the application, the project will generate:</p> <ul style="list-style-type: none"> <li>• _____ Tons/year (short tons) of Carbon Dioxide (CO<sub>2</sub>)</li> <li>• _____ Tons/year (short tons) of Nitrous Oxide (N<sub>2</sub>O)</li> <li>• _____ Tons/year (short tons) of Perfluorocarbons (PFCs)</li> <li>• _____ Tons/year (short tons) of Sulfur Hexafluoride (SF<sub>6</sub>)</li> <li>• _____ Tons/year (short tons) of Carbon Dioxide equivalent of Hydrofluorocarbons (HFCs)</li> <li>• _____ Tons/year (short tons) of Hazardous Air Pollutants (HAPs)</li> </ul>		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No

<p>h. Will the proposed action generate or emit methane (including, but not limited to, sewage treatment plants, landfills, composting facilities)? <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span></p> <p>If Yes:</p> <p>i. Estimate methane generation in tons/year (metric): _____</p> <p>ii. Describe any methane capture, control or elimination measures included in project design (e.g., combustion to generate heat or electricity, flaring): _____</p>			
<p>i. Will the proposed action result in the release of air pollutants from open-air operations or processes, such as quarry or landfill operations? <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span></p> <p>If Yes: Describe operations and nature of emissions (e.g., diesel exhaust, rock particulates/dust): _____</p>			
<p>j. Will the proposed action result in a substantial increase in traffic above present levels or generate substantial new demand for transportation facilities or services? <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span></p> <p>If Yes:</p> <p>i. When is the peak traffic expected (Check all that apply): <input type="checkbox"/> Morning <input type="checkbox"/> Evening <input type="checkbox"/> Weekend  <input type="checkbox"/> Randomly between hours of _____ to _____.</p> <p>ii. For commercial activities only, projected number of truck trips/day and type (e.g., semi trailers and dump trucks): _____</p> <p>iii. Parking spaces: Existing _____ Proposed _____ Net increase/decrease _____</p> <p>iv. Does the proposed action include any shared use parking? <span style="float: right;"><input type="checkbox"/> Yes <input type="checkbox"/> No</span></p> <p>v. If the proposed action includes any modification of existing roads, creation of new roads or change in existing access, describe: _____</p> <p>vi. Are public/private transportation service(s) or facilities available within ½ mile of the proposed site? <span style="float: right;"><input type="checkbox"/> Yes <input type="checkbox"/> No</span></p> <p>vii. Will the proposed action include access to public transportation or accommodations for use of hybrid, electric or other alternative fueled vehicles? <span style="float: right;"><input type="checkbox"/> Yes <input type="checkbox"/> No</span></p> <p>viii. Will the proposed action include plans for pedestrian or bicycle accommodations for connections to existing pedestrian or bicycle routes? <span style="float: right;"><input type="checkbox"/> Yes <input type="checkbox"/> No</span></p>			
<p>k. Will the proposed action (for commercial or industrial projects only) generate new or additional demand for energy? <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span></p> <p>If Yes:</p> <p>i. Estimate annual electricity demand during operation of the proposed action: _____</p> <p>ii. Anticipated sources/suppliers of electricity for the project (e.g., on-site combustion, on-site renewable, via grid/local utility, or other): _____</p> <p>iii. Will the proposed action require a new, or an upgrade, to an existing substation? <span style="float: right;"><input type="checkbox"/> Yes <input type="checkbox"/> No</span></p>			
<p>l. Hours of operation. Answer all items which apply.</p> <table style="width: 100%;"> <tr> <td style="width: 50%; vertical-align: top;"> <p>i. During Construction:</p> <ul style="list-style-type: none"> <li>• Monday - Friday: _____</li> <li>• Saturday: _____</li> <li>• Sunday: _____</li> <li>• Holidays: _____</li> </ul> </td> <td style="width: 50%; vertical-align: top;"> <p>ii. During Operations:</p> <ul style="list-style-type: none"> <li>• Monday - Friday: _____</li> <li>• Saturday: _____</li> <li>• Sunday: _____</li> <li>• Holidays: _____</li> </ul> </td> </tr> </table>		<p>i. During Construction:</p> <ul style="list-style-type: none"> <li>• Monday - Friday: _____</li> <li>• Saturday: _____</li> <li>• Sunday: _____</li> <li>• Holidays: _____</li> </ul>	<p>ii. During Operations:</p> <ul style="list-style-type: none"> <li>• Monday - Friday: _____</li> <li>• Saturday: _____</li> <li>• Sunday: _____</li> <li>• Holidays: _____</li> </ul>
<p>i. During Construction:</p> <ul style="list-style-type: none"> <li>• Monday - Friday: _____</li> <li>• Saturday: _____</li> <li>• Sunday: _____</li> <li>• Holidays: _____</li> </ul>	<p>ii. During Operations:</p> <ul style="list-style-type: none"> <li>• Monday - Friday: _____</li> <li>• Saturday: _____</li> <li>• Sunday: _____</li> <li>• Holidays: _____</li> </ul>		

<p>m. Will the proposed action produce noise that will exceed existing ambient noise levels during construction, operation, or both? <span style="float: right;"><input type="checkbox"/> Yes <input type="checkbox"/> No</span></p> <p>If yes:</p> <p>i. Provide details including sources, time of day and duration:</p> <p>_____</p> <p>_____</p>	
<p>ii. Will the proposed action remove existing natural barriers that could act as a noise barrier or screen? <span style="float: right;"><input type="checkbox"/> Yes <input type="checkbox"/> No</span></p> <p>Describe: _____</p> <p>_____</p>	
<p>n. Will the proposed action have outdoor lighting? <span style="float: right;"><input type="checkbox"/> Yes <input type="checkbox"/> No</span></p> <p>If yes:</p> <p>i. Describe source(s), location(s), height of fixture(s), direction/aim, and proximity to nearest occupied structures:</p> <p>_____</p> <p>_____</p>	
<p>ii. Will proposed action remove existing natural barriers that could act as a light barrier or screen? <span style="float: right;"><input type="checkbox"/> Yes <input type="checkbox"/> No</span></p> <p>Describe: _____</p> <p>_____</p>	
<p>o. Does the proposed action have the potential to produce odors for more than one hour per day? <span style="float: right;"><input type="checkbox"/> Yes <input type="checkbox"/> No</span></p> <p>If Yes, describe possible sources, potential frequency and duration of odor emissions, and proximity to nearest occupied structures: _____</p> <p>_____</p> <p>_____</p>	
<p>p. Will the proposed action include any bulk storage of petroleum (combined capacity of over 1,100 gallons) or chemical products 185 gallons in above ground storage or any amount in underground storage? <span style="float: right;"><input type="checkbox"/> Yes <input type="checkbox"/> No</span></p> <p>If Yes:</p> <p>i. Product(s) to be stored _____</p> <p>ii. Volume(s) _____ per unit time _____ (e.g., month, year)</p> <p>iii. Generally, describe the proposed storage facilities: _____</p> <p>_____</p>	
<p>q. Will the proposed action (commercial, industrial and recreational projects only) use pesticides (i.e., herbicides, insecticides) during construction or operation? <span style="float: right;"><input type="checkbox"/> Yes <input type="checkbox"/> No</span></p> <p>If Yes:</p> <p>i. Describe proposed treatment(s):</p> <p>_____</p> <p>_____</p> <p>_____</p>	
<p>ii. Will the proposed action use Integrated Pest Management Practices? <span style="float: right;"><input type="checkbox"/> Yes <input type="checkbox"/> No</span></p>	
<p>r. Will the proposed action (commercial or industrial projects only) involve or require the management or disposal of solid waste (excluding hazardous materials)? <span style="float: right;"><input type="checkbox"/> Yes <input type="checkbox"/> No</span></p> <p>If Yes:</p> <p>i. Describe any solid waste(s) to be generated during construction or operation of the facility:</p> <ul style="list-style-type: none"> <li>• Construction: _____ tons per _____ (unit of time)</li> <li>• Operation : _____ tons per _____ (unit of time)</li> </ul> <p>ii. Describe any proposals for on-site minimization, recycling or reuse of materials to avoid disposal as solid waste:</p> <ul style="list-style-type: none"> <li>• Construction: _____</li> <li>• Operation: _____</li> </ul> <p>iii. Proposed disposal methods/facilities for solid waste generated on-site:</p> <ul style="list-style-type: none"> <li>• Construction: _____</li> <li>• Operation: _____</li> </ul>	

s. Does the proposed action include construction or modification of a solid waste management facility? ☐ Yes ☒ No

If Yes:

i. Type of management or handling of waste proposed for the site (e.g., recycling or transfer station, composting, landfill, or other disposal activities): \_\_\_\_\_

ii. Anticipated rate of disposal/processing:

- \_\_\_\_\_ Tons/month, if transfer or other non-combustion/thermal treatment, or
- \_\_\_\_\_ Tons/hour, if combustion or thermal treatment

iii. If landfill, anticipated site life: \_\_\_\_\_ years

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t. Will the proposed action at the site involve the commercial generation, treatment, storage, or disposal of hazardous waste? ☐ Yes ☒ No

If Yes:

i. Name(s) of all hazardous wastes or constituents to be generated, handled or managed at facility: \_\_\_\_\_

ii. Generally describe processes or activities involving hazardous wastes or constituents: \_\_\_\_\_

iii. Specify amount to be handled or generated \_\_\_\_\_ tons/month

iv. Describe any proposals for on-site minimization, recycling or reuse of hazardous constituents: \_\_\_\_\_

v. Will any hazardous wastes be disposed at an existing offsite hazardous waste facility? ☐ Yes ☐ No

If Yes: provide name and location of facility: \_\_\_\_\_

If No: describe proposed management of any hazardous wastes which will not be sent to a hazardous waste facility: \_\_\_\_\_

## E. Site and Setting of Proposed Action

<b>E.1. Land uses on and surrounding the project site</b>			
<p>a. Existing land uses.</p> <p>i. Check all uses that occur on, adjoining and near the project site.</p> <p> <input type="checkbox"/> Urban    <input type="checkbox"/> Industrial    <input checked="" type="checkbox"/> Commercial    <input checked="" type="checkbox"/> Residential (suburban)    <input type="checkbox"/> Rural (non-farm)  <input type="checkbox"/> Forest    <input type="checkbox"/> Agriculture    <input type="checkbox"/> Aquatic    <input checked="" type="checkbox"/> Other (specify): <u>Transportation (I-95 and Metro-North)</u> </p> <p>ii. If mix of uses, generally describe:</p> <p>Site is bounded by I-95 to the north and Metro-North tracks to the west. Site is located in a mixed-use area with low-rise multi-family apartments and townhouses to the south of Peck Ave, commercial and retail uses to the north, office uses to the west, and transportation uses to the east.</p>			
b. Land uses and covertypes on the project site.			
Land use or Covertypes	Current Acreage	Acreage After Project Completion	Change (Acres +/-)
• Roads, buildings, and other paved or impervious surfaces	7.8	7.8	0
• Forested	0	0	0
• Meadows, grasslands or brushlands (non-agricultural, including abandoned agricultural)	0	0	0
• Agricultural (includes active orchards, field, greenhouse etc.)	0	0	0
• Surface water features (lakes, ponds, streams, rivers, etc.)	0	0	0
• Wetlands (freshwater or tidal)	0	0	0
• Non-vegetated (bare rock, earth or fill)	0	0	0
• Other Describe: <u>Maintained lawn and landscaping</u>	10.29	10.29	0

<p>c. Is the project site presently used by members of the community for public recreation?  <i>i. If Yes: explain:</i></p>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<p>d. Are there any facilities serving children, the elderly, people with disabilities (e.g., schools, hospitals, licensed day care centers, or group homes) within 1500 feet of the project site?  If Yes,  <i>i. Identify Facilities:</i></p>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<p>e. Does the project site contain an existing dam?  If Yes:  <i>i. Dimensions of the dam and impoundment:</i></p> <ul style="list-style-type: none"> <li>• Dam height: _____ feet</li> <li>• Dam length: _____ feet</li> <li>• Surface area: _____ acres</li> <li>• Volume impounded: _____ gallons OR acre-feet</li> </ul> <p><i>ii. Dam's existing hazard classification:</i> _____</p> <p><i>iii. Provide date and summarize results of last inspection:</i></p>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<p>f. Has the project site ever been used as a municipal, commercial or industrial solid waste management facility, or does the project site adjoin property which is now, or was at one time, used as a solid waste management facility?  If Yes:  <i>i. Has the facility been formally closed?</i></p>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<p>• If yes, cite sources/documentation: _____</p> <p><i>ii. Describe the location of the project site relative to the boundaries of the solid waste management facility:</i></p>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<p><i>iii. Describe any development constraints due to the prior solid waste activities:</i></p>	
<p>g. Have hazardous wastes been generated, treated and/or disposed of at the site, or does the project site adjoin property which is now or was at one time used to commercially treat, store and/or dispose of hazardous waste?  If Yes:  <i>i. Describe waste(s) handled and waste management activities, including approximate time when activities occurred:</i></p>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<p>h. Potential contamination history. Has there been a reported spill at the proposed project site, or have any remedial actions been conducted at or adjacent to the proposed site?  If Yes:  <i>i. Is any portion of the site listed on the NYSDEC Spills Incidents database or Environmental Site Remediation database? Check all that apply:</i></p>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<p> <input checked="" type="checkbox"/> Yes – Spills Incidents database      Provide DEC ID number(s): 1004096, 8904438  <input type="checkbox"/> Yes – Environmental Site Remediation database      Provide DEC ID number(s): _____  <input type="checkbox"/> Neither database </p> <p><i>ii. If site has been subject of RCRA corrective activities, describe control measures:</i></p>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<p><i>iii. Is the project within 2000 feet of any site in the NYSDEC Environmental Site Remediation database?</i>  If yes, provide DEC ID number(s): 360086, C360086</p>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<p><i>iv. If yes to (i), (ii) or (iii) above, describe current status of site(s):</i></p>	
<p>Spills 1004096 and 8904438 have been closed by NYSDEC. NYSDEC Environmental Site Remediation database 360086 is classified as "N" (No Further Action at this Time), and C360086 is classified as "A" (Active). C360086 is located at 38-40 Purchase Street and is in the Brownfield Cleanup Program.</p>	

v. Is the project site subject to an institutional control limiting property uses? <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span>													
<ul style="list-style-type: none"> <li>• If yes, DEC site ID number: _____</li> <li>• Describe the type of institutional control (e.g., deed restriction or easement): _____</li> <li>• Describe any use limitations: _____</li> <li>• Describe any engineering controls: _____</li> <li>• Will the project affect the institutional or engineering controls in place? <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span></li> <li>• Explain: _____</li> </ul>													
<b>E.2. Natural Resources On or Near Project Site</b>													
a. What is the average depth to bedrock on the project site? <span style="float: right;">_____ 1.5 - 4 feet</span>													
b. Are there bedrock outcroppings on the project site? <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span> If Yes, what proportion of the site is comprised of bedrock outcroppings? _____ %													
c. Predominant soil type(s) present on project site: <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 60%;">Ub</td> <td style="width: 40%; text-align: right;">22.9 %</td> </tr> <tr> <td>UIC</td> <td style="text-align: right;">21.2 %</td> </tr> <tr> <td>Uf</td> <td style="text-align: right;">48.8 %</td> </tr> </table>		Ub	22.9 %	UIC	21.2 %	Uf	48.8 %						
Ub	22.9 %												
UIC	21.2 %												
Uf	48.8 %												
d. What is the average depth to the water table on the project site? Average: _____ feet													
e. Drainage status of project site soils: <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 40%;"><input checked="" type="checkbox"/> Well Drained:</td> <td style="width: 60%; text-align: right;">21.2 % of site</td> </tr> <tr> <td><input checked="" type="checkbox"/> Moderately Well Drained:</td> <td style="text-align: right;">22.9 % of site</td> </tr> <tr> <td><input type="checkbox"/> Poorly Drained</td> <td style="text-align: right;">_____ % of site</td> </tr> </table>		<input checked="" type="checkbox"/> Well Drained:	21.2 % of site	<input checked="" type="checkbox"/> Moderately Well Drained:	22.9 % of site	<input type="checkbox"/> Poorly Drained	_____ % of site						
<input checked="" type="checkbox"/> Well Drained:	21.2 % of site												
<input checked="" type="checkbox"/> Moderately Well Drained:	22.9 % of site												
<input type="checkbox"/> Poorly Drained	_____ % of site												
f. Approximate proportion of proposed action site with slopes: <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 40%;"><input checked="" type="checkbox"/> 0-10%:</td> <td style="width: 60%; text-align: right;">64.6 % of site</td> </tr> <tr> <td><input checked="" type="checkbox"/> 10-15%:</td> <td style="text-align: right;">35.4 % of site</td> </tr> <tr> <td><input type="checkbox"/> 15% or greater:</td> <td style="text-align: right;">_____ % of site</td> </tr> </table>		<input checked="" type="checkbox"/> 0-10%:	64.6 % of site	<input checked="" type="checkbox"/> 10-15%:	35.4 % of site	<input type="checkbox"/> 15% or greater:	_____ % of site						
<input checked="" type="checkbox"/> 0-10%:	64.6 % of site												
<input checked="" type="checkbox"/> 10-15%:	35.4 % of site												
<input type="checkbox"/> 15% or greater:	_____ % of site												
g. Are there any unique geologic features on the project site? <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span> If Yes, describe: _____													
h. Surface water features.													
i. Does any portion of the project site contain wetlands or other waterbodies (including streams, rivers, ponds or lakes)? <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span>													
ii. Do any wetlands or other waterbodies adjoin the project site? <span style="float: right;"><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</span>													
If Yes to either <i>i</i> or <i>ii</i> , continue. If No, skip to E.2.i.													
iii. Are any of the wetlands or waterbodies within or adjoining the project site regulated by any federal, state or local agency? <span style="float: right;"><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</span>													
iv. For each identified regulated wetland and waterbody on the project site, provide the following information: <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 10%;">• Streams:</td> <td style="width: 40%;">Name _____</td> <td style="width: 50%;">Classification _____</td> </tr> <tr> <td>• Lakes or Ponds:</td> <td>Name Small un-named pond</td> <td>Classification PUBHx</td> </tr> <tr> <td>• Wetlands:</td> <td>Name _____</td> <td>Approximate Size _____</td> </tr> <tr> <td>• Wetland No. (if regulated by DEC)</td> <td colspan="2">_____</td> </tr> </table>		• Streams:	Name _____	Classification _____	• Lakes or Ponds:	Name Small un-named pond	Classification PUBHx	• Wetlands:	Name _____	Approximate Size _____	• Wetland No. (if regulated by DEC)	_____	
• Streams:	Name _____	Classification _____											
• Lakes or Ponds:	Name Small un-named pond	Classification PUBHx											
• Wetlands:	Name _____	Approximate Size _____											
• Wetland No. (if regulated by DEC)	_____												
v. Are any of the above water bodies listed in the most recent compilation of NYS water quality-impaired waterbodies? <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span> If yes, name of impaired water body/bodies and basis for listing as impaired: _____													
i. Is the project site in a designated Floodway? <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span>													
j. Is the project site in the 100-year Floodplain? <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span>													
k. Is the project site in the 500-year Floodplain? <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span>													
l. Is the project site located over, or immediately adjoining, a primary, principal or sole source aquifer? <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span> If Yes:													
i. Name of aquifer: _____													

<p>m. Identify the predominant wildlife species that occupy or use the project site: _____</p> <table style="width: 100%; border: none;"> <tr> <td style="width: 33%;">Raccoon _____</td> <td style="width: 33%;">Gray squirrel _____</td> <td style="width: 33%;">_____</td> </tr> <tr> <td>Norway rat _____</td> <td>Field mice _____</td> <td>_____</td> </tr> <tr> <td>Coyote _____</td> <td></td> <td></td> </tr> </table>		Raccoon _____	Gray squirrel _____	_____	Norway rat _____	Field mice _____	_____	Coyote _____		
Raccoon _____	Gray squirrel _____	_____								
Norway rat _____	Field mice _____	_____								
Coyote _____										
<p>n. Does the project site contain a designated significant natural community? <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span></p> <p>If Yes:</p> <p style="margin-left: 20px;">i. Describe the habitat/community (composition, function, and basis for designation): _____</p> <p style="margin-left: 20px;">ii. Source(s) of description or evaluation: _____</p> <p style="margin-left: 20px;">iii. Extent of community/habitat:</p> <ul style="list-style-type: none"> <li>• Currently: _____ acres</li> <li>• Following completion of project as proposed: _____ acres</li> <li>• Gain or loss (indicate + or -): _____ acres</li> </ul>										
<p>o. Does project site contain any species of plant or animal that is listed by the federal government or NYS as endangered or threatened, or does it contain any areas identified as habitat for an endangered or threatened species? <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span></p> <p>If Yes:</p> <p style="margin-left: 20px;">i. Species and listing (endangered or threatened): _____</p> <p>_____</p> <p>_____</p>										
<p>p. Does the project site contain any species of plant or animal that is listed by NYS as rare, or as a species of special concern? <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span></p> <p>If Yes:</p> <p style="margin-left: 20px;">i. Species and listing: _____</p> <p>_____</p> <p>_____</p>										
<p>q. Is the project site or adjoining area currently used for hunting, trapping, fishing or shell fishing? <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span></p> <p>If yes, give a brief description of how the proposed action may affect that use: _____</p> <p>_____</p> <p>_____</p>										
<p><b>E.3. Designated Public Resources On or Near Project Site</b></p>										
<p>a. Is the project site, or any portion of it, located in a designated agricultural district certified pursuant to Agriculture and Markets Law, Article 25-AA, Section 303 and 304? <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span></p> <p>If Yes, provide county plus district name/number: _____</p>										
<p>b. Are agricultural lands consisting of highly productive soils present? <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span></p> <p style="margin-left: 20px;">i. If Yes: acreage(s) on project site? _____</p> <p style="margin-left: 20px;">ii. Source(s) of soil rating(s): _____</p>										
<p>c. Does the project site contain all or part of, or is it substantially contiguous to, a registered National Natural Landmark? <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span></p> <p>If Yes:</p> <p style="margin-left: 20px;">i. Nature of the natural landmark: <input type="checkbox"/> Biological Community <input type="checkbox"/> Geological Feature</p> <p style="margin-left: 20px;">ii. Provide brief description of landmark, including values behind designation and approximate size/extent: _____</p> <p>_____</p> <p>_____</p>										
<p>d. Is the project site located in or does it adjoin a state listed Critical Environmental Area? <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span></p> <p>If Yes:</p> <p style="margin-left: 20px;">i. CEA name: _____</p> <p style="margin-left: 20px;">ii. Basis for designation: _____</p> <p style="margin-left: 20px;">iii. Designating agency and date: _____</p>										

e. 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? If Yes: i. Nature of historic/archaeological resource: <input type="checkbox"/> Archaeological Site <input type="checkbox"/> Historic Building or District ii. Name: _____ iii. Brief description of attributes on which listing is based: _____	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
f. 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?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
g. Have additional archaeological or historic site(s) or resources been identified on the project site? If Yes: i. Describe possible resource(s): _____ ii. Basis for identification: _____	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
h. Is the project site within five miles of any officially designated and publicly accessible federal, state, or local scenic or aesthetic resource? If Yes: i. Identify resource: _____ ii. Nature of, or basis for, designation (e.g., established highway overlook, state or local park, state historic trail or scenic byway, etc.): _____ iii. Distance between project and resource: _____ miles.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
i. Is the project site located within a designated river corridor under the Wild, Scenic and Recreational Rivers Program 6 NYCRR 666? If Yes: i. Identify the name of the river and its designation: _____ ii. Is the activity consistent with development restrictions contained in 6NYCRR Part 666?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No    <input type="checkbox"/> Yes <input type="checkbox"/> No

#### F. Additional Information

Attach any additional information which may be needed to clarify your project.

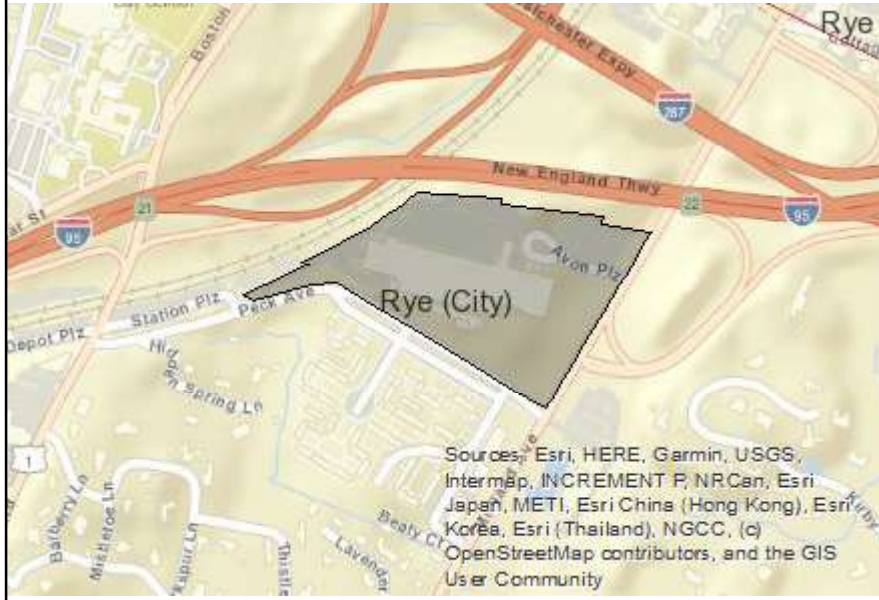
If you have identified any adverse impacts which could be associated with your proposal, please describe those impacts plus any measures which you propose to avoid or minimize them.

#### G. Verification

I certify that the information provided is true to the best of my knowledge.

Applicant/Sponsor Name Midland Rye LLC Date 9/3/2020

Signature Peter Ferrel Title Sr. Technical Director - AKRF Inc., for the Applicant



**Disclaimer:** The EAF Mapper is a screening tool intended to assist project sponsors and reviewing agencies in preparing an environmental assessment form (EAF). Not all questions asked in the EAF are answered by the EAF Mapper. Additional information on any EAF question can be obtained by consulting the EAF Workbooks. Although the EAF Mapper provides the most up-to-date digital data available to DEC, you may also need to contact local or other data sources in order to obtain data not provided by the Mapper. Digital data is not a substitute for agency determinations.



B.i.i [Coastal or Waterfront Area]	No
B.i.ii [Local Waterfront Revitalization Area]	Yes
C.2.b. [Special Planning District]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.1.h [DEC Spills or Remediation Site - Potential Contamination History]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.1.h.i [DEC Spills or Remediation Site - Listed]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.1.h.i [DEC Spills or Remediation Site - Environmental Site Remediation Database]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.1.h.iii [Within 2,000' of DEC Remediation Site]	Yes
E.1.h.iii [Within 2,000' of DEC Remediation Site - DEC ID]	360086, C360086
E.2.g [Unique Geologic Features]	No
E.2.h.i [Surface Water Features]	No
E.2.h.ii [Surface Water Features]	Yes
E.2.h.iii [Surface Water Features]	Yes - Digital mapping information on local and federal wetlands and waterbodies is known to be incomplete. Refer to EAF Workbook.
E.2.h.v [Impaired Water Bodies]	No
E.2.i. [Floodway]	No
E.2.j. [100 Year Floodplain]	No
E.2.k. [500 Year Floodplain]	No
E.2.l. [Aquifers]	No
E.2.n. [Natural Communities]	No
E.2.o. [Endangered or Threatened Species]	No

E.2.p. [Rare Plants or Animals]	No
E.3.a. [Agricultural District]	No
E.3.c. [National Natural Landmark]	No
E.3.d [Critical Environmental Area]	No
E.3.e. [National or State Register of Historic Places or State Eligible Sites]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.3.f. [Archeological Sites]	Yes
E.3.i. [Designated River Corridor]	No

Nick Everett, Chairman  
Martha Monserrate, Vice Chair  
Andy Ball  
Laura Brett  
Richard Mecca  
Steven Secon  
Birgit Townley



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## **CITY OF RYE Planning Commission**

### **Memorandum**

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To: Rye City Council

From: Rye City Planning Commission

Date: November 19, 2019

Subject: **Zoning Text Amendments to the B-5 District**

Pursuant to your request, this memorandum provides the Planning Commission's advisory opinion with respect to the petition of Midland Rye, LLC to amend the B-5, *Interchange Office Building*, District to expand the list of currently permitted uses.

In response to the comments of the Commission at a series of public meetings over the last few months and in response to the petitioner's request, the initial petition submitted to the City Council has been modified. Initially, the petition proposed to add medical office and storage use to the list of permitted uses in the B-5 District. The current petition includes the following revisions or additions:

- The Commission requested that the definition of "personal storage" be revised to "self-storage" so that it would be more descriptive of the intended use.
- Day-care, which is currently permitted only as an accessory use, was modified to also be a main use in the B-5 District.
- "Finishing or assembling of products" was added at the petitioner's request as a permitted use.
- A parking standard was provided for medical use, which currently exceeds the parking standard for other medical uses in the City Zoning Code.
- Parking standards for each use was either added or modified based on discussions with the Planning Commission and parking data from the Institute of Transportation Engineers (ITE) Trip Generation Manual.

The Commission supports the proposed zoning text amendments. The current B-5 District, which currently consists of just three properties located on the west side of Midland Avenue between Peck Avenue and the Port Chester/Rye boundary, has a fairly limited number of uses. Expanding the list of uses will help the former Avon property be more marketable for the adaptive reuse of the vacant building on the property.

McGULLOUGH, GOLDBERGER & STAUDT, LLP

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CHARLES A. GOLDBERGER  
COUNSEL

FRANK S. McCULLOUGH (1905-1998)  
EVANS V. BREWSTER (1920-2005)

December 31, 2020

Honorable Mayor Josh Cohn  
and Members of the City Council  
City of Rye  
1050 Boston Post Road  
Rye, New York 10580

Re: 601-621 Midland Avenue  
Zoning Text Amendment

Dear Mayor Cohn and Members of the City Council:

This office represents Midland Rye LLC<sup>1</sup> (hereinafter “Petitioner” or “George Comfort”). Petitioner is the owner of a 14.84-acre lot identified as 601 Midland Avenue (the “Property”) and the 3.25-acre lot identified as 621 Midland Avenue, which is vacant. The Property is primarily located in the B-5 “Interchange Office Building” Zoning District and is currently improved with the now-vacant Avon office building, which was previously home to Avon’s warehouse and distribution facility, data center, and office space.

The Property is a significant contributor to the Rye tax base and is currently the seventh highest property tax generator in the City. However, the value of the Property has diminished with the changing office market. As detailed in the previously submitted memorandum from AKRF, there has been a long decline in the appetite for pure office space in Westchester County, and the office building on the Property has been unable to attract new tenants for some time.

To adapt to the current commercial market, Petitioner is proposing a Zoning Text Amendment (the “Amendment”) to expand the list of permissible uses in the B-5 District, so that they may better market the Property to prospective tenants, and address the community need for more modern commercial uses permitted by zoning. Without this Amendment, there is a significant likelihood the building will remain vacant, and the value of the Property will continue to diminish in the coming years, negatively impacting not just Petitioner, but the City and its taxpayers. It is our hope that the Council will work with Petitioner in its efforts to reverse this negative trend.

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<sup>1</sup> Midland Rye LLC is a Delaware limited liability company licensed to do business in the State of New York, under common control with George Comfort & Sons, Inc.

## Project History and Latest Revisions

As you know, Petitioner first appeared before the City Council in September 2019 and has now been in the City's review process for over a year. In that time, the Amendment has been the subject of judicious examination by Rye staff, the Rye Planning Commission, which issued a positive recommendation to adopt the zoning amendment, and the City Council. To date, Petitioner has incorporated every substantive request from the City's various representative into the Amendment, resulting in an extremely well-considered and balanced proposal.

We have now had public hearings at the City Council's December 2<sup>nd</sup> and December 16<sup>th</sup> meetings. The President and CEO of George Comfort personally held two neighbor meetings prior to the December 16<sup>th</sup> Council meeting and has offered to hold additional meetings with neighbors the weekend of December 19<sup>th</sup> and 20<sup>th</sup>, as well as the weekend of January 2<sup>nd</sup> and 3<sup>rd</sup>. Ken Taylor, the President of Rye Colony, has acknowledged these dates and confirmed notice was circulated to Rye Colony and the Gables, though no neighbors have expressed an interest in meeting as of this writing.

Over the course of these numerous meetings Petitioner has attempted to address the various questions raised by the public and the Council. To that end, we have revised the proposed local law once more to incorporate language suggested by the Council on December 16<sup>th</sup>, further defining and limiting the proposed light finishing and assembling use and placing even greater restrictions on chemicals that may be used on the premises. Petitioner has also provided additional screening requirements to further protect the existing trees on Peck Avenue and ensure adequate visual mitigation is provided to residential neighbors. The local law now supplies clear factors to consider in making a comparison to an otherwise permitted office use. These changes provide even further consideration for mitigating any potential impact and provide additional tangible metrics for Planning Commission review. Clean and redlined copies of the revised local law are enclosed herewith for the Council's review.

## Procedural Context

For a clearer understanding of actual impacts to the Zoning Ordinance, we feel it would be beneficial to put the pending Amendment in the context of the City's approval process. To begin, there are several uses permitted on the Property under the current zoning, many of which could be considered more impactful than what is proposed in the Amendment. Uses currently permitted on the Property include:

- "Office buildings to accommodate, as principal users, executive, administrative, clerical, professional or scientific staffs of business or professional organizations, together with accessory uses incident thereto," including "accessory uses customarily incidental to and on the same lot with a permitted use."
- Hotels, including accessory uses such as meeting rooms, banquet facilities, restaurants, bars, health clubs, and convention facilities.
- Public and private schools
- Nursery schools, subject to a 30-child limit and open space requirement
- Religious uses

- Residential care facilities for “mentally, emotionally, physically or socially disabled persons or for persons in need of supervision or juvenile delinquents.”
- Daycare/child-care facilities affiliated with another commercial tenant

If a proposed use fits into any of the categories listed above, the plan for said use would go to the Rye Planning Commission for evaluation of a Site Plan application, and a review of environmental impacts under SEQRA. As part of Site Plan review, the Planning Commission would study potential traffic impacts, pedestrian safety impacts, lighting and noise impacts, and the operational safety of the use. A public hearing is required as part of the Site Plan approval process, so that members of the community will have an opportunity to provide input on a specific user. This is a typical Site Plan process and is applied to almost all permitted uses in the City of Rye.

It must be emphasized that George Comfort’s request to the Council is not for the approval of any specific plan or end user. The only request before the City Council is to allow the Planning Commission to review plans for certain additional uses. These uses include:

- Self-storage
- Medical offices
- Light Finishing/Assembling of Products
- Testing of Products
- Daycare that is not affiliated with another on-site use.

Several of these proposed uses are likely permitted already as an ordinary element of a permitted use, such as daycare, medical office, and even light assembly and product testing. As noted in our last meeting, part of Petitioner’s rationale for the proposed Amendment is to clean up ambiguities in the Zoning Ordinance on certain uses and to allow for multiple tenant users within the building.

If the Amendment is approved, Petitioner or a tenant would be required to seek and obtain the approval of the Planning Commission to use the Property for one or more of these uses. At that time, the Planning Commission would review the application with respect to the aforementioned considerations (e.g., traffic, safety, lighting, noise) as they apply to a *specific* use and *specific* site plan. As such, the Council’s zoning review must focus on the potential for these proposed uses *generically*, to fit in with the existing zoning district.

We submit that the uses proposed are inherently compatible with the existing commercial district and the built condition of the area. It is further submitted that it has been fully demonstrated that, with the proper regulation, the uses proposed would not result in a new class of impacts or a significant change in impacts from the uses that are already allowed in the zoning district such as hotels or offices.

## Response to Comments

The issues identified by the public and the Council during this review process can generally be summarized into the following categories: impacts of traffic on adjacent roadways; on-site chemicals; and change in community character. Below, we summarize our previous responses to each of these concerns.

### *A. Traffic Impacts*

Several members of the public have voiced concern over traffic impacts from the light assembly, product testing, and self-storage uses, particularly with regard to Peck Avenue. This issue has been reviewed thoroughly by a licensed traffic engineer from JMC Engineering (“JMC”), who previously submitted a memorandum to the Council on this issue.

It is critical to note, as stated by the City Planner, that the Project Site is not only zoned for an office use, it already contains an approximately 173,000 square-foot office building. At its peak, there were approximately 600 people working in the building and as recently as 2017, there were 500 employees working on this site. Even as Avon’s operations were winding down in 2018, there were approximately 325 employees on-site. Without the Amendment, the existing building could legally be re-tenanted and used by several hundred employees a day, though that is unlikely given the current office market. That is the situation on-site today, and it is in that light that traffic impacts must be analyzed.

As demonstrated by JMC’s traffic memorandum, applying Institute of Traffic Engineers (“ITE”) standards the self-storage, finishing/assembling, and testing of products uses would generate a fraction of the traffic that a similarly sized office use would generate. Therefore, any addition of this use to the Site, which would necessarily decrease the amount of “office” space on the site, would reduce the amount of traffic that the site generates. As such, the addition of these uses would not add to any existing traffic problems; they would serve to mitigate those problems by reducing the traffic that the Property could generate. While the number of truck trips could be slightly higher with these uses than a typical office use, the increase is *de minimis*; it would be on the order of a few trips a day. The overall number of traffic trips to and from the Property would still be likely to be reduced when accounting for these truck trips.

As there was some question on the basis for JMC’s findings at the last meeting, it is necessary to reiterate that ITE metrics are based on numerous impartial studies of these land uses and professional review. ITE figures are the industry standard for the study of traffic, and these same benchmarks would be used in conducting any tenant-specific traffic analysis during Site Plan review.

Allowing the Applicant to use the Property for one or more of these new uses would not negatively change the traffic circulation into or out of the Site. In fact, the proposed zoning would place more restrictions on this Property, requiring all deliveries be made from Midland Avenue and requiring that Midland Avenue be used as the Property’s primary entrance. These restrictions do not exist today. Existing regulations regarding trucks on Peck Avenue would remain in place. As such, there is nothing about the quantity or type of traffic generated by the proposed uses that is inherently different from an office use and that would render the Planning Commission incapable of ensuring that a site plan inclusive of these uses did not cause a significant adverse traffic impact.

Moreover, Petitioner has been in discussions with the City concerning Peck Avenue, and potential mitigation of impacts from reoccupying the building. As noted by the Council and members of the public, the issues on Peck Avenue exist today, but there is some concern that a filled building will make current conditions worse. While it will ultimately be up to the City to determine how best to address these concerns, Petitioner has endeavored to act in good faith as a neighbor and member of the community. As indicated in the last meeting, Petitioner has been in discussions with the City, and is willing to participate in the City's plans to alleviate traffic and safety issues relating to the Peck Avenue/Midland Avenue corner moving forward.

#### *B. Chemical Restrictions*

It has become apparent that there is still confusion among members of the public regarding the notion of "chemical storage". We therefore wish to make it clear, once again, that at no point in the history of this petition has chemical storage been a proposed use for the Property. As detailed in numerous prior submissions and meetings, all language relating to the storage of chemicals is intended to limit or prohibit such storage on the site, and the impetus for such language came at the request of the Rye Planning Commission. Any accusations of chemical storage on the Property outside of ordinary commercial use is either a fundamental misunderstanding or a gross misrepresentation of the petition before the Council.

In fact, the proposed Amendment would create the first limitation of its kind on chemical storage, resulting in a greater restriction on this issue than is found for any other use or property in the City of Rye.<sup>2</sup> As such, the Property and the proposed self-storage, light assembly, and product testing uses will be *less* likely to result in unwanted chemicals on the Property than other uses permitted throughout the City.

#### *C. Changes to Community Character*

As the Council is aware, the Property is located in the B-5 District, classified as a business district in the City of Rye.<sup>3</sup> The Property is bordered by a major interstate highway, a railroad line, and a County Road to the north, west, and east, respectively. Immediately south, across Peck Avenue, is the RA-4 Apartment District, screened with a significant vegetative buffer on site, which is intended to remain. This location makes the site ideally located and properly zoned for commercial development.<sup>4</sup> The presence of major thoroughfares and a railroad line, as well as an office building (when occupied) result in a neighborhood that is subject to noise, light, and activity consistent with commercial properties. Again, that is the *existing* character of the neighborhood, which has been in place for decades. As discussed in greater detail below, none of the proposed uses will result in any impacts that would be more noticeable to the residential uses on Peck Avenue than uses already permitted for the Property, nor will they change the existing character of the neighborhood.

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<sup>2</sup> The only mention of chemicals in the entire Zoning Ordinance is in reference to a permitted accessory laboratory use in the B-4 District. As a result, Petitioner is subjecting themselves to greater restrictions than what is found in any other zoning district.

<sup>3</sup> The Zoning Ordinance identifies three primary categories of districts: Residential, Business, and Coastal. *See generally*, City Code Chapter 197, Bulk and Dimensional Tables A-C.

<sup>4</sup> Indeed, the "Interchange Office" District likely takes its very name from the proximate location to the interchanges for Interstate-95 and Interstate-287, evidencing an intent to utilize the commercial viability of the land located so close to key travel arteries.

The proposed Amendment will not result in any increased development potential for the Property beyond what is currently allowed for office space. The Amendment does not permit an increase in density, coverage, or height, and would not modify required setbacks from what is currently permitted on the Property. All bulk and dimensional restrictions currently on the Property for office buildings will be applicable, including significant 100-foot setbacks from Midland and Peck Avenue.

Moreover, Petitioner is committed to maintaining the vegetative buffer along Peck Avenue. As noted above, the proposed Amendment would now impose a screening requirement on *all* special exception uses, existing and proposed, to protect residential neighbors from visual impacts. This means any applicant for Site Plan approval will have the burden of proving to the Planning Commission that the newly adopted screening requirement has been met. This change represents an additional protection on top of the exiting City Tree Ordinance, which already limits Petitioner's ability to remove mature trees within a required yard facing public land such as Peck or Midland Avenue. Section 187-12 of the Tree Ordinance provides that a tree removal permit for the cutting or destruction of trees may only be granted under the following circumstances:

- (1) If the presence of the tree would cause hardship or endanger the public or the person or the property of the owner or of an adjoining owner.
- (2) If a tree is diseased or threatens the health of other trees.
- (3) If a tree substantially interferes with a permitted use of the property.

Again, these restrictions already exist, and Petitioner is now providing language that will supplement those protections and place even greater screening requirements on the Property. As stated in the last several meetings, Petitioner's goal is to preserve and perhaps even supplement the existing vegetative screening along Peck Avenue. The revised Amendment language now gives the Planning Commission the tools to ensure that is the case.

While self-storage<sup>5</sup>, finishing/assembling, and product testing may be new to the City as stand-alone, non-accessory uses, the zoning restrictions to be applied to the proposed new uses ensure that any future use of the site will fit within the existing commercial character of the Property. These restrictions include:

- No outside storage or production of materials.
- No manufacturing or significant industrial processes.
- No storage or use of toxic or hazardous materials in quantities that will cause a hazard to nearby residents.
- A prohibition on all trucks using the Peck Avenue entrance and a requirement that the primary entrance be on Midland Avenue.
- A requirement that the Planning Commission, upon review of the finishing/assembling or testing of products use and Site Plan, be able to find that the use proposed would have no greater impacts than a permitted office use.

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<sup>5</sup> "Storage establishments enclosed within a roofed building" are a permitted principal use in the B-6 District, which arguably encompasses self-storage, and also includes more impactful commercial storage. There are no conditions or restrictions on this use.

In addition to the restrictions being proposed in the Amendment, the Zoning Ordinance already expressly states,

No operation or process shall be permitted which creates smoke, dust, dirt, fly ash, noise, glare, heat, odor, gases, vibration, electrical radiation or interference or any other evidence of potential nuisance which is detectable at the property line at levels objectionable or inappropriate in a residential area.

*See Zoning Ordinance §§ 97-11, 197-12.* This language is applicable to all special exception uses in the B-5 District, existing and proposed. Put simply, there can be no undue change in the character of the neighborhood, as the newly proposed uses would be expressly prohibited from creating such change, in accordance with all the foregoing restrictions, limitations, and requirements.


### Conclusion

There can be no doubt that the petition before you has been given lengthy and thoughtful consideration. The long review process has yielded a heavily revised Amendment with significant use restrictions and protections for the surrounding neighborhood, while still allowing Petitioner to market the Property as part of a well-considered plan. Petitioner has addressed every substantive concern raised by the Council, and has acted in good faith to amend the proposed Amendment so that proper criteria are in place for Site Plan review, such that the Planning Commission may ensure that any new user will not unduly impact the surrounding neighborhood.

For all of the foregoing reasons, it is submitted that this petition is a necessary step to preserve the value of this site, and that the proposed revisions to the Zoning Ordinance are reasonable, well-regulated, and provide the proper framework for future applications to the Planning Commission, at which the public will be afforded an opportunity to review and comment on a specific plan.

As all comments and questions have been thoroughly considered and addressed, we respectfully request that the public hearing be closed at the Council's January 6<sup>th</sup> meeting. We look forward to discussing this issue further with the Council. Please do not hesitate to contact this office with any questions.

Very truly yours,

A handwritten signature in black ink, appearing to read "Steve Wabel", written in a cursive style.

Steven Wabel

cc: Greg G. Usry  
Kristen Wilson, Esq.  
Christian Miller  
George Comfort & Sons, Inc.  
AKRF, Inc.  
JMC Engineering

**CITY COUNCIL  
CITY OF RYE, NEW YORK**

**LOCAL LAW NO. \_\_\_\_-2021**

**A LOCAL LAW TO REVISE THE ZONING ORDINANCE  
OF THE CITY OF RYE TO EXPAND THE LIST OF PERMITTED USES WITHIN THE  
B-5 ZONING DISTRICT TO INCLUDE SELF-STORAGE, MEDICAL OFFICE,  
DAYCARE, PRODUCT TESTING, AND PRODUCT FINISHING/ASSEMBLY**

**Be it enacted by the City Council of the City of Rye as follows:**

**Section One.** Section 197-1 of the City of Rye Zoning Ordinance shall be amended by adding new defined terms entitled “Light Assembly/Finishing” and “Self-Storage”, which shall state as follows:

**LIGHT ASSEMBLY/FINISHING**

Assembly or finishing of products where all parts are manufactured elsewhere, and no significant industrial process is performed on the premises. All finished products shall be of such moderate size that they, and the parts required for assembly, can be finished, assembled, and stored indoors.

**SELF-STORAGE**

A fully enclosed commercial and/or business establishment providing varying sizes of individual compartmentalized and/or controlled access to stalls or lockers for the storage of business and personal property. Such facilities shall not include warehouse or distribution uses.

**Section Two.** Section 197-12 of the City of Rye Zoning Ordinance shall be amended by adding new sections C., D., and E. which shall state as follows:

- C. Nothing shall prohibit two or more principal uses on any one property within the B-5 District, provided all applicable standards and requirements are met pursuant to this Chapter.
- D. Primary access to sites improved with one or more uses subject additional standards and requirements, including all access for delivery vehicles, shall be from a State or County highway.
- E. The use shall be properly screened from adjacent residential districts using existing and proposed vegetation or other appropriate landscaping, as determined by the Planning Commission.

**Section Three.** Section 197-86 of the City of Rye Zoning Ordinance shall be amended by adding new sections (3), (4), (5), (6) and (7) to Table B, Column 2, under the heading “B-5 Interchange Office Building District”, which shall state as follows:

- (3) Medical offices for physicians or dentists, exclusive of bed care of patients. Said offices shall comply with all dimensional regulations applicable to office buildings within the B-5 District and shall have a minimum parking requirement of 5.0 parking spaces per 1,000 square feet of gross floor area.
- (4) Self-storage, provided the following criteria are met:
  - (a) Signage must comply with all elements of the Rye Sign Ordinance (Chapter 165). No signage, other than necessary directional or minor signage, may face a local or County Road.
  - (b) Unless expressly provided otherwise, self-storage uses shall comply with all other dimensional requirements applicable to office buildings within the B-5 District.
  - (c) No self-storage use shall exceed 2/3 of the usable floor area of any existing or proposed building within the B-5 District.
  - (d) Self-storage facilities shall not be constructed to appear industrial in nature or out of keeping with the character of the surrounding neighborhood.
  - (e) Self-storage facilities shall have a minimum parking requirement of 0.25 parking spaces per 1,000 square feet of gross floor area.
  - (f) All rental contracts for self-storage shall include clauses prohibiting the storage of flammable liquids and highly combustible, radioactive or explosive materials, hazardous chemicals, or substances considered illegal under state or federal statutes. All rental contracts for storage units must contain the following clause, or one substantially similar: “The storage unit will not be used for any unlawful purpose nor will Tenant keep in the storage unit any explosives, highly flammable materials, hazardous goods, toxic materials, or substances whose storage or use violates the law.”
- (5) Duly licensed daycare and child-care facilities, which shall comply with all dimensional regulations applicable to office buildings within the B-5 District, and shall have a minimum parking requirement of 4.0 parking spaces per 1,000 square feet of gross floor area.
- (6) Light finishing or assembling of products within a fully enclosed building, subject to the following requirements:
  - (a) Manufacturing shall not be permitted. Machinery used shall be incidental to the assembly or finishing of products. For purposes of this section, manufacturing uses are those that are engaged in basic processing of materials from extracted or raw materials. Manufacturing uses differ from finishing or assembling uses in their size, scale, traffic, intensity of energy usage, and pollution potential.
  - (b) No outside storage of equipment, materials, or finished products shall be permitted.
  - (c) Light finishing and/or assembling facilities shall have a minimum parking requirement of 2.0 parking spaces per 1,000 square feet of gross floor area.

- (d) The use shall not store, produce, or use in large quantities as an integral part of their finishing or assembling use, toxic, hazardous, or explosive materials that will create a hazard or nuisance to neighboring uses or passersby.
  - (e) The Planning Commission shall make a finding that the proposed use in the specific location contemplated will not result in greater impacts to adjoining residence districts than an otherwise permitted office building use.
  - (f) The Planning Commission shall describe the specific light finishing and assembly use, including the size, scope, and potential impacts of any ancillary or accessory uses thereof, being permitted as part of any Site Plan approval.
  - (g) Any light finishing/assembly facility shall comply with all dimensional regulations applicable to office buildings within the B-5 District.
- (7) Testing of products, subject to the following requirements:
- (a) Manufacturing shall not be permitted, and any associated machinery shall be incidental to the testing of products. For purposes of this section, manufacturing uses are those that are engaged in basic processing of materials from extracted or raw materials. Manufacturing uses differ from finishing or assembling uses in their size, scale, traffic, intensity of energy usage, and pollution potential.
  - (b) No outside storage of equipment or materials shall be permitted.
  - (c) Any product testing that occurs outside shall not be visible from a residential district.
  - (d) Testing shall have a minimum parking requirement of 2.0 parking spaces per 1,000 square feet of gross floor area.
  - (e) The use shall not store, produce, or use in large quantities as an integral part of their finishing or assembling use, toxic, hazardous, or explosive materials that will create a hazard or nuisance to neighboring uses or passersby.
  - (f) The Planning Commission shall make a finding that the proposed use in the specific location contemplated will not result in greater impacts to adjoining residence districts than an otherwise permitted office building use.
  - (g) Any product testing facility shall comply with all dimensional regulations applicable to office buildings within the B-5 District.

**Section Four.** If any section, subsection, clause, phrase or other portion of this Local Law is, for any reason, declared invalid, in whole or in part, by any court, agency, commission, legislative body or other authority of competent jurisdiction, such portion shall be deemed a separate distinct and independent portion. Such declaration shall not affect the validity of the remaining portions hereof, which other portions shall continue in full force and effect.

**Section Five.** This Local Law shall take effect immediately upon filing with the Secretary of State.

**CITY COUNCIL  
CITY OF RYE, NEW YORK**

**LOCAL LAW NO. \_\_\_\_-202~~1~~0**

**A LOCAL LAW TO REVISE THE ZONING ORDINANCE  
OF THE CITY OF RYE TO EXPAND THE LIST OF PERMITTED USES WITHIN THE  
B-5 ZONING DISTRICT TO INCLUDE SELF-STORAGE, MEDICAL OFFICE,  
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C. Nothing shall prohibit two or more principal uses on any one property within the B-5 District, provided all applicable standards and requirements are met pursuant to this Chapter.

D. Primary access to sites improved with one or more ~~special exemption~~-uses subject additional standards and requirements, including all access for delivery vehicles, shall be from a State or County highway.

~~D.E.~~ The use shall be properly screened from adjacent residential districts using existing and proposed vegetation or other appropriate landscaping, as determined by the Planning Commission.

**Section Three.** Section 197-86 of the City of Rye Zoning Ordinance shall be amended by adding new sections (3), (4), (5), (6) and (7) to Table B, Column 2, under the heading “B-5 Interchange Office Building District”, which shall state as follows:

- (3) Medical offices for physicians or dentists, exclusive of bed care of patients. Said offices shall comply with all dimensional regulations applicable to office buildings within the B-5 District and shall have a minimum parking requirement of 5.0 parking spaces per 1,000 square feet of gross floor area.
- (4) Self-storage, provided the following criteria are met:
  - (a) Signage must comply with all elements of the Rye Sign Ordinance (Chapter 165). No signage, other than necessary directional or minor signage, may face a local or County Road.
  - (b) Unless expressly provided otherwise, self-storage uses shall comply with all other dimensional requirements applicable to office buildings within the B-5 District.
  - (c) No self-storage use shall exceed 2/3 of the usable floor area of any existing or proposed building within the B-5 District.
  - (d) Self-storage facilities shall not be constructed to appear industrial in nature or out of keeping with the character of the surrounding neighborhood.
  - (e) Self-storage facilities shall have a minimum parking requirement of 0.25 parking spaces per 1,000 square feet of gross floor area.
  - (f) All rental contracts for self-storage shall include clauses prohibiting the storage of flammable liquids and highly combustible, radioactive or explosive materials, hazardous chemicals, or substances considered illegal under state or federal statutes. All rental contracts for storage units must contain the following clause, or one substantially similar: “The storage unit will not be used for any unlawful purpose nor will Tenant keep in the storage unit any explosives, highly flammable materials, hazardous goods, toxic materials, or substances whose storage or use violates the law.”
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- (6) Light finishing or assembling of products within a fully enclosed building, subject to the following requirements:
  - (a) Manufacturing shall not be permitted. ~~\_, and any associated m~~Machinery used shall be incidental to the assembly or finishing of products. For purposes of this section, manufacturing uses are those that are engaged in basic processing of materials from extracted or raw materials. Manufacturing uses differ from finishing or assembling uses in their size, scale, traffic, intensity of energy usage, and pollution potential.
  - (b) No outside storage of equipment, materials, or finished products shall be permitted.
  - (c) Light finishing and/or assembling facilities shall have a minimum parking requirement of 2.0 parking spaces per 1,000 square feet of gross floor area.

- (d) The use shall not store, produce, or use in large quantities as an integral part of their finishing or assembling use, toxic, hazardous, or explosive materials that will create a hazard or nuisance to neighboring uses or passersby.
  - (e) The Planning Commission shall make a finding that the proposed use in the specific location contemplated will not result in greater impacts to adjoining residence districts than an otherwise permitted office building use.
  - (f) The Planning Commission shall describe the specific light finishing and assembly use, including the size, scope, and potential impacts of any ancillary or accessory uses thereof, being permitted as part of any Site Plan approval.
  - (g) Any light finishing/assembly facility shall comply with all dimensional regulations applicable to office buildings within the B-5 District.
- (7) Testing of products, subject to the following requirements:
- (a) Manufacturing shall not be permitted, and any associated machinery shall be incidental to the testing of products. For purposes of this section, manufacturing uses are those that are engaged in basic processing of materials from extracted or raw materials. Manufacturing uses differ from finishing or assembling uses in their size, scale, traffic, intensity of energy usage, and pollution potential.
  - (b) No outside storage of equipment or materials shall be permitted.
  - (c) Any product testing that occurs outside shall not be visible from a residential district.
  - (d) Testing shall have a minimum parking requirement of 2.0 parking spaces per 1,000 square feet of gross floor area.
  - (e) The use shall not store, produce, or use in large quantities as an integral part of their finishing or assembling use, toxic, hazardous, or explosive materials that will create a hazard or nuisance to neighboring uses or passersby.
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  - (g) Any product testing facility shall comply with all dimensional regulations applicable to office buildings within the B-5 District.

**Section Four.** If any section, subsection, clause, phrase or other portion of this Local Law is, for any reason, declared invalid, in whole or in part, by any court, agency, commission, legislative body or other authority of competent jurisdiction, such portion shall be deemed a separate distinct and independent portion. Such declaration shall not affect the validity of the remaining portions hereof, which other portions shall continue in full force and effect.

**Section Five.** This Local Law shall take effect immediately upon filing with the Secretary of State.



# CITY COUNCIL AGENDA

DEPT.: Planning

DATE: December 31, 2020

CONTACT: Christian Miller, City Planner

**AGENDA ITEM:** Consideration of a SEQRA Determination of Significance in connection with a petition from Midland Rye LLC to amend the City of Rye Zoning Code to expand the list of permissible uses in the B-5 "Interchange Office Building" Zoning District.

**FOR THE MEETING OF:**

January 6, 2021

**RYE CITY CODE,  
CHAPTER  
SECTION**

**RECOMMENDATION:** That the City Council review the attached Environmental Assessment Form (EAF) and consider a finding of no significant adverse environmental impact (i.e. Negative Declaration) with respect to the proposed action to amend the City Zoning Code to expand the list of permissible uses in the B-5 Zoning District.

**IMPACT:** ☒ Environmental ☐ Fiscal ☒ Neighborhood ☐ Other:

**BACKGROUND:**

The proposed action involves a zoning text amendment and does not involve any specific use of building or properties within the B-5 District. The attached EAF includes Part 1 (which is prepared by the applicant) and Parts 2, 3 and attachment, which was prepared by the City Planner for consideration, but remains the responsibility of the City Council as Lead Agency. As discussed more fully in the Part 3 attachment, the proposed action is not considered to have a significant adverse impact and that an Environmental Impact Statement (EIS) will not be prepared prior to the Council's decision on the adoption of the proposed zoning text amendment.

**Full Environmental Assessment Form**  
**Part 1 - Project and Setting**

**Instructions for Completing Part 1**

**Part 1 is to be completed by the applicant or project sponsor.** 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; indicate whether missing information does not exist, or is not reasonably available to the sponsor; and, when possible, generally describe work or studies which would be necessary to update or fully develop that information.

Applicants/sponsors must complete all items in Sections A & B. In Sections C, D & E, most items contain an initial question that must be answered either "Yes" or "No". If the answer to the initial question is "Yes", complete the sub-questions that follow. If the answer to the initial question is "No", proceed to the next question. Section F allows the project sponsor to identify and attach any additional information. Section G requires the name and signature of the applicant or project sponsor to verify that the information contained in Part 1 is accurate and complete.

**A. Project and Applicant/Sponsor Information.**

Name of Action or Project: Proposed Zoning Text Amendment		
Project Location (describe, and attach a general location map): 601 and 621 Midland Ave, Rye, NY 10580.		
Brief Description of Proposed Action (include purpose or need):  The Applicant is proposing a zoning text amendment to expand the list permissible uses within the B-5 District to include "medical office", "self storage," "finishing or assembling of products," and "testing of products" as "special exception" uses (the "Proposed Action"). The Proposed Action would facilitate the adaptive reuse of an existing 160,000 square foot (sf) office building located at 601 and 621 Midland Avenue in the City of Rye (the "Project Site"). The Project Site is located in the B-5 Zoning District, "Interchange Office Buildings," and is approximately 18.09 acres.  The Proposed Action requires a zoning text amendment from the City of Rye's City Council. As such, the Proposed Action is required to comply with the State Environmental Quality Review Act (SEQRA) and its implementing regulations (6 NYCRR Part 617). The Applicant does not have a specific user, and therefore is not pursuing site plan approval at this time.		
Name of Applicant/Sponsor: Midland Rye LLC	Telephone: (212) 481-1137 E-Mail: pduncan@gcomfort.com	
Address: c/o George Comfort & Sons, Inc., 200 Madison Avenue, 26th Floor		
City/PO: New York	State: NY	Zip Code: 10016
Project Contact (if not same as sponsor; give name and title/role):	Telephone: E-Mail:	
Address:		
City/PO:	State:	Zip Code:
Property Owner (if not same as sponsor):	Telephone: E-Mail:	
Address:		
City/PO:	State:	Zip Code:

## B. Government Approvals

### B. Government Approvals, Funding, or Sponsorship. ("Funding" includes grants, loans, tax relief, and any other forms of financial assistance.)

Government Entity	If Yes: Identify Agency and Approval(s) Required	Application Date (Actual or projected)
a. City Counsel, Town Board, <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No or Village Board of Trustees	City of Rye City Council - zoning amendment for special exceptions in the B-5 zoning district.	Fall 2019
b. City, Town or Village Planning Board or Commission <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Zoning petition referral	Fall 2019
c. City, Town or Village Zoning Board of Appeals <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
d. Other local agencies <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
e. County agencies <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	239-m referral	TBD
f. Regional agencies <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
g. State agencies <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
h. Federal agencies <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
i. Coastal Resources.		
i. Is the project site within a Coastal Area, or the waterfront area of a Designated Inland Waterway?		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
ii. Is the project site located in a community with an approved Local Waterfront Revitalization Program?		<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
iii. Is the project site within a Coastal Erosion Hazard Area?		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

## C. Planning and Zoning

### C.1. Planning and zoning actions.

Will administrative or legislative adoption, or amendment of a plan, local law, ordinance, rule or regulation be the only approval(s) which must be granted to enable the proposed action to proceed? ☒ Yes ☐ No

- If Yes, complete sections C, F and G.
- If No, proceed to question C.2 and complete all remaining sections and questions in Part 1

### C.2. Adopted land use plans.

a. Do any municipally- adopted (city, town, village or county) comprehensive land use plan(s) include the site where the proposed action would be located? ☒ Yes ☐ No

If Yes, does the comprehensive plan include specific recommendations for the site where the proposed action would be located? ☒ Yes ☐ No

b. Is the site of the proposed action within any local or regional special planning district (for example: Greenway; Brownfield Opportunity Area (BOA); designated State or Federal heritage area; watershed management plan; or other?) ☐ Yes ☒ No

If Yes, identify the plan(s):

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c. Is the proposed action located wholly or partially within an area listed in an adopted municipal open space plan, or an adopted municipal farmland protection plan? ☐ Yes ☒ No

If Yes, identify the plan(s):

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### C.3. Zoning

a. Is the site of the proposed action located in a municipality with an adopted zoning law or ordinance. ☒ Yes ☐ No

If Yes, what is the zoning classification(s) including any applicable overlay district?

The Project Site is zoned B-5, "Interchange Office Buildings" This zone permits, among other uses, hotels, professional offices, and schools. The applicant proposes a zoning text amendment to add medical office, self-storage, finishing, assembling and testing facilities as "special exception uses" in the district.

b. Is the use permitted or allowed by a special or conditional use permit? ☐ Yes ☒ No

c. Is a zoning change requested as part of the proposed action? ☒ Yes ☐ No

If Yes,

i. What is the proposed new zoning for the site? Amend to allow med office, self-storage, finishing or assembly, product testing uses in the District

### C.4. Existing community services.

a. In what school district is the project site located? Rye City School District

b. What police or other public protection forces serve the project site?

Rye Police Department

c. Which fire protection and emergency medical services serve the project site?

Rye Fire Department

d. What parks serve the project site?

Abendroth Park, Garibaldi Park, Columbus Park, Playland Park, Gagliardo Park

### D. Project Details

#### D.1. Proposed and Potential Development

a. What is the general nature of the proposed action (e.g., residential, industrial, commercial, recreational; if mixed, include all components)? Zoning text amendment to facilitate the re-tenanting of an existing office building.

b. a. Total acreage of the site of the proposed action? +/-18.09 acres

b. Total acreage to be physically disturbed? 0 acres

c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor? +/-18.09 acres

c. Is the proposed action an expansion of an existing project or use? ☐ Yes ☒ No

i. If Yes, what is the approximate percentage of the proposed expansion and identify the units (e.g., acres, miles, housing units, square feet)? % Units:

d. Is the proposed action a subdivision, or does it include a subdivision? ☐ Yes ☒ No

If Yes,

i. Purpose or type of subdivision? (e.g., residential, industrial, commercial; if mixed, specify types)

ii. Is a cluster/conservation layout proposed? ☐ Yes ☐ No

iii. Number of lots proposed?

iv. Minimum and maximum proposed lot sizes? Minimum Maximum

e. Will the proposed action be constructed in multiple phases? ☐ Yes ☒ No

i. If No, anticipated period of construction: months

ii. If Yes:

- Total number of phases anticipated

- Anticipated commencement date of phase 1 (including demolition) month year

- Anticipated completion date of final phase month year

- Generally describe connections or relationships among phases, including any contingencies where progress of one phase may determine timing or duration of future phases:

f. Does the project include new residential uses? <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span> If Yes, show numbers of units proposed.				
	<u>One Family</u>	<u>Two Family</u>	<u>Three Family</u>	<u>Multiple Family (four or more)</u>
Initial Phase	_____	_____	_____	_____
At completion	_____	_____	_____	_____
of all phases	_____	_____	_____	_____

g. Does the proposed action include new non-residential construction (including expansions)? <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span> If Yes,	
i. Total number of structures _____ ii. Dimensions (in feet) of largest proposed structure: _____ height; _____ width; and _____ length iii. Approximate extent of building space to be heated or cooled: _____ square feet	

h. Does the proposed action include construction or other activities that will result in the impoundment of any liquids, such as creation of a water supply, reservoir, pond, lake, waste lagoon or other storage? <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span> If Yes,	
i. Purpose of the impoundment: _____ ii. If a water impoundment, the principal source of the water: <input type="checkbox"/> Ground water <input type="checkbox"/> Surface water streams <input type="checkbox"/> Other specify: _____ iii. If other than water, identify the type of impounded/contained liquids and their source. _____ iv. Approximate size of the proposed impoundment. Volume: _____ million gallons; surface area: _____ acres v. Dimensions of the proposed dam or impounding structure: _____ height; _____ length vi. Construction method/materials for the proposed dam or impounding structure (e.g., earth fill, rock, wood, concrete): _____ _____	

**D.2. Project Operations**

a. Does the proposed action include any excavation, mining, or dredging, during construction, operations, or both? <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span> (Not including general site preparation, grading or installation of utilities or foundations where all excavated materials will remain onsite) If Yes:	
i. What is the purpose of the excavation or dredging? _____ ii. How much material (including rock, earth, sediments, etc.) is proposed to be removed from the site? • Volume (specify tons or cubic yards): _____ • Over what duration of time? _____ iii. Describe nature and characteristics of materials to be excavated or dredged, and plans to use, manage or dispose of them. _____ _____ iv. Will there be onsite dewatering or processing of excavated materials? <span style="float: right;"><input type="checkbox"/> Yes <input type="checkbox"/> No</span> If yes, describe. _____ _____ v. What is the total area to be dredged or excavated? _____ acres vi. What is the maximum area to be worked at any one time? _____ acres vii. What would be the maximum depth of excavation or dredging? _____ feet viii. Will the excavation require blasting? <span style="float: right;"><input type="checkbox"/> Yes <input type="checkbox"/> No</span> ix. Summarize site reclamation goals and plan: _____ _____ _____	

b. Would the proposed action cause or result in alteration of, increase or decrease in size of, or encroachment into any existing wetland, waterbody, shoreline, beach or adjacent area? <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span> If Yes:	
i. Identify the wetland or waterbody which would be affected (by name, water index number, wetland map number or geographic description): _____ _____	

*ii.* Describe how the proposed action would affect that waterbody or wetland, e.g. excavation, fill, placement of structures, or alteration of channels, banks and shorelines. Indicate extent of activities, alterations and additions in square feet or acres:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

*iii.* Will the proposed action cause or result in disturbance to bottom sediments? ☐ Yes ☐ No  
If Yes, describe: \_\_\_\_\_

*iv.* Will the proposed action cause or result in the destruction or removal of aquatic vegetation? ☐ Yes ☐ No  
If Yes:

- acres of aquatic vegetation proposed to be removed: \_\_\_\_\_
- expected acreage of aquatic vegetation remaining after project completion: \_\_\_\_\_
- purpose of proposed removal (e.g. beach clearing, invasive species control, boat access): \_\_\_\_\_
- proposed method of plant removal: \_\_\_\_\_
- if chemical/herbicide treatment will be used, specify product(s): \_\_\_\_\_

*v.* Describe any proposed reclamation/mitigation following disturbance: \_\_\_\_\_

\_\_\_\_\_

---

*c.* Will the proposed action use, or create a new demand for water? ☐ Yes ☒ No  
If Yes:

*i.* Total anticipated water usage/demand per day: \_\_\_\_\_ gallons/day

*ii.* Will the proposed action obtain water from an existing public water supply? ☐ Yes ☐ No  
If Yes:

- Name of district or service area: \_\_\_\_\_
- Does the existing public water supply have capacity to serve the proposal? ☐ Yes ☐ No
- Is the project site in the existing district? ☐ Yes ☐ No
- Is expansion of the district needed? ☐ Yes ☐ No
- Do existing lines serve the project site? ☐ Yes ☐ No

*iii.* Will line extension within an existing district be necessary to supply the project? ☐ Yes ☐ No  
If Yes:

- Describe extensions or capacity expansions proposed to serve this project: \_\_\_\_\_
- Source(s) of supply for the district: \_\_\_\_\_

*iv.* Is a new water supply district or service area proposed to be formed to serve the project site? ☐ Yes ☐ No  
If Yes:

- Applicant/sponsor for new district: \_\_\_\_\_
- Date application submitted or anticipated: \_\_\_\_\_
- Proposed source(s) of supply for new district: \_\_\_\_\_

*v.* If a public water supply will not be used, describe plans to provide water supply for the project: \_\_\_\_\_

*vi.* If water supply will be from wells (public or private), what is the maximum pumping capacity: \_\_\_\_\_ gallons/minute.

---

*d.* Will the proposed action generate liquid wastes? ☐ Yes ☒ No  
If Yes:

*i.* Total anticipated liquid waste generation per day: \_\_\_\_\_ gallons/day

*ii.* Nature of liquid wastes to be generated (e.g., sanitary wastewater, industrial; if combination, describe all components and approximate volumes or proportions of each): \_\_\_\_\_

\_\_\_\_\_

*iii.* Will the proposed action use any existing public wastewater treatment facilities? ☐ Yes ☐ No  
If Yes:

- Name of wastewater treatment plant to be used: \_\_\_\_\_
- Name of district: \_\_\_\_\_
- Does the existing wastewater treatment plant have capacity to serve the project? ☐ Yes ☐ No
- Is the project site in the existing district? ☐ Yes ☐ No
- Is expansion of the district needed? ☐ Yes ☐ No

<ul style="list-style-type: none"> <li>• Do existing sewer lines serve the project site? _____</li> <li>• Will a line extension within an existing district be necessary to serve the project? _____</li> </ul> <p>If Yes:</p> <ul style="list-style-type: none"> <li>• Describe extensions or capacity expansions proposed to serve this project: _____          _____          _____</li> </ul>	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No
<p>iv. Will a new wastewater (sewage) treatment district be formed to serve the project site? _____</p> <p>If Yes:</p> <ul style="list-style-type: none"> <li>• Applicant/sponsor for new district: _____</li> <li>• Date application submitted or anticipated: _____</li> <li>• What is the receiving water for the wastewater discharge? _____</li> </ul>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<p>v. If public facilities will not be used, describe plans to provide wastewater treatment for the project, including specifying proposed receiving water (name and classification if surface discharge or describe subsurface disposal plans): _____          _____          _____</p>	
<p>vi. Describe any plans or designs to capture, recycle or reuse liquid waste: _____          _____          _____</p>	

<p>e. Will the proposed action disturb more than one acre and create stormwater runoff, either from new point sources (i.e. ditches, pipes, swales, curbs, gutters or other concentrated flows of stormwater) or non-point source (i.e. sheet flow) during construction or post construction? _____</p> <p>If Yes:</p> <p>i. How much impervious surface will the project create in relation to total size of project parcel?          _____ Square feet or _____ acres (impervious surface)          _____ Square feet or _____ acres (parcel size)</p> <p>ii. Describe types of new point sources. _____</p> <p>iii. Where will the stormwater runoff be directed (i.e. on-site stormwater management facility/structures, adjacent properties, groundwater, on-site surface water or off-site surface waters)? _____          _____</p> <ul style="list-style-type: none"> <li>• If to surface waters, identify receiving water bodies or wetlands: _____          _____</li> <li>• Will stormwater runoff flow to adjacent properties? _____</li> </ul>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No	
<p>iv. Does the proposed plan minimize impervious surfaces, use pervious materials or collect and re-use stormwater? _____</p>		
<p>f. Does the proposed action include, or will it use on-site, one or more sources of air emissions, including fuel combustion, waste incineration, or other processes or operations? _____</p> <p>If Yes, identify:</p> <p>i. Mobile sources during project operations (e.g., heavy equipment, fleet or delivery vehicles) _____</p> <p>ii. Stationary sources during construction (e.g., power generation, structural heating, batch plant, crushers) _____</p> <p>iii. Stationary sources during operations (e.g., process emissions, large boilers, electric generation) _____</p>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
<p>g. Will any air emission sources named in D.2.f (above), require a NY State Air Registration, Air Facility Permit, or Federal Clean Air Act Title IV or Title V Permit? _____</p> <p>If Yes:</p> <p>i. Is the project site located in an Air quality non-attainment area? (Area routinely or periodically fails to meet ambient air quality standards for all or some parts of the year) _____</p> <p>ii. In addition to emissions as calculated in the application, the project will generate:</p> <ul style="list-style-type: none"> <li>• _____ Tons/year (short tons) of Carbon Dioxide (CO<sub>2</sub>)</li> <li>• _____ Tons/year (short tons) of Nitrous Oxide (N<sub>2</sub>O)</li> <li>• _____ Tons/year (short tons) of Perfluorocarbons (PFCs)</li> <li>• _____ Tons/year (short tons) of Sulfur Hexafluoride (SF<sub>6</sub>)</li> <li>• _____ Tons/year (short tons) of Carbon Dioxide equivalent of Hydrofluorocarbons (HFCs)</li> <li>• _____ Tons/year (short tons) of Hazardous Air Pollutants (HAPs)</li> </ul>		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No

<p>h. Will the proposed action generate or emit methane (including, but not limited to, sewage treatment plants, landfills, composting facilities)? <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span></p> <p>If Yes:</p> <p>i. Estimate methane generation in tons/year (metric): _____</p> <p>ii. Describe any methane capture, control or elimination measures included in project design (e.g., combustion to generate heat or electricity, flaring): _____</p>			
<p>i. Will the proposed action result in the release of air pollutants from open-air operations or processes, such as quarry or landfill operations? <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span></p> <p>If Yes: Describe operations and nature of emissions (e.g., diesel exhaust, rock particulates/dust): _____</p>			
<p>j. Will the proposed action result in a substantial increase in traffic above present levels or generate substantial new demand for transportation facilities or services? <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span></p> <p>If Yes:</p> <p>i. When is the peak traffic expected (Check all that apply): <input type="checkbox"/> Morning <input type="checkbox"/> Evening <input type="checkbox"/> Weekend  <input type="checkbox"/> Randomly between hours of _____ to _____.</p> <p>ii. For commercial activities only, projected number of truck trips/day and type (e.g., semi trailers and dump trucks): _____</p> <p>iii. Parking spaces: Existing _____ Proposed _____ Net increase/decrease _____</p> <p>iv. Does the proposed action include any shared use parking? <span style="float: right;"><input type="checkbox"/> Yes <input type="checkbox"/> No</span></p> <p>v. If the proposed action includes any modification of existing roads, creation of new roads or change in existing access, describe: _____</p> <p>vi. Are public/private transportation service(s) or facilities available within ½ mile of the proposed site? <span style="float: right;"><input type="checkbox"/> Yes <input type="checkbox"/> No</span></p> <p>vii. Will the proposed action include access to public transportation or accommodations for use of hybrid, electric or other alternative fueled vehicles? <span style="float: right;"><input type="checkbox"/> Yes <input type="checkbox"/> No</span></p> <p>viii. Will the proposed action include plans for pedestrian or bicycle accommodations for connections to existing pedestrian or bicycle routes? <span style="float: right;"><input type="checkbox"/> Yes <input type="checkbox"/> No</span></p>			
<p>k. Will the proposed action (for commercial or industrial projects only) generate new or additional demand for energy? <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span></p> <p>If Yes:</p> <p>i. Estimate annual electricity demand during operation of the proposed action: _____</p> <p>ii. Anticipated sources/suppliers of electricity for the project (e.g., on-site combustion, on-site renewable, via grid/local utility, or other): _____</p> <p>iii. Will the proposed action require a new, or an upgrade, to an existing substation? <span style="float: right;"><input type="checkbox"/> Yes <input type="checkbox"/> No</span></p>			
<p>l. Hours of operation. Answer all items which apply.</p> <table style="width: 100%;"> <tr> <td style="width: 50%; vertical-align: top;"> <p>i. During Construction:</p> <ul style="list-style-type: none"> <li>• Monday - Friday: _____</li> <li>• Saturday: _____</li> <li>• Sunday: _____</li> <li>• Holidays: _____</li> </ul> </td> <td style="width: 50%; vertical-align: top;"> <p>ii. During Operations:</p> <ul style="list-style-type: none"> <li>• Monday - Friday: _____</li> <li>• Saturday: _____</li> <li>• Sunday: _____</li> <li>• Holidays: _____</li> </ul> </td> </tr> </table>		<p>i. During Construction:</p> <ul style="list-style-type: none"> <li>• Monday - Friday: _____</li> <li>• Saturday: _____</li> <li>• Sunday: _____</li> <li>• Holidays: _____</li> </ul>	<p>ii. During Operations:</p> <ul style="list-style-type: none"> <li>• Monday - Friday: _____</li> <li>• Saturday: _____</li> <li>• Sunday: _____</li> <li>• Holidays: _____</li> </ul>
<p>i. During Construction:</p> <ul style="list-style-type: none"> <li>• Monday - Friday: _____</li> <li>• Saturday: _____</li> <li>• Sunday: _____</li> <li>• Holidays: _____</li> </ul>	<p>ii. During Operations:</p> <ul style="list-style-type: none"> <li>• Monday - Friday: _____</li> <li>• Saturday: _____</li> <li>• Sunday: _____</li> <li>• Holidays: _____</li> </ul>		

<p>m. Will the proposed action produce noise that will exceed existing ambient noise levels during construction, operation, or both? <span style="float: right;"><input type="checkbox"/> Yes <input type="checkbox"/> No</span></p> <p>If yes:</p> <p>i. Provide details including sources, time of day and duration:</p> <p>_____</p> <p>_____</p>	
<p>ii. Will the proposed action remove existing natural barriers that could act as a noise barrier or screen? <span style="float: right;"><input type="checkbox"/> Yes <input type="checkbox"/> No</span></p> <p>Describe: _____</p> <p>_____</p>	
<p>n. Will the proposed action have outdoor lighting? <span style="float: right;"><input type="checkbox"/> Yes <input type="checkbox"/> No</span></p> <p>If yes:</p> <p>i. Describe source(s), location(s), height of fixture(s), direction/aim, and proximity to nearest occupied structures:</p> <p>_____</p> <p>_____</p>	
<p>ii. Will proposed action remove existing natural barriers that could act as a light barrier or screen? <span style="float: right;"><input type="checkbox"/> Yes <input type="checkbox"/> No</span></p> <p>Describe: _____</p> <p>_____</p>	
<p>o. Does the proposed action have the potential to produce odors for more than one hour per day? <span style="float: right;"><input type="checkbox"/> Yes <input type="checkbox"/> No</span></p> <p>If Yes, describe possible sources, potential frequency and duration of odor emissions, and proximity to nearest occupied structures: _____</p> <p>_____</p> <p>_____</p>	
<p>p. Will the proposed action include any bulk storage of petroleum (combined capacity of over 1,100 gallons) or chemical products 185 gallons in above ground storage or any amount in underground storage? <span style="float: right;"><input type="checkbox"/> Yes <input type="checkbox"/> No</span></p> <p>If Yes:</p> <p>i. Product(s) to be stored _____</p> <p>ii. Volume(s) _____ per unit time _____ (e.g., month, year)</p> <p>iii. Generally, describe the proposed storage facilities: _____</p> <p>_____</p>	
<p>q. Will the proposed action (commercial, industrial and recreational projects only) use pesticides (i.e., herbicides, insecticides) during construction or operation? <span style="float: right;"><input type="checkbox"/> Yes <input type="checkbox"/> No</span></p> <p>If Yes:</p> <p>i. Describe proposed treatment(s):</p> <p>_____</p> <p>_____</p> <p>_____</p>	
<p>ii. Will the proposed action use Integrated Pest Management Practices? <span style="float: right;"><input type="checkbox"/> Yes <input type="checkbox"/> No</span></p>	
<p>r. Will the proposed action (commercial or industrial projects only) involve or require the management or disposal of solid waste (excluding hazardous materials)? <span style="float: right;"><input type="checkbox"/> Yes <input type="checkbox"/> No</span></p> <p>If Yes:</p> <p>i. Describe any solid waste(s) to be generated during construction or operation of the facility:</p> <ul style="list-style-type: none"> <li>• Construction: _____ tons per _____ (unit of time)</li> <li>• Operation : _____ tons per _____ (unit of time)</li> </ul> <p>ii. Describe any proposals for on-site minimization, recycling or reuse of materials to avoid disposal as solid waste:</p> <ul style="list-style-type: none"> <li>• Construction: _____</li> <li>• Operation: _____</li> </ul> <p>iii. Proposed disposal methods/facilities for solid waste generated on-site:</p> <ul style="list-style-type: none"> <li>• Construction: _____</li> <li>• Operation: _____</li> </ul>	

s. Does the proposed action include construction or modification of a solid waste management facility? ☐ Yes ☒ No

If Yes:

i. Type of management or handling of waste proposed for the site (e.g., recycling or transfer station, composting, landfill, or other disposal activities): \_\_\_\_\_

ii. Anticipated rate of disposal/processing:

- \_\_\_\_\_ Tons/month, if transfer or other non-combustion/thermal treatment, or
- \_\_\_\_\_ Tons/hour, if combustion or thermal treatment

iii. If landfill, anticipated site life: \_\_\_\_\_ years

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t. Will the proposed action at the site involve the commercial generation, treatment, storage, or disposal of hazardous waste? ☐ Yes ☒ No

If Yes:

i. Name(s) of all hazardous wastes or constituents to be generated, handled or managed at facility: \_\_\_\_\_

ii. Generally describe processes or activities involving hazardous wastes or constituents: \_\_\_\_\_

iii. Specify amount to be handled or generated \_\_\_\_\_ tons/month

iv. Describe any proposals for on-site minimization, recycling or reuse of hazardous constituents: \_\_\_\_\_

v. Will any hazardous wastes be disposed at an existing offsite hazardous waste facility? ☐ Yes ☐ No

If Yes: provide name and location of facility: \_\_\_\_\_

If No: describe proposed management of any hazardous wastes which will not be sent to a hazardous waste facility: \_\_\_\_\_

## E. Site and Setting of Proposed Action

<b>E.1. Land uses on and surrounding the project site</b>			
<p>a. Existing land uses.</p> <p>i. Check all uses that occur on, adjoining and near the project site.</p> <div style="display: flex; flex-wrap: wrap;"> <div style="margin-right: 10px;"><input type="checkbox"/> Urban</div> <div style="margin-right: 10px;"><input type="checkbox"/> Industrial</div> <div style="margin-right: 10px;"><input checked="" type="checkbox"/> Commercial</div> <div style="margin-right: 10px;"><input checked="" type="checkbox"/> Residential (suburban)</div> <div style="margin-right: 10px;"><input type="checkbox"/> Rural (non-farm)</div> <div style="margin-right: 10px;"><input type="checkbox"/> Forest</div> <div style="margin-right: 10px;"><input type="checkbox"/> Agriculture</div> <div style="margin-right: 10px;"><input type="checkbox"/> Aquatic</div> <div style="margin-right: 10px;"><input checked="" type="checkbox"/> Other (specify): <u>Transportation (I-95 and Metro-North)</u></div> </div> <p>ii. If mix of uses, generally describe:</p> <p>Site is bounded by I-95 to the north and Metro-North tracks to the west. Site is located in a mixed-use area with low-rise multi-family apartments and townhouses to the south of Peck Ave, commercial and retail uses to the north, office uses to the west, and transportation uses to the east.</p>			
b. Land uses and covertypes on the project site.			
Land use or Covertypes	Current Acreage	Acreage After Project Completion	Change (Acres +/-)
• Roads, buildings, and other paved or impervious surfaces	7.8	7.8	0
• Forested	0	0	0
• Meadows, grasslands or brushlands (non-agricultural, including abandoned agricultural)	0	0	0
• Agricultural (includes active orchards, field, greenhouse etc.)	0	0	0
• Surface water features (lakes, ponds, streams, rivers, etc.)	0	0	0
• Wetlands (freshwater or tidal)	0	0	0
• Non-vegetated (bare rock, earth or fill)	0	0	0
• Other Describe: <u>Maintained lawn and landscaping</u>	10.29	10.29	0

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v. Is the project site subject to an institutional control limiting property uses? <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span>													
<ul style="list-style-type: none"> <li>• If yes, DEC site ID number: _____</li> <li>• Describe the type of institutional control (e.g., deed restriction or easement): _____</li> <li>• Describe any use limitations: _____</li> <li>• Describe any engineering controls: _____</li> <li>• Will the project affect the institutional or engineering controls in place? <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span></li> <li>• Explain: _____</li> </ul>													
<b>E.2. Natural Resources On or Near Project Site</b>													
a. What is the average depth to bedrock on the project site? <span style="float: right;">_____ 1.5 - 4 feet</span>													
b. Are there bedrock outcroppings on the project site? <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span> If Yes, what proportion of the site is comprised of bedrock outcroppings? _____ %													
c. Predominant soil type(s) present on project site: <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 60%;">Ub</td> <td style="width: 40%; text-align: right;">22.9 %</td> </tr> <tr> <td>UIC</td> <td style="text-align: right;">21.2 %</td> </tr> <tr> <td>Uf</td> <td style="text-align: right;">48.8 %</td> </tr> </table>		Ub	22.9 %	UIC	21.2 %	Uf	48.8 %						
Ub	22.9 %												
UIC	21.2 %												
Uf	48.8 %												
d. What is the average depth to the water table on the project site? Average: _____ feet													
e. Drainage status of project site soils: <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 40%;"><input checked="" type="checkbox"/> Well Drained:</td> <td style="width: 60%; text-align: right;">21.2 % of site</td> </tr> <tr> <td><input checked="" type="checkbox"/> Moderately Well Drained:</td> <td style="text-align: right;">22.9 % of site</td> </tr> <tr> <td><input type="checkbox"/> Poorly Drained</td> <td style="text-align: right;">_____ % of site</td> </tr> </table>		<input checked="" type="checkbox"/> Well Drained:	21.2 % of site	<input checked="" type="checkbox"/> Moderately Well Drained:	22.9 % of site	<input type="checkbox"/> Poorly Drained	_____ % of site						
<input checked="" type="checkbox"/> Well Drained:	21.2 % of site												
<input checked="" type="checkbox"/> Moderately Well Drained:	22.9 % of site												
<input type="checkbox"/> Poorly Drained	_____ % of site												
f. Approximate proportion of proposed action site with slopes: <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 40%;"><input checked="" type="checkbox"/> 0-10%:</td> <td style="width: 60%; text-align: right;">64.6 % of site</td> </tr> <tr> <td><input checked="" type="checkbox"/> 10-15%:</td> <td style="text-align: right;">35.4 % of site</td> </tr> <tr> <td><input type="checkbox"/> 15% or greater:</td> <td style="text-align: right;">_____ % of site</td> </tr> </table>		<input checked="" type="checkbox"/> 0-10%:	64.6 % of site	<input checked="" type="checkbox"/> 10-15%:	35.4 % of site	<input type="checkbox"/> 15% or greater:	_____ % of site						
<input checked="" type="checkbox"/> 0-10%:	64.6 % of site												
<input checked="" type="checkbox"/> 10-15%:	35.4 % of site												
<input type="checkbox"/> 15% or greater:	_____ % of site												
g. Are there any unique geologic features on the project site? <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span> If Yes, describe: _____													
h. Surface water features.													
i. Does any portion of the project site contain wetlands or other waterbodies (including streams, rivers, ponds or lakes)? <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span>													
ii. Do any wetlands or other waterbodies adjoin the project site? <span style="float: right;"><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</span>													
If Yes to either <i>i</i> or <i>ii</i> , continue. If No, skip to E.2.i.													
iii. Are any of the wetlands or waterbodies within or adjoining the project site regulated by any federal, state or local agency? <span style="float: right;"><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</span>													
iv. For each identified regulated wetland and waterbody on the project site, provide the following information: <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 10%;">• Streams:</td> <td style="width: 40%;">Name _____</td> <td style="width: 50%;">Classification _____</td> </tr> <tr> <td>• Lakes or Ponds:</td> <td>Name Small un-named pond</td> <td>Classification PUBHx</td> </tr> <tr> <td>• Wetlands:</td> <td>Name _____</td> <td>Approximate Size _____</td> </tr> <tr> <td>• Wetland No. (if regulated by DEC)</td> <td colspan="2">_____</td> </tr> </table>		• Streams:	Name _____	Classification _____	• Lakes or Ponds:	Name Small un-named pond	Classification PUBHx	• Wetlands:	Name _____	Approximate Size _____	• Wetland No. (if regulated by DEC)	_____	
• Streams:	Name _____	Classification _____											
• Lakes or Ponds:	Name Small un-named pond	Classification PUBHx											
• Wetlands:	Name _____	Approximate Size _____											
• Wetland No. (if regulated by DEC)	_____												
v. Are any of the above water bodies listed in the most recent compilation of NYS water quality-impaired waterbodies? <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span> If yes, name of impaired water body/bodies and basis for listing as impaired: _____													
i. Is the project site in a designated Floodway? <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span>													
j. Is the project site in the 100-year Floodplain? <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span>													
k. Is the project site in the 500-year Floodplain? <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span>													
l. Is the project site located over, or immediately adjoining, a primary, principal or sole source aquifer? <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span> If Yes:													
i. Name of aquifer: _____													

<p>m. Identify the predominant wildlife species that occupy or use the project site: _____</p> <table style="width: 100%; border: none;"> <tr> <td style="width: 33%;">Raccoon _____</td> <td style="width: 33%;">Gray squirrel _____</td> <td style="width: 33%;">_____</td> </tr> <tr> <td>Norway rat _____</td> <td>Field mice _____</td> <td>_____</td> </tr> <tr> <td>Coyote _____</td> <td></td> <td></td> </tr> </table>		Raccoon _____	Gray squirrel _____	_____	Norway rat _____	Field mice _____	_____	Coyote _____		
Raccoon _____	Gray squirrel _____	_____								
Norway rat _____	Field mice _____	_____								
Coyote _____										
<p>n. Does the project site contain a designated significant natural community? <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span></p> <p>If Yes:</p> <p style="margin-left: 20px;">i. Describe the habitat/community (composition, function, and basis for designation): _____</p> <p style="margin-left: 20px;">ii. Source(s) of description or evaluation: _____</p> <p style="margin-left: 20px;">iii. Extent of community/habitat:</p> <ul style="list-style-type: none"> <li>• Currently: _____ acres</li> <li>• Following completion of project as proposed: _____ acres</li> <li>• Gain or loss (indicate + or -): _____ acres</li> </ul>										
<p>o. Does project site contain any species of plant or animal that is listed by the federal government or NYS as endangered or threatened, or does it contain any areas identified as habitat for an endangered or threatened species? <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span></p> <p>If Yes:</p> <p style="margin-left: 20px;">i. Species and listing (endangered or threatened): _____</p> <p>_____</p> <p>_____</p>										
<p>p. Does the project site contain any species of plant or animal that is listed by NYS as rare, or as a species of special concern? <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span></p> <p>If Yes:</p> <p style="margin-left: 20px;">i. Species and listing: _____</p> <p>_____</p> <p>_____</p>										
<p>q. Is the project site or adjoining area currently used for hunting, trapping, fishing or shell fishing? <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span></p> <p>If yes, give a brief description of how the proposed action may affect that use: _____</p> <p>_____</p> <p>_____</p>										
<p><b>E.3. Designated Public Resources On or Near Project Site</b></p>										
<p>a. Is the project site, or any portion of it, located in a designated agricultural district certified pursuant to Agriculture and Markets Law, Article 25-AA, Section 303 and 304? <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span></p> <p>If Yes, provide county plus district name/number: _____</p>										
<p>b. Are agricultural lands consisting of highly productive soils present? <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span></p> <p style="margin-left: 20px;">i. If Yes: acreage(s) on project site? _____</p> <p style="margin-left: 20px;">ii. Source(s) of soil rating(s): _____</p>										
<p>c. Does the project site contain all or part of, or is it substantially contiguous to, a registered National Natural Landmark? <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span></p> <p>If Yes:</p> <p style="margin-left: 20px;">i. Nature of the natural landmark: <input type="checkbox"/> Biological Community <input type="checkbox"/> Geological Feature</p> <p style="margin-left: 20px;">ii. Provide brief description of landmark, including values behind designation and approximate size/extent: _____</p> <p>_____</p> <p>_____</p>										
<p>d. Is the project site located in or does it adjoin a state listed Critical Environmental Area? <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span></p> <p>If Yes:</p> <p style="margin-left: 20px;">i. CEA name: _____</p> <p style="margin-left: 20px;">ii. Basis for designation: _____</p> <p style="margin-left: 20px;">iii. Designating agency and date: _____</p>										

e. 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? If Yes: i. Nature of historic/archaeological resource: <input type="checkbox"/> Archaeological Site <input type="checkbox"/> Historic Building or District ii. Name: _____ iii. Brief description of attributes on which listing is based: _____	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
f. 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?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
g. Have additional archaeological or historic site(s) or resources been identified on the project site? If Yes: i. Describe possible resource(s): _____ ii. Basis for identification: _____	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
h. Is the project site within five miles of any officially designated and publicly accessible federal, state, or local scenic or aesthetic resource? If Yes: i. Identify resource: _____ ii. Nature of, or basis for, designation (e.g., established highway overlook, state or local park, state historic trail or scenic byway, etc.): _____ iii. Distance between project and resource: _____ miles.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
i. Is the project site located within a designated river corridor under the Wild, Scenic and Recreational Rivers Program 6 NYCRR 666? If Yes: i. Identify the name of the river and its designation: _____ ii. Is the activity consistent with development restrictions contained in 6NYCRR Part 666?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No    <input type="checkbox"/> Yes <input type="checkbox"/> No

#### F. Additional Information

Attach any additional information which may be needed to clarify your project.

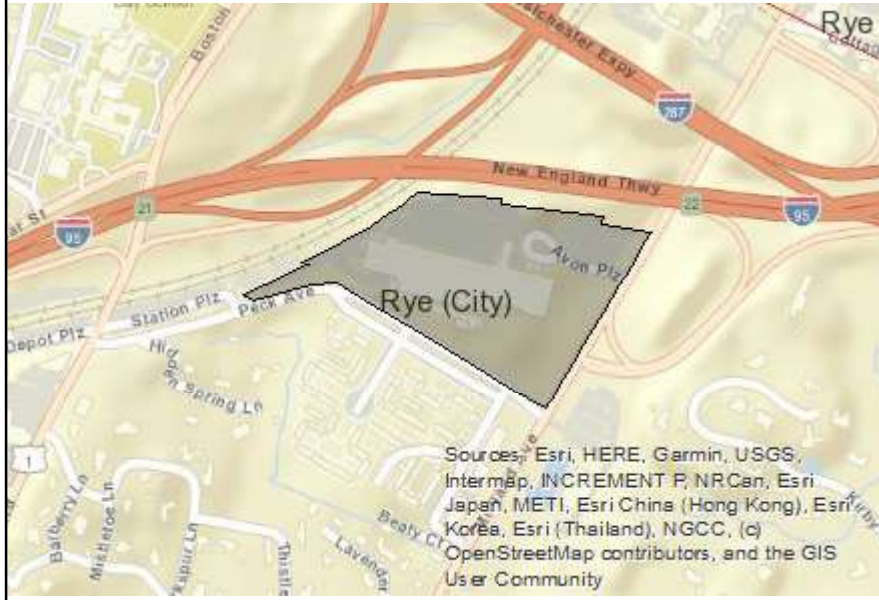
If you have identified any adverse impacts which could be associated with your proposal, please describe those impacts plus any measures which you propose to avoid or minimize them.

#### G. Verification

I certify that the information provided is true to the best of my knowledge.

Applicant/Sponsor Name Midland Rye LLC Date 9/3/2020

Signature Peter Ferrel Title Sr. Technical Director - AKRF Inc., for the Applicant



**Disclaimer:** The EAF Mapper is a screening tool intended to assist project sponsors and reviewing agencies in preparing an environmental assessment form (EAF). Not all questions asked in the EAF are answered by the EAF Mapper. Additional information on any EAF question can be obtained by consulting the EAF Workbooks. Although the EAF Mapper provides the most up-to-date digital data available to DEC, you may also need to contact local or other data sources in order to obtain data not provided by the Mapper. Digital data is not a substitute for agency determinations.



B.i.i [Coastal or Waterfront Area]	No
B.i.ii [Local Waterfront Revitalization Area]	Yes
C.2.b. [Special Planning District]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.1.h [DEC Spills or Remediation Site - Potential Contamination History]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.1.h.i [DEC Spills or Remediation Site - Listed]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.1.h.i [DEC Spills or Remediation Site - Environmental Site Remediation Database]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.1.h.iii [Within 2,000' of DEC Remediation Site]	Yes
E.1.h.iii [Within 2,000' of DEC Remediation Site - DEC ID]	360086, C360086
E.2.g [Unique Geologic Features]	No
E.2.h.i [Surface Water Features]	No
E.2.h.ii [Surface Water Features]	Yes
E.2.h.iii [Surface Water Features]	Yes - Digital mapping information on local and federal wetlands and waterbodies is known to be incomplete. Refer to EAF Workbook.
E.2.h.v [Impaired Water Bodies]	No
E.2.i. [Floodway]	No
E.2.j. [100 Year Floodplain]	No
E.2.k. [500 Year Floodplain]	No
E.2.l. [Aquifers]	No
E.2.n. [Natural Communities]	No
E.2.o. [Endangered or Threatened Species]	No

E.2.p. [Rare Plants or Animals]	No
E.3.a. [Agricultural District]	No
E.3.c. [National Natural Landmark]	No
E.3.d [Critical Environmental Area]	No
E.3.e. [National or State Register of Historic Places or State Eligible Sites]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.3.f. [Archeological Sites]	Yes
E.3.i. [Designated River Corridor]	No

**Full Environmental Assessment Form**  
**Part 2 - Identification of Potential Project Impacts**

Agency Use Only [If applicable]

Project : \_\_\_\_\_

Date : \_\_\_\_\_

**Part 2 is to be completed by the lead agency.** Part 2 is designed to help the lead agency inventory all potential resources that could be affected by a proposed project or action. We recognize that the lead agency's reviewer(s) will not necessarily be environmental professionals. So, the questions are designed to walk a reviewer through the assessment process by providing a series of questions that can be answered using the information found in Part 1. To further assist the lead agency in completing Part 2, the form identifies the most relevant questions in Part 1 that will provide the information needed to answer the Part 2 question. When Part 2 is completed, the lead agency will have identified the relevant environmental areas that may be impacted by the proposed activity.

If the lead agency is a state agency **and** the action is in any Coastal Area, complete the Coastal Assessment Form before proceeding with this assessment.

**Tips for completing Part 2:**

- Review all of the information provided in Part 1.
- Review any application, maps, supporting materials and the Full EAF Workbook.
- Answer each of the 18 questions in Part 2.
- If you answer “**Yes**” to a numbered question, please complete all the questions that follow in that section.
- If you answer “**No**” to a numbered question, move on to the next numbered question.
- Check appropriate column to indicate the anticipated size of the impact.
- Proposed projects that would exceed a numeric threshold contained in a question should result in the reviewing agency checking the box “Moderate to large impact may occur.”
- The reviewer is not expected to be an expert in environmental analysis.
- If you are not sure or undecided about the size of an impact, it may help to review the sub-questions for the general question and consult the workbook.
- When answering a question consider all components of the proposed activity, that is, the “whole action”.
- Consider the possibility for long-term and cumulative impacts as well as direct impacts.
- Answer the question in a reasonable manner considering the scale and context of the project.

<b>1. Impact on Land</b> Proposed action may involve construction on, or physical alteration of, the land surface of the proposed site. (See Part 1. D.1) <i>If “Yes”, answer questions a - j. If “No”, move on to Section 2.</i>				<input checked="" type="checkbox"/> NO	<input type="checkbox"/> YES
	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur		
a. The proposed action may involve construction on land where depth to water table is less than 3 feet.	E2d	<input type="checkbox"/>	<input type="checkbox"/>		
b. The proposed action may involve construction on slopes of 15% or greater.	E2f	<input type="checkbox"/>	<input type="checkbox"/>		
c. The proposed action may involve construction on land where bedrock is exposed, or generally within 5 feet of existing ground surface.	E2a	<input type="checkbox"/>	<input type="checkbox"/>		
d. The proposed action may involve the excavation and removal of more than 1,000 tons of natural material.	D2a	<input type="checkbox"/>	<input type="checkbox"/>		
e. The proposed action may involve construction that continues for more than one year or in multiple phases.	D1e	<input type="checkbox"/>	<input type="checkbox"/>		
f. The proposed action may result in increased erosion, whether from physical disturbance or vegetation removal (including from treatment by herbicides).	D2e, D2q	<input type="checkbox"/>	<input type="checkbox"/>		
g. The proposed action is, or may be, located within a Coastal Erosion hazard area.	B1i	<input type="checkbox"/>	<input type="checkbox"/>		
h. Other impacts: _____ _____		<input type="checkbox"/>	<input type="checkbox"/>		

**2. Impact on Geological Features**

The proposed action may result in the modification or destruction of, or inhibit access to, any unique or unusual land forms on the site (e.g., cliffs, dunes, minerals, fossils, caves). (See Part 1. E.2.g)

☒ NO☐ YES

*If "Yes", answer questions a - c. If "No", move on to Section 3.*

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. Identify the specific land form(s) attached: _____ _____	E2g	<input type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may affect or is adjacent to a geological feature listed as a registered National Natural Landmark. Specific feature: _____	E3c	<input type="checkbox"/>	<input type="checkbox"/>
c. Other impacts: _____ _____		<input type="checkbox"/>	<input type="checkbox"/>

**3. Impacts on Surface Water**

The proposed action may affect one or more wetlands or other surface water bodies (e.g., streams, rivers, ponds or lakes). (See Part 1. D.2, E.2.h)

☒ NO☐ YES

*If "Yes", answer questions a - l. If "No", move on to Section 4.*

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may create a new water body.	D2b, D1h	<input type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may result in an increase or decrease of over 10% or more than a 10 acre increase or decrease in the surface area of any body of water.	D2b	<input type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may involve dredging more than 100 cubic yards of material from a wetland or water body.	D2a	<input type="checkbox"/>	<input type="checkbox"/>
d. The proposed action may involve construction within or adjoining a freshwater or tidal wetland, or in the bed or banks of any other water body.	E2h	<input type="checkbox"/>	<input type="checkbox"/>
e. The proposed action may create turbidity in a waterbody, either from upland erosion, runoff or by disturbing bottom sediments.	D2a, D2h	<input type="checkbox"/>	<input type="checkbox"/>
f. The proposed action may include construction of one or more intake(s) for withdrawal of water from surface water.	D2c	<input type="checkbox"/>	<input type="checkbox"/>
g. The proposed action may include construction of one or more outfall(s) for discharge of wastewater to surface water(s).	D2d	<input type="checkbox"/>	<input type="checkbox"/>
h. The proposed action may cause soil erosion, or otherwise create a source of stormwater discharge that may lead to siltation or other degradation of receiving water bodies.	D2e	<input type="checkbox"/>	<input type="checkbox"/>
i. The proposed action may affect the water quality of any water bodies within or downstream of the site of the proposed action.	E2h	<input type="checkbox"/>	<input type="checkbox"/>
j. The proposed action may involve the application of pesticides or herbicides in or around any water body.	D2q, E2h	<input type="checkbox"/>	<input type="checkbox"/>
k. The proposed action may require the construction of new, or expansion of existing, wastewater treatment facilities.	D1a, D2d	<input type="checkbox"/>	<input type="checkbox"/>

I. Other impacts: _____ _____		<input type="checkbox"/>	<input type="checkbox"/>
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<b>4. Impact on groundwater</b> The proposed action may result in new or additional use of ground water, or may have the potential to introduce contaminants to ground water or an aquifer. (See Part 1. D.2.a, D.2.c, D.2.d, D.2.p, D.2.q, D.2.t) <i>If "Yes", answer questions a - h. If "No", move on to Section 5.</i>			
		<input checked="" type="checkbox"/> NO	<input type="checkbox"/> YES
	<b>Relevant Part I Question(s)</b>	<b>No, or small impact may occur</b>	<b>Moderate to large impact may occur</b>
a. The proposed action may require new water supply wells, or create additional demand on supplies from existing water supply wells.	D2c	<input type="checkbox"/>	<input type="checkbox"/>
b. Water supply demand from the proposed action may exceed safe and sustainable withdrawal capacity rate of the local supply or aquifer. Cite Source: _____	D2c	<input type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may allow or result in residential uses in areas without water and sewer services.	D1a, D2c	<input type="checkbox"/>	<input type="checkbox"/>
d. The proposed action may include or require wastewater discharged to groundwater.	D2d, E2l	<input type="checkbox"/>	<input type="checkbox"/>
e. The proposed action may result in the construction of water supply wells in locations where groundwater is, or is suspected to be, contaminated.	D2c, E1f, E1g, E1h	<input type="checkbox"/>	<input type="checkbox"/>
f. The proposed action may require the bulk storage of petroleum or chemical products over ground water or an aquifer.	D2p, E2l	<input type="checkbox"/>	<input type="checkbox"/>
g. The proposed action may involve the commercial application of pesticides within 100 feet of potable drinking water or irrigation sources.	E2h, D2q, E2l, D2c	<input type="checkbox"/>	<input type="checkbox"/>
h. Other impacts: _____ _____		<input type="checkbox"/>	<input type="checkbox"/>

<b>5. Impact on Flooding</b> The proposed action may result in development on lands subject to flooding. (See Part 1. E.2) <i>If "Yes", answer questions a - g. If "No", move on to Section 6.</i>			
		<input checked="" type="checkbox"/> NO	<input type="checkbox"/> YES
	<b>Relevant Part I Question(s)</b>	<b>No, or small impact may occur</b>	<b>Moderate to large impact may occur</b>
a. The proposed action may result in development in a designated floodway.	E2i	<input type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may result in development within a 100 year floodplain.	E2j	<input type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may result in development within a 500 year floodplain.	E2k	<input type="checkbox"/>	<input type="checkbox"/>
d. The proposed action may result in, or require, modification of existing drainage patterns.	D2b, D2e	<input type="checkbox"/>	<input type="checkbox"/>
e. The proposed action may change flood water flows that contribute to flooding.	D2b, E2i, E2j, E2k	<input type="checkbox"/>	<input type="checkbox"/>
f. If there is a dam located on the site of the proposed action, is the dam in need of repair, or upgrade?	E1e	<input type="checkbox"/>	<input type="checkbox"/>

g. Other impacts: _____ _____		<input type="checkbox"/>	<input type="checkbox"/>
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<b>6. Impacts on Air</b> The proposed action may include a state regulated air emission source. (See Part 1. D.2.f., D.2.h, D.2.g) <i>If "Yes", answer questions a - f. If "No", move on to Section 7.</i>				<input checked="" type="checkbox"/> NO	<input type="checkbox"/> YES
	<b>Relevant Part I Question(s)</b>	<b>No, or small impact may occur</b>	<b>Moderate to large impact may occur</b>		
a. If the proposed action requires federal or state air emission permits, the action may also emit one or more greenhouse gases at or above the following levels:					
i. More than 1000 tons/year of carbon dioxide (CO <sub>2</sub> )	D2g	<input type="checkbox"/>	<input type="checkbox"/>		
ii. More than 3.5 tons/year of nitrous oxide (N <sub>2</sub> O)	D2g	<input type="checkbox"/>	<input type="checkbox"/>		
iii. More than 1000 tons/year of carbon equivalent of perfluorocarbons (PFCs)	D2g	<input type="checkbox"/>	<input type="checkbox"/>		
iv. More than .045 tons/year of sulfur hexafluoride (SF <sub>6</sub> )	D2g	<input type="checkbox"/>	<input type="checkbox"/>		
v. More than 1000 tons/year of carbon dioxide equivalent of hydrochloroflourocarbons (HFCs) emissions	D2g	<input type="checkbox"/>	<input type="checkbox"/>		
vi. 43 tons/year or more of methane	D2h	<input type="checkbox"/>	<input type="checkbox"/>		
b. The proposed action may generate 10 tons/year or more of any one designated hazardous air pollutant, or 25 tons/year or more of any combination of such hazardous air pollutants.	D2g	<input type="checkbox"/>	<input type="checkbox"/>		
c. The proposed action may require a state air registration, or may produce an emissions rate of total contaminants that may exceed 5 lbs. per hour, or may include a heat source capable of producing more than 10 million BTU's per hour.	D2f, D2g	<input type="checkbox"/>	<input type="checkbox"/>		
d. The proposed action may reach 50% of any of the thresholds in "a" through "c", above.	D2g	<input type="checkbox"/>	<input type="checkbox"/>		
e. The proposed action may result in the combustion or thermal treatment of more than 1 ton of refuse per hour.	D2s	<input type="checkbox"/>	<input type="checkbox"/>		
f. Other impacts: _____ _____		<input type="checkbox"/>	<input type="checkbox"/>		

<b>7. Impact on Plants and Animals</b> The proposed action may result in a loss of flora or fauna. (See Part 1. E.2. m.-q.) <i>If "Yes", answer questions a - j. If "No", move on to Section 8.</i>				<input checked="" type="checkbox"/> NO	<input type="checkbox"/> YES
	<b>Relevant Part I Question(s)</b>	<b>No, or small impact may occur</b>	<b>Moderate to large impact may occur</b>		
a. The proposed action may cause reduction in population or loss of individuals of any threatened or endangered species, as listed by New York State or the Federal government, that use the site, or are found on, over, or near the site.	E2o	<input type="checkbox"/>	<input type="checkbox"/>		
b. The proposed action may result in a reduction or degradation of any habitat used by any rare, threatened or endangered species, as listed by New York State or the federal government.	E2o	<input type="checkbox"/>	<input type="checkbox"/>		
c. The proposed action may cause reduction in population, or loss of individuals, of any species of special concern or conservation need, as listed by New York State or the Federal government, that use the site, or are found on, over, or near the site.	E2p	<input type="checkbox"/>	<input type="checkbox"/>		
d. The proposed action may result in a reduction or degradation of any habitat used by any species of special concern and conservation need, as listed by New York State or the Federal government.	E2p	<input type="checkbox"/>	<input type="checkbox"/>		

e. The proposed action may diminish the capacity of a registered National Natural Landmark to support the biological community it was established to protect.	E3c	<input type="checkbox"/>	<input type="checkbox"/>
f. The proposed action may result in the removal of, or ground disturbance in, any portion of a designated significant natural community. Source: _____	E2n	<input type="checkbox"/>	<input type="checkbox"/>
g. The proposed action may substantially interfere with nesting/breeding, foraging, or over-wintering habitat for the predominant species that occupy or use the project site.	E2m	<input type="checkbox"/>	<input type="checkbox"/>
h. The proposed action requires the conversion of more than 10 acres of forest, grassland or any other regionally or locally important habitat. Habitat type & information source: _____	E1b	<input type="checkbox"/>	<input type="checkbox"/>
i. Proposed action (commercial, industrial or recreational projects, only) involves use of herbicides or pesticides.	D2q	<input type="checkbox"/>	<input type="checkbox"/>
j. Other impacts: _____		<input type="checkbox"/>	<input type="checkbox"/>

<b>8. Impact on Agricultural Resources</b> The proposed action may impact agricultural resources. (See Part 1. E.3.a. and b.) <input checked="" type="checkbox"/> NO <input type="checkbox"/> YES <i>If "Yes", answer questions a - h. If "No", move on to Section 9.</i>			
	<b>Relevant Part I Question(s)</b>	<b>No, or small impact may occur</b>	<b>Moderate to large impact may occur</b>
a. The proposed action may impact soil classified within soil group 1 through 4 of the NYS Land Classification System.	E2c, E3b	<input type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may sever, cross or otherwise limit access to agricultural land (includes cropland, hayfields, pasture, vineyard, orchard, etc).	E1a, E1b	<input type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may result in the excavation or compaction of the soil profile of active agricultural land.	E3b	<input type="checkbox"/>	<input type="checkbox"/>
d. The proposed action may irreversibly convert agricultural land to non-agricultural uses, either more than 2.5 acres if located in an Agricultural District, or more than 10 acres if not within an Agricultural District.	E1b, E3a	<input type="checkbox"/>	<input type="checkbox"/>
e. The proposed action may disrupt or prevent installation of an agricultural land management system.	E1 a, E1b	<input type="checkbox"/>	<input type="checkbox"/>
f. The proposed action may result, directly or indirectly, in increased development potential or pressure on farmland.	C2c, C3, D2c, D2d	<input type="checkbox"/>	<input type="checkbox"/>
g. The proposed project is not consistent with the adopted municipal Farmland Protection Plan.	C2c	<input type="checkbox"/>	<input type="checkbox"/>
h. Other impacts: _____		<input type="checkbox"/>	<input type="checkbox"/>

<b>9. Impact on Aesthetic Resources</b> The land use of the proposed action are obviously different from, or are in sharp contrast to, current land use patterns between the proposed project and a scenic or aesthetic resource. (Part 1. E.1.a, E.1.b, E.3.h.) <i>If "Yes", answer questions a - g. If "No", go to Section 10.</i>				<input checked="" type="checkbox"/> NO	<input type="checkbox"/> YES
	<b>Relevant Part I Question(s)</b>	<b>No, or small impact may occur</b>	<b>Moderate to large impact may occur</b>		
a. Proposed action may be visible from any officially designated federal, state, or local scenic or aesthetic resource.	E3h	<input type="checkbox"/>	<input type="checkbox"/>		
b. The proposed action may result in the obstruction, elimination or significant screening of one or more officially designated scenic views.	E3h, C2b	<input type="checkbox"/>	<input type="checkbox"/>		
c. The proposed action may be visible from publicly accessible vantage points: i. Seasonally (e.g., screened by summer foliage, but visible during other seasons) ii. Year round	E3h	<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>		
d. The situation or activity in which viewers are engaged while viewing the proposed action is: i. Routine travel by residents, including travel to and from work ii. Recreational or tourism based activities	E3h E2q, E1c	<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>		
e. The proposed action may cause a diminishment of the public enjoyment and appreciation of the designated aesthetic resource.	E3h	<input type="checkbox"/>	<input type="checkbox"/>		
f. There are similar projects visible within the following distance of the proposed project: 0-1/2 mile 1/2 -3 mile 3-5 mile 5+ mile	D1a, E1a, D1f, D1g	<input type="checkbox"/>	<input type="checkbox"/>		
g. Other impacts: _____ _____		<input type="checkbox"/>	<input type="checkbox"/>		

<b>10. Impact on Historic and Archeological Resources</b> The proposed action may occur in or adjacent to a historic or archaeological resource. (Part 1. E.3.e, f. and g.) <i>If "Yes", answer questions a - e. If "No", go to Section 11.</i>				<input checked="" type="checkbox"/> NO	<input type="checkbox"/> YES
	<b>Relevant Part I Question(s)</b>	<b>No, or small impact may occur</b>	<b>Moderate to large impact may occur</b>		
a. The proposed action may occur wholly or partially within, or substantially contiguous to, any buildings, archaeological site or district which is listed on the National or State Register of Historical 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.	E3e	<input type="checkbox"/>	<input type="checkbox"/>		
b. The proposed action may occur wholly or partially within, or substantially contiguous to, an area designated as sensitive for archaeological sites on the NY State Historic Preservation Office (SHPO) archaeological site inventory.	E3f	<input type="checkbox"/>	<input type="checkbox"/>		
c. The proposed action may occur wholly or partially within, or substantially contiguous to, an archaeological site not included on the NY SHPO inventory. Source: _____	E3g	<input type="checkbox"/>	<input type="checkbox"/>		

d. Other impacts: _____ _____		<input type="checkbox"/>	<input type="checkbox"/>
<p>If any of the above (a-d) are answered “Moderate to large impact may occur”, continue with the following questions to help support conclusions in Part 3:</p> <p>e.</p> <p>i. The proposed action may result in the destruction or alteration of all or part of the site or property.</p> <p>ii. The proposed action may result in the alteration of the property’s setting or integrity.</p> <p>iii. The proposed action may result in the introduction of visual elements which are out of character with the site or property, or may alter its setting.</p>	<p>E3e, E3g, E3f</p> <p>E3e, E3f, E3g, E1a, E1b</p> <p>E3e, E3f, E3g, E3h, C2, C3</p>	<p><input type="checkbox"/></p> <p><input type="checkbox"/></p> <p><input type="checkbox"/></p>	<p><input type="checkbox"/></p> <p><input type="checkbox"/></p> <p><input type="checkbox"/></p>

<p><b>11. Impact on Open Space and Recreation</b></p> <p>The proposed action may result in a loss of recreational opportunities or a reduction of an open space resource as designated in any adopted municipal open space plan. (See Part 1. C.2.c, E.1.c., E.2.q.) <i>If “Yes”, answer questions a - e. If “No”, go to Section 12.</i></p>			
		<input checked="" type="checkbox"/> NO	<input type="checkbox"/> YES
	<b>Relevant Part I Question(s)</b>	<b>No, or small impact may occur</b>	<b>Moderate to large impact may occur</b>
a. The proposed action may result in an impairment of natural functions, or “ecosystem services”, provided by an undeveloped area, including but not limited to stormwater storage, nutrient cycling, wildlife habitat.	D2e, E1b E2h, E2m, E2o, E2n, E2p	<input type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may result in the loss of a current or future recreational resource.	C2a, E1c, C2c, E2q	<input type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may eliminate open space or recreational resource in an area with few such resources.	C2a, C2c E1c, E2q	<input type="checkbox"/>	<input type="checkbox"/>
d. The proposed action may result in loss of an area now used informally by the community as an open space resource.	C2c, E1c	<input type="checkbox"/>	<input type="checkbox"/>
e. Other impacts: _____ _____		<input type="checkbox"/>	<input type="checkbox"/>

<p><b>12. Impact on Critical Environmental Areas</b></p> <p>The proposed action may be located within or adjacent to a critical environmental area (CEA). (See Part 1. E.3.d) <i>If “Yes”, answer questions a - c. If “No”, go to Section 13.</i></p>			
		<input checked="" type="checkbox"/> NO	<input type="checkbox"/> YES
	<b>Relevant Part I Question(s)</b>	<b>No, or small impact may occur</b>	<b>Moderate to large impact may occur</b>
a. The proposed action may result in a reduction in the quantity of the resource or characteristic which was the basis for designation of the CEA.	E3d	<input type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may result in a reduction in the quality of the resource or characteristic which was the basis for designation of the CEA.	E3d	<input type="checkbox"/>	<input type="checkbox"/>
c. Other impacts: _____ _____		<input type="checkbox"/>	<input type="checkbox"/>

**13. Impact on Transportation**

The proposed action may result in a change to existing transportation systems.

☒ NO

☐ YES

(See Part 1. D.2.j)

*If "Yes", answer questions a - f. If "No", go to Section 14.*

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. Projected traffic increase may exceed capacity of existing road network.	D2j	<input type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may result in the construction of paved parking area for 500 or more vehicles.	D2j	<input type="checkbox"/>	<input type="checkbox"/>
c. The proposed action will degrade existing transit access.	D2j	<input type="checkbox"/>	<input type="checkbox"/>
d. The proposed action will degrade existing pedestrian or bicycle accommodations.	D2j	<input type="checkbox"/>	<input type="checkbox"/>
e. The proposed action may alter the present pattern of movement of people or goods.	D2j	<input type="checkbox"/>	<input type="checkbox"/>
f. Other impacts: _____		<input type="checkbox"/>	<input type="checkbox"/>

**14. Impact on Energy**

The proposed action may cause an increase in the use of any form of energy.

☒ NO

☐ YES

(See Part 1. D.2.k)

*If "Yes", answer questions a - e. If "No", go to Section 15.*

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action will require a new, or an upgrade to an existing, substation.	D2k	<input type="checkbox"/>	<input type="checkbox"/>
b. The proposed action will require the creation or extension of an energy transmission or supply system to serve more than 50 single or two-family residences or to serve a commercial or industrial use.	D1f, D1q, D2k	<input type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may utilize more than 2,500 MWhrs per year of electricity.	D2k	<input type="checkbox"/>	<input type="checkbox"/>
d. The proposed action may involve heating and/or cooling of more than 100,000 square feet of building area when completed.	D1g	<input type="checkbox"/>	<input type="checkbox"/>
e. Other Impacts: _____			

**15. Impact on Noise, Odor, and Light**

The proposed action may result in an increase in noise, odors, or outdoor lighting.

☒ NO

☐ YES

(See Part 1. D.2.m., n., and o.)

*If "Yes", answer questions a - f. If "No", go to Section 16.*

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may produce sound above noise levels established by local regulation.	D2m	<input type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may result in blasting within 1,500 feet of any residence, hospital, school, licensed day care center, or nursing home.	D2m, E1d	<input type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may result in routine odors for more than one hour per day.	D2o	<input type="checkbox"/>	<input type="checkbox"/>

d. The proposed action may result in light shining onto adjoining properties.	D2n	<input type="checkbox"/>	<input type="checkbox"/>
e. The proposed action may result in lighting creating sky-glow brighter than existing area conditions.	D2n, E1a	<input type="checkbox"/>	<input type="checkbox"/>
f. Other impacts: _____ _____		<input type="checkbox"/>	<input type="checkbox"/>

#### 16. Impact on Human Health

The proposed action may have an impact on human health from exposure to new or existing sources of contaminants. (See Part 1.D.2.q., E.1. d. f. g. and h.)

☒ NO

☐ YES

*If "Yes", answer questions a - m. If "No", go to Section 17.*

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action is located within 1500 feet of a school, hospital, licensed day care center, group home, nursing home or retirement community.	E1d	<input type="checkbox"/>	<input type="checkbox"/>
b. The site of the proposed action is currently undergoing remediation.	E1g, E1h	<input type="checkbox"/>	<input type="checkbox"/>
c. There is a completed emergency spill remediation, or a completed environmental site remediation on, or adjacent to, the site of the proposed action.	E1g, E1h	<input type="checkbox"/>	<input type="checkbox"/>
d. The site of the action is subject to an institutional control limiting the use of the property (e.g., easement or deed restriction).	E1g, E1h	<input type="checkbox"/>	<input type="checkbox"/>
e. The proposed action may affect institutional control measures that were put in place to ensure that the site remains protective of the environment and human health.	E1g, E1h	<input type="checkbox"/>	<input type="checkbox"/>
f. The proposed action has adequate control measures in place to ensure that future generation, treatment and/or disposal of hazardous wastes will be protective of the environment and human health.	D2t	<input type="checkbox"/>	<input type="checkbox"/>
g. The proposed action involves construction or modification of a solid waste management facility.	D2q, E1f	<input type="checkbox"/>	<input type="checkbox"/>
h. The proposed action may result in the unearthing of solid or hazardous waste.	D2q, E1f	<input type="checkbox"/>	<input type="checkbox"/>
i. The proposed action may result in an increase in the rate of disposal, or processing, of solid waste.	D2r, D2s	<input type="checkbox"/>	<input type="checkbox"/>
j. The proposed action may result in excavation or other disturbance within 2000 feet of a site used for the disposal of solid or hazardous waste.	E1f, E1g E1h	<input type="checkbox"/>	<input type="checkbox"/>
k. The proposed action may result in the migration of explosive gases from a landfill site to adjacent off site structures.	E1f, E1g	<input type="checkbox"/>	<input type="checkbox"/>
l. The proposed action may result in the release of contaminated leachate from the project site.	D2s, E1f, D2r	<input type="checkbox"/>	<input type="checkbox"/>
m. Other impacts: _____ _____			

<b>17. Consistency with Community Plans</b> The proposed action is not consistent with adopted land use plans. (See Part 1. C.1, C.2. and C.3.) <i>If "Yes", answer questions a - h. If "No", go to Section 18.</i>			
		<input type="checkbox"/> NO	<input checked="" type="checkbox"/> YES
	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action's land use components may be different from, or in sharp contrast to, current surrounding land use pattern(s).	C2, C3, D1a E1a, E1b	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. The proposed action will cause the permanent population of the city, town or village in which the project is located to grow by more than 5%.	C2	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c. The proposed action is inconsistent with local land use plans or zoning regulations.	C2, C2, C3	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d. The proposed action is inconsistent with any County plans, or other regional land use plans.	C2, C2	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e. The proposed action may cause a change in the density of development that is not supported by existing infrastructure or is distant from existing infrastructure.	C3, D1c, D1d, D1f, D1d, E1b	<input checked="" type="checkbox"/>	<input type="checkbox"/>
f. The proposed action is located in an area characterized by low density development that will require new or expanded public infrastructure.	C4, D2c, D2d D2j	<input checked="" type="checkbox"/>	<input type="checkbox"/>
g. The proposed action may induce secondary development impacts (e.g., residential or commercial development not included in the proposed action)	C2a	<input checked="" type="checkbox"/>	<input type="checkbox"/>
h. Other: _____ _____		<input type="checkbox"/>	<input type="checkbox"/>

<b>18. Consistency with Community Character</b> The proposed project is inconsistent with the existing community character. (See Part 1. C.2, C.3, D.2, E.3) <i>If "Yes", answer questions a - g. If "No", proceed to Part 3.</i>			
		<input checked="" type="checkbox"/> NO	<input type="checkbox"/> YES
	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may replace or eliminate existing facilities, structures, or areas of historic importance to the community.	E3e, E3f, E3g	<input type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may create a demand for additional community services (e.g. schools, police and fire)	C4	<input type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may displace affordable or low-income housing in an area where there is a shortage of such housing.	C2, C3, D1f D1g, E1a	<input type="checkbox"/>	<input type="checkbox"/>
d. The proposed action may interfere with the use or enjoyment of officially recognized or designated public resources.	C2, E3	<input type="checkbox"/>	<input type="checkbox"/>
e. The proposed action is inconsistent with the predominant architectural scale and character.	C2, C3	<input type="checkbox"/>	<input type="checkbox"/>
f. Proposed action is inconsistent with the character of the existing natural landscape.	C2, C3 E1a, E1b E2g, E2h	<input type="checkbox"/>	<input type="checkbox"/>
g. Other impacts: _____ _____		<input type="checkbox"/>	<input type="checkbox"/>

***Full Environmental Assessment Form***  
***Part 3 - Evaluation of the Magnitude and Importance of Project Impacts***  
***and***  
***Determination of Significance***

Part 3 provides the reasons in support of the determination of significance. The lead agency must complete Part 3 for every question in Part 2 where the impact has been identified as potentially moderate to large or where there is a need to explain why a particular element of the proposed action will not, or may, result in a significant adverse environmental impact.

Based on the analysis in Part 3, the lead agency must decide whether to require an environmental impact statement to further assess the proposed action or whether available information is sufficient for the lead agency to conclude that the proposed action will not have a significant adverse environmental impact. By completing the certification on the next page, the lead agency can complete its determination of significance.

**Reasons Supporting This Determination:**

To complete this section:

- Identify the impact based on the Part 2 responses and describe its magnitude. Magnitude considers factors such as severity, size or extent of an impact.
- Assess the importance of the impact. Importance relates to the geographic scope, duration, probability of the impact occurring, number of people affected by the impact and any additional environmental consequences if the impact were to occur.
- The assessment should take into consideration any design element or project changes.
- Repeat this process for each Part 2 question where the impact has been identified as potentially moderate to large or where there is a need to explain why a particular element of the proposed action will not, or may, result in a significant adverse environmental impact.
- Provide the reason(s) why the impact may, or will not, result in a significant adverse environmental impact
- For Conditional Negative Declarations identify the specific condition(s) imposed that will modify the proposed action so that no significant adverse environmental impacts will result.
- Attach additional sheets, as needed.

- SEE ATTACHED NARRATIVE -

**Determination of Significance - Type 1 and Unlisted Actions**

SEQR Status: ☒ Type 1 ☐ Unlisted

Identify portions of EAF completed for this Project: ☒ Part 1 ☒ Part 2 ☒ Part 3

Upon review of the information recorded on this EAF, as noted, plus this additional support information

All information submitted on the record for this zoning petition request, including all comments written and verbal at public hearings and comment periods.

and considering both the magnitude and importance of each identified potential impact, it is the conclusion of the  
Rye City Council as lead agency that:

☒ A. This project will result in no significant adverse impacts on the environment, and, therefore, an environmental impact statement need not be prepared. Accordingly, this negative declaration is issued.

☐ B. Although this project could have a significant adverse impact on the environment, that impact will be avoided or substantially mitigated because of the following conditions which will be required by the lead agency:

There will, therefore, be no significant adverse impacts from the project as conditioned, and, therefore, this conditioned negative declaration is issued. A conditioned negative declaration may be used only for UNLISTED actions (see 6 NYCRR 617.7(d)).

☐ C. This Project may result in one or more significant adverse impacts on the environment, and an environmental impact statement must be prepared to further assess the impact(s) and possible mitigation and to explore alternatives to avoid or reduce those impacts. Accordingly, this positive declaration is issued.

Name of Action: B-5 Zoning District Text Amendment

Name of Lead Agency: Rye City Council

Name of Responsible Officer in Lead Agency: Josh Cohn

Title of Responsible Officer: Mayor

Signature of Responsible Officer in Lead Agency:

Date:

Signature of Preparer (if different from Responsible Officer)

Date:

**For Further Information:**

Contact Person: Christian K. Miller, City Planner

Address: 1051 Boston Post Road

Telephone Number: 914-967-7167

E-mail: cmiller@ryeny.gov

**For Type 1 Actions and Conditioned Negative Declarations, a copy of this Notice is sent to:**

Chief Executive Officer of the political subdivision in which the action will be principally located (e.g., Town / City / Village of)

Other involved agencies (if any)

Applicant (if any)

Environmental Notice Bulletin: <http://www.dec.ny.gov/enb/enb.html>

**ATTACHMENT**  
**Full Environmental Assessment Form**  
**Part 3 – Evaluation of the Magnitude and Importance of Project Impacts**

The proposed action involves a request from Midland Rye, LLC (owner of property located at 601 and 621 Midland Avenue) to amend the Rye City Zoning Code to expand the list of allowable uses in the B-5, Interchange Office Building, District to include "medical office," "self-storage," "finishing or assembling of products," "day care" and "testing of products". The proposed action applies to the one and only B-5 District in the City, which is located along the west side of Midland Avenue between Peck Avenue and the Rye/Port Chester municipal boundary. The total B-5 District area is approximately 34 acres, of which Midland Rye, LLC owns two properties totaling approximately 18 acres.

The proposed action is a legislative action amending the City Zoning Code and does not involve any specific project to change the existing use of buildings or properties in the B-5 District (see response to question C.1. in Part 1 of the EAF). The proposed action does not change any of the bulk or dimensional requirements of the B-5 District including currently allowable maximum building floor area (i.e. FAR), building height or building setbacks.

As is common with many zoning text amendments, more specific impact analysis and separate environmental review would be conducted at the time a specific site plan is submitted for consideration to the Rye City Planning Commission and subject to the requirements and restriction of the proposed text amendment. The proposed amendment has been revised multiple times to provide enhanced safeguards and regulatory clarity to address concerns raised by the Rye City Council, the Rye City Planning Commission (which provided an advisory opinion supporting the proposed text amendment) and the public during the public hearing. The additional uses in the proposed text amendment are not reasonably anticipated to generate significant adverse impacts of the environmental impact areas identified on Part 2 of the EAF. In some cases, as documented in the applicant's traffic analysis and other information, the intensity of use and potential impacts could be less than what is currently permitted under existing zoning.

The proposed action is not deemed to be inconsistent with any local or County plans and is consistent with provisions of General City Law § 20(25). In its November 24, 2020 letter, the Westchester County Planning Board did not object to the proposed zoning text amendment or identify inconsistencies with County plans or policies. As documented in the petitioner's submission, the proposed zoning text amendment would be consistent with the Business Development policies of the City of Rye Master Plan. The petitioner notes that the text amendment would support or advance the Master Plan policy to "maintain the City's existing economic base without making substantial changes in scale (Master Plan, p. 27). The text amendment also proposes adaptive re-use strategies that broaden the list of permitted uses and that these uses would not compete with retail or other uses in the CBD (Master Plan, p. 27).

The proposed additional uses in the text amendment are considered consistent with office use designations contemplated in the City Master Plan. The proposed expanded list of allowable uses are consistent with office use and other non-office uses already allowed in the B-5 District and surrounding land use patterns.

The intent of the proposed zoning text amendment is to allow properties in the B-5 District to be more marketable by explicitly stating uses that could currently be interpreted to already be allowed and to expand the list of allowable uses. This is particularly true of the approximately 170,000 square-foot office building that was formerly occupied by Avon and is now vacant. This building and approximately 15-acre site has remained essentially unchanged for 40 or more years. The proposed text amendment would allow for the repurposing of this building for uses other than exclusively office use, which has struggled for decades in the region with high vacancy rates. Adjustments to office district zoning to expand the list of allowable uses is consistent with planning policies and zoning practices of other area communities. The zoning text amendment would make properties more economically viable and help preserve the tax base for the benefit of the general welfare of the City.

# **DRAFT**

## **RESOLUTION OF THE RYE CITY COUNCIL TO ADOPT A NEGATIVE DECLARATION UNDER THE STATE ENVIRONMENTAL QUALITY REVIEW ACT (SEQRA) AND ADOPT THE PROPOSED ZONING TEXT AMENDMENT AMENDING THE LIST OF PERMITTED USES IN THE B-5 ZONING DISTRICT AND ADDING TWO DEFINITIONS TO THE ZONING CODE**

WHEREAS, Midland Rye LLC submitted a petition dated September 4, 2019 to amend the B-5 zoning district to expand the list of permitted uses to include "medical office," "self-storage," "finishing or assembling of products," "day care" and "testing of products" and to add definitions for "Light Assembly/Finishing" and "Self-Storage" (the "Zoning Text Amendment"); and

WHEREAS, Midland Rye LLC owns property located at 601 Midland Avenue (approximately 14.84 acres) and 621 Midland Avenue (approximately 3.25 acres); and

WHEREAS, the proposed action applies to the B-5 District in the City, which is located along the west side of Midland Avenue between Peck Avenue and the Rye/Port Chester municipal boundary; and

WHEREAS, the total B-5 District area is approximately 34 acres, of which Rye Midland LLC owns two properties totaling approximately 18 acres; and

WHEREAS, Midland Rye LLC presented a proposed Zoning Text Amendment in September 2019 to the City Council and the City Council referred the matter to the Planning Commission for its advisory review and recommendation; and

WHEREAS, after considering the proposed Zoning Text Amendment during several meetings, by letter dated November 19, 2019, the Planning Commission issued a positive recommendation to the City Council; and

WHEREAS, Midland Rye LLC resubmitted a revised Zoning Text Amendment with associated documentation dated September 18, 2020 to the City Council; and

WHEREAS, based on additional review of the proposed language, Midland Rye LLC submitted revised language on November 13, 2020; and

WHEREAS, the City Staff referred the revised Zoning Text Amendment to the Westchester County Planning Board and the Village of Port Chester consistent with Sections 239 L, M and N of the General Municipal Law and Section 277.61 of the County Administrative Code; and

WHEREAS, the County Planning Board responded in a November 24, 2020 letter the proposed action was "a matter for local determination" and did not state an objection to the proposed zoning text amendment or identify inconsistencies with County plans or policies; and

WHEREAS, the City Council opened a public hearing on December 2, 2020 and continued the public hearing to December 16, 2020 and continued it again to January 6, 2020; and

WHEREAS, based on comments from the City Council and the public during the public hearings, Midland Rye LLC further revised its proposed Zoning Text Amendment by submissions dated December 11, 2020 and again on December 31, 2020; and

WHEREAS, after giving the public an opportunity to be heard and reviewing the written submissions, the City Council closed the public hearing on January 6, 2020; and

WHEREAS, the Applicant prepared Part I of the Environmental Assessment Form (EAF) and the City Planer prepared Part II and III (including the supplemental narrative); and

WHEREAS, under SEQRA, the proposed Zoning Text Amendment is classified as a Type I action pursuant to Section 617 of the regulations of SEQRA; and

WHEREAS, the City Council is the lead agency as this action is a legislative action of the City of Rye and the City Council is the only agency with jurisdiction by law to fund, approve, or directly undertake this action; and

WHEREAS, the City Council has completed a thorough review of the identified areas on the Environmental Assessment Form Parts I, II and III (along with the attachment), which are incorporated herein by reference, and the City Council hereby adopts the findings, conclusions and rationale contained with Parts I, II and III of the EAF; and.

WHEREAS, the proposed action does not involve any specific project to change the existing use of buildings or properties in the B-5 District. The proposed action does not change any of the bulk or dimensional requirements of the B-5 District including currently allowable maximum building floor area (i.e. FAR), building height, or building setbacks; and

WHEREAS, any site specific changes will be considered by the Planning Commission under site plan review.

**NOW, THEREFORE, BE IT RESOLVED**, by the City Council of the City of Rye as follows:

1. The City Council, as Lead Agency, in a coordinated review (Planning Commission, Westchester County – interested agencies), has reviewed and considered the entire record of the Petition, including all material submitted by or on behalf of the Applicant, the EAF, the Planning Commission recommendation, and the written and oral public comments made during the public hearing; and
2. The City Council has considered the potential impacts of the Proposed Action in light of the criteria set forth in the SEQRA regulations (6 NYCRR Section 617.7(c)) and the representations made by the Applicant; and
3. Having thoroughly reviewed the record and determined that the Proposed Action will not have significant adverse environmental impacts, the City Council hereby issues a Negative Declaration under SEQRA; and
4. The City Council hereby adopts the Zoning Text Amendment as presented at the City Council meeting on January 6, 2021 amend the B-5 Zoning District.

On a motion by Councilperson \_\_\_\_\_, seconded by Councilperson  
\_\_\_\_\_, the foregoing Resolution was adopted on a vote of \_\_\_\_ ayes and \_\_\_\_ nays.

DRAFT



# CITY COUNCIL AGENDA

DEPT.: City Manager

DATE: December 22, 2020

CONTACT: Greg Usry, Interim City Manager

**AGENDA ITEM:** Resolution to adopt provisions of Executive Order 202.83 suspending the requirements of renewal applications as a condition to granting exemptions under sections 459-C and 467 of the Real Property Tax Law.

**FOR THE MEETING OF:**

January 6, 2021

**RYE CITY CODE,**

CHAPTER  
SECTION

**RECOMMENDATION:** That the Council resolves to adopt provisions of Executive Order 202.83 which temporarily suspends or modifies certain subdivisions of the Real Property Tax Law. (see attached)

**IMPACT:** ☐ Environmental ☒ Fiscal ☐ Neighborhood ☐ Other

**BACKGROUND:** Due to the on-going pandemic, the governor issued Executive Order 202.83 which enables Assessors to grant exemptions on the 2021 assessment roll to all property owners who received that exemption on the 2020 assessment roll, thereby dispensing with the need for renewal applications from such persons, and further dispensing with the requirement for assessors to mail renewal applications to such persons, but with certain limitations. This would cover those seeking exemptions under the following:

Enhanced STAR Exemption (RP425E)

Partial Tax Exemption for Real Property of Senior Citizens (RP467)

Partial Tax Exemption for Persons with Disabilities and Limited Incomes (RP459-c)

The City would also like to allow the assessor to require a renewal application to be filed when the assessor has reason to believe that an owner who qualified for the exemption on the 2020 assessment roll may have since changed primary residence, added another owner to the deed, transferred the property to a new owner, or died. Therefore, the Board of Assessors may, in the case that there is a change of status that would no longer qualify the homeowner, request a renewal application from only such persons.

See attached.

**RESOLUTION TO ADOPT PROVISIONS OF EXECUTIVE ORDER 202.83**  
**SUSPENDING THE REQUIREMENTS OF RENEWAL APPLICATIONS AS A**  
**CONDITION TO GRANTING EXEMPTIONS UNDER SECTIONS 459-C AND 467 OF**  
**THE REAL PROPERTY TAX LAW**

**WHEREAS**, the Governor of the State of New York by Executive Order No. 202 dated March 7, 2020, declared a state disaster emergency for the entire State of New York; and

**WHEREAS**, both travel-related and community contact transmission of COVID-19 have been documented in New York State and are expected to continue; and

**WHEREAS**, pursuant to Section 29-a of Article 2-B of the Executive Law, New York State Governor Andrew Cuomo did issue Executive Order 202.83 dated December 18, 2020, which authorized, by local option, the governing body, to adopt the provisions of that Executive Order 202.83, which temporarily suspends or modifies, subdivisions 7, 7-a and 8 of section 459-c of the Real Property Tax Law and subdivisions 5, 5-a, 5-b, 5-c and 6 of section 467 of the Real Property Tax Law.

**WHEREAS**, the City is desirous to adopt such resolution while also allowing the assessor to require a renewal application to be filed when the assessor has reason to believe that an owner who qualified for the exemption on the 2020 assessment roll may have since changed primary residence, added another owner to the deed, transferred the property to a new owner, or died;

**NOW THEREFORE BE IT RESOLVED**, that pursuant to Executive Order 202.83 issued by New York State Governor Andrew Cuomo on December 18, 2020, the City Council of the City of Rye hereby adopts, as a local option, the suspension of subdivisions 7, 7-a and 8 of section 459-c of the Real Property Tax Law and subdivisions 5, 5-a, 5-b, 5-c and 6 of section 467 of the Real Property Tax Law; and be it further

**RESOLVED**, that the Board of Assessors are hereby directed to grant exemptions pursuant to such sections on the 2021/2022 assessment roll to all property owners who received that exemption on the 2020/2021 assessment roll thereby dispensing with the need for renewal applications from such persons, and further dispensing with the requirement for the Board of Assessors to mail renewal applications to such persons; and, be it further

**RESOLVED**, that the Board of Assessors may, in the case that there is a change of status that would no longer qualify the homeowner, request renewal application from only such persons; and, be it further

**RESOLVED**, that the City Clerk is hereby directed to forward a copy of this resolution to the Board of Assessors and the Office of the Corporation Council of the City of Rye; and be it further

**RESOLVED**, that all City Hall Departments may review and obtain a copy of this resolution from the electronic storage device and if needed, a certified copy of same may be

obtained from the Office of the City Clerk.

This Resolution shall take effect immediately.

On a motion by Councilperson \_\_\_\_\_, seconded by Councilperson  
\_\_\_\_\_, the foregoing Resolution was adopted on a vote of \_\_\_\_ ayes and \_\_\_\_ nays.



# CITY COUNCIL AGENDA

DEPT.: City Manager

DATE: January 6, 2021

CONTACT: Greg Usry, Interim City Manager

**AGENDA ITEM:** Resolution to amend the 2021 Adopted Fees and Charges for the Boat Basin to increase various rates for summer 2021.

**FOR THE MEETING OF:**

January 6, 2021

**RYE CITY CODE,**

CHAPTER

SECTION

**RECOMMENDATION:** That the Council approve these changes.

**IMPACT:** ☐ Environmental ☒ Fiscal ☐ Neighborhood ☐ Other:

**BACKGROUND:**

See attached memo.

**CITY OF RYE, NY**  
**Boat Basin**  
**Memorandum**

DATE: December 16th, 2020

TO: Greg Usry, Interim City Manager

FROM: Rodrigo Paulino, Boat Basin Supervisor

RE: Boat Basin Summer 2021 Fees

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**Boat Basin Commission is requesting that the City Council amend the following 2021 Adopted Fees and Charges for the Boat Basin Enterprise Fund:**

**Resident Slip Holder Fee** – The Boat Basin is requesting a 5% increase for Resident slip holders only. Non Resident fees are already higher than other nearby marinas and should be left alone.

**Current Rates:**

Up to 20ft Boat - \$60 per ft

Boat 21ft – 26ft - \$79 per ft

Boat 27ft – 32ft - \$87 per ft

Boat 33ft – 37ft - \$96 per ft

**New Rates:**

Up to 20ft Boat - \$63 per ft

Boat 21ft – 26ft - \$82 per ft

Boat 27ft – 32ft - \$90

Boat 33ft-37ft - \$99 per ft

**Finger Docks Fee-** Current fee is \$200 per finger. The Boat Basin is requesting this fee to be increased to \$250 per finger dock.

**Boat Launch Ramp Fee-** The current fee is \$25 to use the boat launch ramp. The Boat Basin is requesting this fee to be increased to \$30.

**Jet Ski Dock/Slips-** The current fee for Residents is \$700 and \$1,050 for Non Resident. The Boat Basin is requesting this fee to be increased by \$100. The new Resident fee will be \$800 and the Non Resident fee will be \$1,150.

The increased fees will generate an estimate of \$20,000 in additional revenue to the Boat Basin. The new fees will assist with the dredging fund while remaining competitive with other nearby municipal marinas.



# CITY COUNCIL AGENDA

DEPT.: City Manager

DATE: December 22, 2020

CONTACT: Greg Usry, Interim City Manager

**AGENDA ITEM:** Consideration of a request by the Rye Little League to approve a parade to kickoff Opening Day of the 63<sup>rd</sup> Little League Season on Saturday, April 10, 2021 beginning at 12:00 p.m.

**FOR THE MEETING OF:**

January 6, 2021

**RYE CITY CODE,  
CHAPTER  
SECTION**

**RECOMMENDATION:** That the Council consider granting the request.

**IMPACT:** ☐ Environmental ☐ Fiscal ☐ Neighborhood ☒ Other:

**BACKGROUND:**

The Rye Little League is requesting the Council approve a parade to kickoff Opening Day of the 63<sup>rd</sup> Little League Season on Saturday, April 10, 2021 beginning at 12:00 p.m. with a rain date of Sunday, April 11, 2021.

See attached request from Mark Howard, Parade Coordinator.

**From:** [Mark Howard](#)  
**To:** [Ruttenberg, Noga P.](#)  
**Cc:** [bubeck16](#)  
**Subject:** Rye Little League Parade and Opening Day Ceremony on Saturday April 10th, 2021  
**Date:** Tuesday, December 22, 2020 6:24:11 PM

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Hi Noga,

I hope you are doing well.

We have coordinated with Rye Recreation and settled on Saturday April 10th for the Little League Parade and Opening Ceremony. We all realize this will be pending any Covid Restrictions and expect it will be significantly different then in years past. Our goal is to put the date on the calendar, get the process started and decide how best to proceed as we get closer to the event.

I've put together the formal request in the note below and can follow up with any additional information you need.

Thanks for all your help and Happy Holidays,

Mark Howard

The Rye Little League has designated Saturday, April 10th, 2021 as Opening Day of the 63rd Little League Season.

We are planning to do what we have done for the past 62 years; a parade beginning at noon that originates at the Rye Train Station and ends at Grainger Field at Disbrow Park.

The parade will likely have upwards of 500 participants, including the Rye Little League, Rye Girls Sports League, marching bands, several vehicles and a variety of emergency vehicles (ambulance and fire trucks).

We respectfully request that you issue the League a permit to hold the parade on Saturday the 10th of April at noon and in addition, permission to reschedule for Sunday the 11th of April at noon in the event of rain on Saturday. We understand that the City's permission is conditioned upon the League furnishing a certificate evidencing \$1,000,000 liability insurance with the City of Rye named as additional insured and a hold harmless clause indemnifying the City against claims and judgments resulting from the use of City property.

The certificate is forthcoming.

Upon the City's approval, the assistance and cooperation of the City of Rye Police will be requested directly through the Police Commissioner.



# CITY COUNCIL AGENDA

DEPT.: Fire Department

DATE: December 22, 2020

CONTACT: Robert Falk, Commissioner of Public Safety

**AGENDA ITEM:** Resolution to declare Fire Department Ladder 26 surplus.

**FOR THE MEETING OF:**

January 6, 2021

**RYE CITY CODE,**

CHAPTER

SECTION

**RECOMMENDATION:** That the City Council adopt the following resolution:

**WHEREAS**, the City has been provided with a list of City equipment identified as being obsolete or has become obsolete during 2020, and,

**WHEREAS**, the Fire Department has recommended that said equipment be declared surplus, now, therefore, be it

**RESOLVED**, that said equipment is declared surplus, and, be it further

**RESOLVED**, that authorization is given to the City Comptroller to sell or dispose of said equipment in a manner that will serve in the best interests of the City.

**IMPACT:** ☐ Environmental ☒ Fiscal ☐ Neighborhood ☐ Other

**BACKGROUND:** On December 2<sup>nd</sup>, the Council resolved to repair Ladder 25. Furthermore, because of extensive electrical and other damage, Ladder 26 is unrepairable. As such, the City will use surplus parts to support repairs to Ladder 25. All unused scrap parts will be disposed of in accordance with City policy.



# CITY COUNCIL AGENDA

DEPT.: City Council

DATE: January 6, 2021

CONTACT: Mayor Josh Cohn

**AGENDA ITEM:** Appointment of the 2021 Deputy Mayor by the Mayor.

**FOR THE MEETING OF:**

January 6, 2021

**RYE CITY CODE,**

CHAPTER

SECTION

**RECOMMENDATION:** that the following resolution be adopted:

RESOLVED, that \_\_\_\_\_ be appointed the Deputy Mayor for a one-year term commencing January 1, 2021, to serve as Acting Mayor in the Mayor's absence.

**IMPACT:** ☐ Environmental ☐ Fiscal ☐ Neighborhood ☒ Other:

**BACKGROUND:** Section § C7-2, "Deputy Mayor" of the City Charter stipulates that "On or before the tenth day of January following his election, and within ten (10) days after any vacancy in the office of Deputy Mayor shall occur, the Mayor shall appoint a member of the Council as Deputy Mayor, to hold office as long as he remains such member and at the pleasure of the Mayor."



# CITY COUNCIL AGENDA

DEPT.: City Council

DATE: January 06, 2021

CONTACT: Mayor Josh Cohn

**AGENDA ITEM:** Designation of the City Council's Audit Committee by the Mayor.

**FOR THE MEETING OF:**

January 06, 2021

**RYE CITY CODE,  
CHAPTER  
SECTION**

**RECOMMENDATION:** that the following resolution be adopted:

RESOLVED, that two Council members be appointed to the City Council's Audit Committee for a one-year term commencing January 1, 2021.

**IMPACT:** ☐ Environmental ☒ Fiscal ☐ Neighborhood ☐ Other:

**BACKGROUND:** The Audit Committee was established at the January 19, 1977 City Council Meeting to facilitate Council participation in the City audits. The resolution stipulated that the Audit Committee consist of the Mayor and two Council members, appointed by the Mayor, to meet at least once yearly after completion of the independent audit.



# CITY COUNCIL AGENDA

DEPT.: City Council

DATE: January 6, 2021

CONTACT: Mayor Josh Cohn

**AGENDA ITEM:** Designation of the City Council Liaisons by the Mayor.

**FOR THE MEETING OF:**

January 6, 2021

**RECOMMENDATION:** That the Council approve the appointments as presented by the Mayor.

**IMPACT:** ☐ Environmental ☐ Fiscal ☐ Neighborhood ☒ Other:

**BACKGROUND:** Designation of the City Council Liaisons by the Mayor for the following Boards and Committees:

Audit Committee	Planning Commission
Board of Appeals	Recreation Commission
Board of Architectural Review	Rye City School Board
Boat Basin Commission	Rye Free Reading Room
Chamber of Commerce	Rye Golf Commission
Conservation Commission/Advisory Council	Rye Playland Advisory Committee
Emergency Medical Services	Rye Senior Advocacy Committee
Finance Committee	Rye Sustainability Committee
Flood Advisory Committee	Rye Town Park Commission
Human Rights Commission	Traffic & Pedestrian Safety Committee
Landmarks Advisory Committee	



# CITY COUNCIL AGENDA

DEPT.: City Manager's Office

DATE: January 6, 2021

CONTACT: Greg Usry, Interim City Manager

**ACTION:** Designation of the official City newspaper.

**FOR THE MEETING OF:**

January 6, 2021

**RYE CITY CODE,**

CHAPTER  
SECTION

**RECOMMENDATION:** That the Mayor and City Council designate the Journal News as the official City newspaper for purposes of publishing legal notices.

**IMPACT:** ☐ Environmental ☐ Fiscal ☐ Neighborhood ☒ Other:

**BACKGROUND:** The Rye City Charter requires that the Council designate a newspaper circulated regularly at least once a week in the city as the official newspaper of the city. A daily newspaper provides the City staff with the most flexibility in meeting notice deadlines. Each of the newspapers covering the City provides different types of coverage but working with a weekly paper is much more difficult in meeting notice deadlines and a monthly paper cannot meet the notice needs of the City.



# CITY COUNCIL AGENDA

DEPT.: City Manager's Office

DATE: January 06, 2021

CONTACT: Greg Usry, Interim City Manager

**ACTION:** Designation of the amounts of faithful performance bonds.

**FOR THE MEETING OF:**

January 06, 2021

**RYE CITY CODE,**  
CHAPTER  
SECTION

**RECOMMENDATION:** That the Mayor and City Council designate faithful performance bonds for the City Comptroller, City Clerk and City Marshal.

**IMPACT:** ☐ Environmental ☒ Fiscal ☐ Neighborhood ☐ Other:

**BACKGROUND:** Section § C23-3, "Surety bonds" of the City Charter stipulates that "The City Comptroller, City Clerk, City Judge, Acting City Judge, City Marshal and such other officers and employees as may be specified by the Council shall give bond for the faithful performance of their duties. The bond shall be in such sum and with such corporate sureties as may be approved by the Council. The premium of all such surety bonds shall be paid by the city."

Faithful performance bonds will be designated in the following amounts:

- |                     |             |
|---------------------|-------------|
| A. City Comptroller | \$1,000,000 |
| B. City Clerk       | \$ 500,000  |
| C. City Marshal     | \$ 100,000  |