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*Writer's Direct Dial Number: 585.987.2905*

*Writer's Direct Fax Number: 585.362.4623*

*Email: bbrugg@woodsoviatt.com*

May 1, 2025

Zoning Board of Appeals &  
Planning Board  
Village of Ballston Spa  
66 Front Street  
Ballston Spa, New York 12020

**Re: Proposed Tannery Commons Project  
125 Bath Street, Village of Ballston Spa  
Applications for Special Permit and Area Variances  
LETTER OF INTENT**

Dear Board Members,

This office has been retained to assist Tannery Commons, LLC, its principal Conifer Realty, LLC and its affiliates (“Conifer”) with the municipal approval process for their proposed redevelopment of the vacant industrial property at 125 Bath Street in the Village of Ballston Spa. This letter is submitted as part of the applications requesting approval of a special permit and certain area variances required for the proposed Tannery Commons project, as described below (the “Project”).

**Property Description**

The Tannery Commons project includes the proposed redevelopment of the 6.35 acre +/- vacant former tannery site fronting on Bath Street and situated along Gordon Creek. The site is blighted and consists of 5 vacant and obsolete former industrial buildings.

The property at issue is located in the Central Business District (CBD) in the Village of Ballston Spa. Adjacent neighboring zoning include R-1 to the north and west, R-2 to the east, and CBD and AD to the south. The property is not in the historic district or in any overlay district. The neighborhood is characterized by a mix of zoning and uses, with neighboring uses including residential to the north, Gordon Creek and commercial uses to the south, apartments to the east, and vacant Village land that includes a bike trail adjacent to the west, with Saratoga County Fairgrounds land further to the west.

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The property is in a walkable village setting with convenient access to a variety of businesses, services and recreation, and CDTA provides public transportation less than 400 yards from the property.

The existing buildings are vacant and not habitable. The site was put in the Brownfield program around 2013, with certain remediation required and completed. A certificate of completion was granted. Additional environmental conditions will be addressed as part of the Project in accordance with applicable regulations which serve to ensure safety during construction activities and occupancy of the Project. A letter from Labella summarizing the environmental condition and related documents will be submitted to the Village.

### **Project Description**

The current proposal is to redevelop the site with a development that includes a modern multiple family residential community, with a variety of amenities, and incorporating leasable space available for a complementary retail/commercial use to serve and support residents of the new development and the surrounding Village. The Project will breathe new life into a prominent distressed property, with a proposal designed to reflect and fit with the unique character and history of the former tannery and Village of Ballston Spa, as illustrated by the architectural elevations, and rendering prepared by TAT, the project architect. The Project has been designed with sensitivity to and to fit the neighborhood context, and to avoid and minimize any potential impacts.

Of the existing 5 buildings on the site, 4 are proposed to be demolished for the Project. The proposed development will include retention and adaptive reuse of one of the existing buildings and the construction of 3 new modern residential multifamily apartment buildings. The building to be retained is shown on the proposed site plan as Building 1, is located on Bath Street closest to Gordon Creek. Building 1 is a two-story building to be repurposed to include space for amenities to serve residents of the new multiple-family dwellings, such as a management office, fitness center, and community room, as well as approximately 8,400 square ft. +/- of commercial/retail space on two floors, for which a tenant(s) has not yet been identified.

Building 2 is a 3-story building with covered parking and lobby spaces on the first floor and residential apartments on floors two and three. Building 3 and Building 4 are five-story buildings with covered parking and lobby space on the first floor and residential apartments on floors two through five.

The new Tannery Commons buildings will include a total of 168 dwelling units, consisting of a mix of 1, 2 and 3 bedroom units, together with ground level parking and amenity spaces. The Project will have a mix of unit types, some with direct entry and some double-loaded corridors. The property is located in a Housing Opportunity Census Tract. The proposal will provide workforce housing, meaning housing affordable to people who work and live in and near Ballston Spa. The project financing will require income qualification and regulation of rents. Information regarding rents and income qualifications will be discussed during the review.

### **Developer**

Conifer is an experienced and well-known developer and operator of quality housing based out of Rochester, NY. Conifer is partnering with Shelter Resources, Inc., an affiliate of Blue Ridge Atlantic Development, which has similarly strong experience owning and operating housing communities like that proposed. The Project developers have built, owned, and operated thousands of units of quality housing in multiple states and have the expertise and resources required to successfully bring the Tannery Commons Project to fruition in Ballston Spa.

### **Municipal Approval Process**

The multiple-family dwellings use, as described above, requires special permit approval from the Zoning Board of Appeals (per Zoning Code Schedule A, part 1), a process which requires referral of the application to the Planning Board for its review prior to the Zoning Board holding its public hearing on the application, as well as certain area variances from the Zoning Board described below. The Project also requires site plan approval from the Planning Board.

### **Area Variances**

The following area variances are hereby requested for the Project:

**1. Zoning Code Schedule B- Additional height and stories:**

The maximum building height permitted in the CBD is 4 stories and 50 ft. Buildings 3 and 4 are 5 stories in height and exceed 50 ft. Building 3 has a height of 64' 1", Building 4 is 69' 7". An area variance is requested for the height and number of stories of buildings 3 and 4. In particular, a variance is requested to allow building 3 to have 1 additional story and exceed the permitted height by 14' 1", and for Building 4 to have 1 additional story and exceed the permitted height by 19' 7".

**2. Section 205-27A Transition requirement for district boundaries.**

Code requires the front setback to be the average of the required front yard setbacks of the zoning of the subject CBD parcel and the adjacent neighboring R-1 zoned property or 12.5 ft. (which is the average of 0 ft. required in the CBD and 25 ft. required in the R-1). While all new buildings in the Project will comply with Code, Building 1 is an existing building. A variance is requested to allow a front yard setback of 6.5 ft. in lieu of 12.5 ft., representing a variance of 6 ft. for Building 1. The distance of the building from the district line may obviate the need for the variance.

**3. Section 205-27B Transition requirements for district boundaries.**

Code requires that when the side or rear yard of a lot in a residential district abuts a side or rear yard of a lot in a non-residential district, as is the case at the proposed development's north and west property line, there shall be provided along these abutting rear or side lot lines in the nonresidential district a transitional yard of 100' or a transitional yard of 50' plus an opaque fence or evergreen plantings as deemed sufficient by the Village Planning

board to screen views between districts. A variance is requested along the north and west property lines to allow buildings, pavement and site improvements to be located within the transition yards, as shown on the site plan (some of which is existing condition).

**4. Section 205-55.2C provides that “to qualify as retail space in the Central Business District Zone, at least 80% of the total square footage of the ground floor of such structure must be dedicated to and be used for retail business usage.”**

The Applicant is working to secure a potential retail tenant(s) for the commercial/retail space. The amount of commercial/retail space provided on the ground floor of Building 1 is proposed to be approximately 4,000 +/- square ft. or 41% of the ground floor, such that an area variance is required.

**Special Permit**

We hereby request a special permit for the proposed multiple-family dwelling use as described above. As the Boards may know, a special permit use carries a favorable legal presumption of being permitted. The Courts have held that the “...*inclusion of the permitted use in the ordinance is tantamount to a legislative finding that the permitted use is in harmony with the general zoning plan and will not adversely affect the neighborhood...*” Retail Property Trust v. Board of Zoning Appeals of Town of Hempstead, 98 N.Y.2d 190, 746 N.Y.S.2d 662 (2002). Matter of North Shore Steak House v Board of Appeals of the Inc. Vil. of Thomaston, 30 NY2d 238 [1972]; Gordon & Jack v. Peterson 230 A.D. 2d 856 (2d Dept. 1996).

The multiple-family dwelling use as proposed satisfies the considerations set forth in the §205-72 of the Zoning Code applicable to special permits, as follows:

**(a) The use shall be of such location, size, and character that it will be in harmony with the appropriate and orderly development of the district in which it is situated and will not be detrimental to the orderly development of adjacent districts.**

The Project is designed as a single integrated development that improves the property in a manner which is in harmony with the neighborhood and advances the orderly development of the district, without detriment to adjacent districts.

The multiple-family dwellings are appropriate in location, size and character for the property, district, and neighborhood, with appropriate architecture and site plan used to provide a project which is in harmony with the location in the Village. The redevelopment will eliminate an existing distressed industrial complex, and replace the existing conditions with a quality neighborhood-friendly development and use. The Project provides for the remediation of environmental conditions which otherwise limit the potential for redevelopment of the property.

The new multifamily dwellings will provide modern quality housing affordable to and conveniently located to those who live and work in the area, and a new commercial/retail space to engage the Bath Street frontage and fit the Village neighborhood character. The nature of

the use, thoughtful architecture and quality site plan all contribute to and support the orderly development of the CBD zone where the site is located and the surrounding area.

Buildings placed along Bath Street enhance the streetscape and screen the interior of the site and the residential buildings set farther back in the site. Code compliant parking is provided and meets the needs of the Project. Surface parking is screened from view by buildings on Bath Street, with additional covered parking in buildings. The Project provides pedestrian connectivity within the Project and with the public sidewalk and trail. The proposed commercial/retail space is designed for pedestrian scale access and orientation to Bath Street.

The Project is designed to be in harmony with the surrounding area, and to avoid and minimize impact on neighbors. The closest neighbor is a residential neighbor to the north. Conditions for the neighbor will improve with the clean-up and redevelopment of the property. It should also be noted that certain conditions relative to the proximity of the northernmost driveway for the Project and the nearest building location, will remain largely the same. A solid fence will be provided for screening along the north property line with the neighbor. The site sits adjacent to Gordon Creek to the south and vacant land to the west, enhancing the view with an attractive project.

- (b) The location and size of the use, the nature and intensity of the operations involved in or conducted in connection therewith, its site layout and its relation to streets giving access to it shall be such that traffic to and from the use and the assembly of person in connection with it will not be hazardous or inconvenient to the neighborhood or conflict with the normal traffic of the neighborhood. In applying this standard, the Board will consider, among other things, convenient routes of pedestrian traffic, particularly children, relation to main traffic thoroughfares and to street and road intersections and the general character and intensity of development of the neighborhood.**

The proposed multiple-family dwellings will not significantly impact traffic, as confirmed by a Traffic Impact Study prepared by GPI for the Project. Traffic impacts were evaluated, with the Traffic Study concluding that *“Based on the traffic analysis performed, the existing roadway network and traffic control within the Village can adequately support the proposed development with negligible impact to traffic operations.”*

The site plan is designed to provide positive traffic circulation and two driveways for site ingress and egress. The residential development will be located in a mature walkable Village neighborhood, walkable to many services, with convenient routes for pedestrian traffic for children and others. The site plan includes sidewalks and trail throughout the development and access to the public sidewalk and neighboring trail. Access to a signalized intersection is located at Front Street. The nature and intensity of the proposed use is consistent with the mixed use character of the area. Other permitted and specially permitted uses are often more intense in nature and/or generate significantly more traffic and/or traffic safety conditions than the proposed multiple-family dwelling use. Furthermore, the Traffic Impact Study provides evidence confirming that adequate off street parking is provided for the Project. In addition, the

Traffic Impact Study reviewed the condition of Village roads and provides a recommended routing for construction vehicles which proposes to keep construction vehicles on the state highway system, except for Bath Street, and off of cross-roads between Bath Street and Route 50.

- (c) The location and height of buildings, the location, nature and height of walls and fences and the nature and extent of landscaping on the site shall be such that use will not hinder or discourage the proper development and use of the adjacent land and buildings or impair the value thereof.**

The special permit use includes quality architecture designed to draw from the character and history of the Village and a quality site plan that incorporates landscaping, retaining walls and a fence in appropriate locations. The Project was designed with sensitivity to neighbors and the community context. The development will not hinder or discourage the proper development or use of any adjacent property or impair its value. If anything, the proposed use will improve the condition of the property to the benefit of the broader area and neighboring properties.

In respect to the buildings, the architecture was designed to fit the site and neighborhood character, drawing from the context and history of the Village. The heights of building is appropriate for property, given the size of the property, surrounding uses, nature and proximity to neighboring uses, the quality architecture, and the building placement which uses lower buildings along the Bath Street frontage to soften and minimize views of the taller buildings. Variances are required for the number of stories and height of Buildings 3 and 4, as addressed further below.

A solid fence is proposed along the property line with the residential neighbor to the north. Appropriate and necessary site plan elements such as a retaining wall and landscaping are provided as part of the redevelopment.

### **Area Variances**

As discussed above, we are requesting a relatively modest number of area variances required for the Project. The proposal satisfies the factors to be considered by the Zoning Board as set forth in NY Village Law §7-712-b(3). In making its determination, the Zoning Board of Appeals shall consider the benefit to the applicant if the variance is granted against the detriment to the health, safety and welfare of the community by the granting of the variance.

The granting of the required variances for the Project outweighs any potential detriment. The benefit to the Applicant is to be able to develop the Project. At the same time, there is no detriment from the granting of the variances. Rather, the variances will benefit the health, safety and welfare of the neighborhood and community by allowing the redevelopment of a blighted site with a quality development that will improve the conditions of the property to the benefit of neighbors and the Village, addressing environmental conditions and replacing an obsolete eyesore with a neighborhood friendly Project and uses that serve the local community.

**(1) Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance.**

The variances are needed to improve the existing property condition and generate a Project that supports the character of the Village and neighborhood. The proposed development and uses are consistent with and will contribute to the walkable mixed-use village neighborhood. The improved conditions of the site will benefit nearby properties. The quality design and appropriate uses serve to ensure that the variances will not be detrimental to nearby properties.

The variances for building height will allow Buildings 3 and 4 to have one additional story and an incremental difference in height. The additional height and story will not have an adverse impact, as the height is mitigated by the placement of the buildings on the site, the large site of the site, use of attractive architecture, and the nature of neighboring properties. The lower buildings along Bath Street serve to screen and minimize the visibility of the taller buildings placed farther back on the site. At the same time, the buildings are attractive to view.

The variance for the front setback of Building 1, with a setback of 6.5 ft. in lieu of 12.5 ft. will have no impact because of its location next to the creek and distance from the district line to the north. The variance allows the existing building to be reused and incorporated into the Project.

The variance for the transition yard on the north and west side of the Project is needed for the Project, for the placement of Buildings 2 and 3, pavement, retaining wall, pedestrian walkway and other site improvements within the Code required transition zone. These conditions currently exist, with existing buildings, driveway and pavement in the required transition zones. The proposed variances will allow the site to be redeveloped and conditions improved, while placing buildings in appropriate locations. A 6 ft. fence is proposed to provide screening for the neighbor to the north. There is no neighbor to the west.

A variance is requested to allow Building 1 to have 41% (approximately 4,000 +/- square feet) of retail/commercial space on the ground floor where Code would require retail to occupy 80% of the ground floor. The variance will accommodate a neighborhood friendly retail user. Building 1 is an existing building situated with limited frontage on Bath Street, with the larger portion of the building oriented to the interior of the Project and Gordon Creek frontage. The retail space is provided in the most appropriate area of the ground floor for a retail use, the area with visibility and access to the public from Bath Street. Additional leasable space is proposed on the second floor. As portions of building 1 are farther away from Bath Street, the building will house amenities serving the residents of the property.

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

The variances are required for the Project. The Applicant has no other method available. Without the variances the Project cannot be developed. The height and transition zones are essential elements of the Project. The retail space variance is necessary to provide viable space for a potential retail user, while also providing amenity space required for a quality residential community.

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

The variances are not substantial in amount, nature or impact. The height variances for Buildings 3 and 4 will allow one additional story and less than 20 ft. in additional height to each of the two buildings, which is not substantial given the context of the large parcel size, screening provided by placement away from Bath Street behind Buildings 1 and 2, having no neighbor to the west or south, and improving the conditions and views of the site with quality architecture and design.

The variance for the front setback of Building 1 is not substantial in amount or nature of impact given that the building is existing in its current location, situated next to Gordon Creek, away from the transition line, and also has a small amount of building frontage on Bath Street.

The variances for the transition zones on the north and west are not substantial and allow improvement of existing conditions within the transition zones as part of the larger Project. There are currently buildings, pavement, an existing driveway, and other elements within the required transition zones. The variance will allow conditions to be improved and cleaned up, and allow an appropriate site plan that includes appropriate placement of buildings, pavement, walkways, retaining wall, and other site improvements within the transition zones. The site is adjacent to vacant Village land to the west. To the north, an existing building and existing driveway are in the transition zone. The elements in the transition zone will be largely the same for the project. The existing driveway will be used to access the development. A solid fence is proposed to provide screening to the adjacent neighbor to the north. Given the existing conditions and neighborhood context, the variance is not substantial.

The variance for the amount of retail space is not substantial. The variance will allow an appropriate portion of the ground floor of Building 1 to be occupied by a retail use, given the orientation and limited street frontage of the building. The variance will allow a retail use to be placed in the part of the building along the Bath Street frontage for pedestrian access and visibility from the street. As the building is largely oriented towards the interior of the Project, the western portion of the building is more suitable to serve as amenity space for residents, such as the leasing office. Additional commercial space is provided on the second floor.

**(4) Whether the proposed variance would have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.**

The variances will not adversely impact the physical and environmental conditions in the neighborhood. Rather, the variances are required for the Project to improve the physical and environmental conditions of the site by demolishing vacant obsolete buildings, addressing the environmental conditions, repurposing the site, constructing three attractive new buildings, and by incorporating positive design to improve the overall condition of the property and enhance the larger neighborhood.

The variances for the proposed heights and transition zones will improve the condition of the property with attractive buildings and site improvements. The variance for the amount of retail space on the ground floor of Building 1 will contribute to the adaptive rehabilitation of Building 1 as part of the Project.

**(5) Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of Appeals, but shall not necessarily preclude the granting of the area variance.**

The variances are not self-created but arise from the unique site conditions and requirements to redevelop the site, as well as the need for housing and requirements for viable first floor retail space.

The requested variances are the minimum necessary for the Project. Accordingly, we request that the variances be granted to allow the Project to be developed as proposed.

**Next Steps**

We respectfully request the granting of the special permit for the proposed multiple family dwellings and the area variances, as described above. We look forward to working with the Village to advance the applications through your approval process.

We have scheduled an initial public meeting for May 21 to engage the public and introduce the Tannery Commons project. In respect to the Village process, we anticipate that the next step would be to refer the special permit application to the Planning Board for its review before the Zoning Board holds its public hearing, as provided in the Zoning Code. We also would anticipate that the Planning Board will start the site plan review and start the SEQRA process by declaring its intent to be lead agency for a coordinated review.

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We look forward to presenting the applications to you at your next available Zoning Board of Appeals and Planning Board meetings. In the interim, please let us know if there are any questions or you require additional information.

Thank you for your consideration.

Very truly yours,

WOODS OVIATT GILMAN LLP

A handwritten signature in cursive script, appearing to read "Betsy D. Brugg".

Betsy D. Brugg

Please direct responses to the Rochester Office