

**NASSAU COUNTY INDUSTRIAL  
DEVELOPMENT AGENCY**

**APPLICATION FOR FINANCIAL ASSISTANCE**  
**(Straight Lease)**

**APPLICATION OF:**

- (1) Amber Court Assisted Living, LLC,
- (2) Baruch 1050 Realty LLC, and
- (3) Regency Plaza Realty Associates, LLC

**APPLICANT NAME**

Please respond to all questions in this Application for Financial Assistance (the "Application") by, as appropriate:

- filling in blanks;
- checking the applicable term(s);
- attaching additional text (with notation in Application such as "see Schedule H, Item # 1", etc.); or
- writing "N.A.", signifying "not applicable".

All attachments responsive to questions found in this Application should be clearly labeled and attached as Schedule H to the Application. If an estimate is given, enter "EST" after the figure. One signed original and 9 copies of the Application (including all attachments) must be submitted.

The following amounts are payable to the Nassau County Industrial Development Agency (the "Agency") at the time this Application is submitted to the Agency: (i) a \$1,000 non-refundable application fee (the "Application Fee"); (ii) a \$3,500 expense deposit for the Agency's Transaction Counsel fees and expenses (the "Counsel Fee Deposit"), and (iii) a \$[2,500] expense deposit for the cost/benefit analysis with respect to the project contemplated by this Application (the "Cost/Benefit Deposit"). The Application Fee will not be credited against any other fees or expenses which are or become payable to the Agency in connection with this Application or the project contemplated herein (the "Project"). In the event that the subject transaction does not close for any reason, the Agency may use all or any part of the Counsel Fee Deposit and the Cost/Benefit Deposit to defray the cost of Transaction Counsel fees and expenses and/or the cost of obtaining a cost/benefit analysis with respect to the Project. In the event that the subject transaction does close, the Counsel Fee Deposit and the Cost/Benefit Deposit shall be credited against the applicable expenses incurred by the Agency with respect to the Project.

**Every signature page comprising part of this Application must be signed by the Applicant or this Application will not be considered complete or accepted for consideration by the Agency.**

Information provided herein may be subject to disclosure under the New York Freedom of Information Law (New York Public Officers Law § 84 et seq.) ("FOIL"). If the Applicant believes that a portion of the material submitted with this Application is protected from disclosure under FOIL, the Applicant should mark the applicable section(s) or page(s) as "confidential" and state the applicable exception to disclosure under FOIL.

July 9, 2010  
**DATE**

**PART I. APPLICANT**

A. APPLICANT FOR FINANCIAL ASSISTANCE (If more than one applicant, copy application and complete for each applicant):

Name: (1) Amber Court Assisted Living, LLC; (2) Baruch 1050 Realty LLC;  
(3) Regency Plaza Realty Associates, LLC

Address: 3400 Brush Hollow Road, a/k/a 25 Shames Drive, Westbury, New York

Primary  
Contact: Raphael Weiss

Phone: 516.334.3838 Fax: 516.780.7162

E-Mail: rweiss@ambercourtal.com

NY State Dept. of  
Labor Reg #: \_\_\_\_\_ Federal Employer ID #:

NAICS Code #: \_\_\_\_\_

B. BUSINESS TYPE (Check applicable status. Complete blanks as necessary):

Sole Proprietorship \_\_\_\_ General Partnership \_\_\_\_ Limited Partnership \_\_\_\_

Limited Liability Company X Privately Held Corporation \_\_\_\_

Publicly Held Corporation \_\_\_\_ Exchange listed on \_\_\_\_\_

Not-for-Profit Corporation \_\_\_\_

Income taxed as: Subchapter S \_\_\_\_ Subchapter C \_\_\_\_  
501(c)(3) Corporation \_\_\_\_ Partnership X

State and Year of Incorporation/Organization: (1) NY-2006; (2) NY-2007; (3) NY-1998

Qualified to do Business in New York: Yes X No \_\_\_\_ N/A \_\_\_\_

C. ANY ENTITY PROPOSED TO BE A USER OF THE PROJECT:

Name: Regency Plaza Realty Assoc., LLC; Amber Court Assisted Living LLC

Relationship to Applicant: Landlord/Tenant

D. APPLICANT COUNSEL (subject to Agency approval):

Firm name: Forchelli, Curto et al  
Address: The Omni  
333 Earle Ovington Boulevard  
Suite 1010  
Uniondale, New York 11553  
Primary  
Contact: Frank Davis  
Phone: 516.248.1700  
Fax: 516.248.1729  
E-Mail: fdavis@ForchelliLaw.com

E. Principal stockholders, members or partners, if any (i.e., owners of 10% or more of equity/voting rights in Applicant):

Name	Percentage owned
<u>Alfred Schonberger</u>	
<u>Judith Schonberger</u>	
<u>Raphael Weiss</u>	
<u>Robert Snyder</u>	

F. If any of the persons described in the response to the preceding Question, or a group of said persons, owns more than a 50% interest in the Applicant, list all other entities which are related to the Applicant by virtue of such persons having more than a 50% interest in such entities:

N/A

- G. Is the Applicant related to any other entity by reason of more than 50% common ownership? If YES, indicate name of related entity and relationship:

YES \_\_\_\_

NO X

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- H. List parent corporation, sister corporations and subsidiaries, if any:

N/A

- I. Is the Applicant (including any parent company, subsidiary or related entity or person) or any principal(s) of the Applicant or its related entities involved in any litigation or aware of any threatened litigation that would have a material adverse effect on the Applicant's financial condition or the financial condition of said principal(s)? If YES, attach details.

YES \_\_\_\_

NO X

- J. Has the Applicant (or any parent company, subsidiary or related entity or person) or any principal(s) of the Applicant or its related entities, or any other business or concern with which such entities, persons or principal(s) have been connected, ever been involved, as debtor, in bankruptcy, creditors rights or receivership proceedings or sought protection from creditors? If YES, attach details.

YES \_\_\_\_

NO X

- K. Has the Applicant (or any parent company, subsidiary or related entity or person) or any principal(s) of the Applicant or its related entities, ever been charged with or convicted of any felony or misdemeanor (other than minor traffic offenses), or have any such related persons or principal(s) held positions or ownership interests in any firm or corporation charged or convicted of a felony or misdemeanor (other than minor traffic offenses)? If YES, attach details.

YES \_\_\_\_

NO X

- L. Has the Applicant (or any parent company, subsidiary or related entity or person) or any principal(s) of the Applicant or its related entities, or any other business or concern with which such entities, persons or principal(s) have been connected, been cited for (or is there pending proceeding or investigation with respect to) a violation of federal, state or local laws or regulations with respect to labor practices, hazardous wastes, environmental pollution, taxation, or other operating practices? If YES, attach details.

YES \_\_\_\_

NO X

- M. Is the Applicant (or any parent company, subsidiary or related entity or person) or any principal(s) of the Applicant or its related entities, or any other business or concern with which such entities, persons or principal(s) have been connected, delinquent or have any of the foregoing persons or entities been delinquent on any New York State, federal or local tax obligations within the past five (5) years? If YES, attach details.

YES \_\_\_\_

NO X

- N. Complete the following information for principals (including, in the case of corporations, officers and members of the board of directors and, in the case of limited liability company, members and managers) of the Applicant:

<u>Name</u>	<u>Title</u>	<u>Other Business Affiliations</u>
<u>Alfred Schonberger</u>	<u>Member</u>	_____
<u>Judith Schonberger</u>	<u>Member</u>	_____
<u>Raphael Weiss</u>	<u>Member</u>	_____
<u>Robert Snyder</u>	<u>Member</u>	_____

Do any of the foregoing principals hold elected or appointive public positions? If YES, attach details.

YES \_\_\_\_

NO X

Are any of the foregoing principals employed by any federal, state or local municipality or any agency, authority, department, board, or commission thereof or any other governmental or quasi-governmental organization?

YES \_\_\_\_

NO X

- O. Operation at existing location(s) (Complete separate Section O for each existing location):

1. (a) Location: 3400 Brush Hollow Road

(b) Number of Employees: Full-Time: 93 Part-Time: 2

(c) Annual Payroll, excluding benefits: \$2,371,614

(d) Type of operation (e.g. manufacturing, wholesale, distribution)  
and products or services: Assisted Living for Seniors

(e) Size of existing facility real property  
(i.e., acreage of land): +/- 3.14 acres

(f) Buildings (number and square footage of each): 1 bldg., 68,083 sq. ft.

(g) Applicant's interest in the facility.

FREE TITLE (i.e. own) ☒\* LEASE OTHER (describe below)

\*Owner is Regency Plaza Realty (lots 1048 and 970), occupant is Amber Court Assisted Living - there is common ownership

(h) If Applicant leases, state annual rent and lease expiration date: To Be Provided

2. If any of the facilities described above are located within the State of New York, is it expected that any of the described facilities will be closed or be subject to reduced activity? If YES, complete the attached Anti-Raiding Questionnaire (Schedule D).

YES ☐

NO ☒

- P. Has the Applicant considered moving to another state or another location within New York State? If YES, explain circumstances.

YES ☐

NO ☒

- Q. Does any one supplier or customer account for over 50% of Applicant's annual purchases or sales, respectively? If YES, attach name and contact information for supplier and/or customer, as applicable:

YES ☐

NO ☒

- R. Does the Applicant (including any related entity or person) or any principal(s) of the Applicant or its related entities, or any other business or concern with which such entities, persons or principal(s) have been connected, have any contractual or other relationship with the Agency or the County of Nassau? If YES, attach details.

YES ☒

NO ☐

The existing facility has contracted with the Nassau County DSS to provide Assisted Living Services but is reimbursed through Medicaid

- S. Attach a brief history of the Applicant and its business/operations.  
The Applicant purchased the former Regency Adult Home in July 2000 and did a complete renovation of the premises creating a beautiful assisted living community and is committed in the existing operations of the 97 units/232 beds to provide 120 of those

beds services for the indigent Medicaid eligible population and is able to bill Medicaid for those services with the specialized ALP license from the NYS DOH. By adding the proposed additional building, the NYS DOH will permit care for an additional 60 people on Medicaid in the existing building. The owners have been operating AL facilities in NYS since 1967 and currently own three additional properties (2 in NY and 1 in NJ). See "Company Profile" at Schedule H.

By signing this Application, the Applicant authorizes the Agency to obtain credit reports and other financial background information and perform other due diligence on the Applicant and/or any other entity or individual related thereto, as the Agency may deem necessary to provide the requested financial assistance.



## PART II. PROPOSED PROJECT

A. Description of proposed Project (check all that apply):

- X New Construction
- X Addition to Existing Facility
- X Renovation of Existing Facility
- ☐ Acquisition of Facility
- X New machinery and equipment
- ☐ Other (specify): \_\_\_\_\_

B. Briefly describe the proposed Project, the reasons why the Project is necessary to the Applicant and why the Agency's financial assistance is necessary, and the effect the Project will have on the Applicant's business or operations:

The proposed project will consist of maintaining the existing facility and construction of a new two-story and cellar addition comprised of 22 Special Needs ALR beds on the first floor and 22 Enhanced ALR beds on the second floor. The existing facility consists of a one two-story building consisting of 55,006 square feet; with the addition of 29,383 square feet, the total facility will consist of 84,389 square feet; and will require the demolition of an adjacent one-story catering hall structure. The Project will include the creation of an outdoor recreation space and site work to reconfigure a parking area along with new curbs and landscaping. Without adequate financial support requested from the IDA, this project would not be economically viable.

C. If the Applicant is unable to obtain financial assistance for the Project, what will be the impact on the Applicant and Nassau County? Would the Applicant proceed with the Project without Agency financial assistance? Describe.

This project would not be feasible without the help of financial assistance from the IDA. The Applicant would not proceed without the Agency's assistance. Without the completion of the Project, dozens of the County's more indigent seniors would not have a place to be cared for and will end up utilizing more costly Skilled Nursing Home services unnecessarily.

D. Location of Project (attach map showing the location):

Street Address:

3400 Brush Hollow Road/25 Shames Drive

City/Village(s):

Westbury

Town(s):

Town of Oyster Bay

School District(s):

Jericho

Section: 11 Block: B Lot: 1050 (owned by Baruch 1050), 970, 1048 (both owned by Regency Plaza Realty Associates, LLC)

Census Tract Number: \_\_\_\_\_

If exact street address is not available, please provide a survey and the most precise description available. Please See Attached Site Plan at Schedule H

- E. Describe the present use of the Project site: Vacant Catering Hall (on lot 1050)
- F. (a) What are the current real estate taxes on the Project site? (If amount of current taxes is not available, provide assessed value for each):

Land: \$ \_\_\_\_\_ Building(s): \$ \_\_\_\_\_ Total Assessment: \$10,940

- (b) Are tax certiorari proceedings currently pending with respect to the Project real property? If YES, attach details including copies of pleadings, decisions, etc.

YES    

NO X

- G. Describe Project ownership structure (*i.e.*, Applicant or other entity):

Baruch 1050 Realty owns lot 1050 (the lot where the existing catering facility will be demolished and where the new addition will be built) and will lease to Amber Court Assisted Living; Regency Plaza Realty Associates owns lot 970; Lot 1048 (where the existing facility is located) is owned by Regency Plaza Realty Associates and presumably will be included in the lease with Amber Court.

- H. To what purpose will the building or buildings to be acquired, constructed or renovated be used by the Applicant? (Include description of goods to be sold, products to be manufactured, assembled or processed and services to be rendered.)

To provide Assisted Living services for the Elderly.

- I. If any space in the Project is to be leased to or occupied by third parties, or is currently leased to or occupied by third parties who will remain as tenants, provide the names and contact information for each such tenant, indicate total square footage of the Project to be leased to each tenant, and describe proposed use by each tenant:

N/A

- J. Provide, to the extent available, the information requested, in Part I, Questions A, B, E and N, with respect to any party described in the preceding response.

N/A

- K. List principal items or categories of equipment to be acquired as part of the Project:

Raw Building Materials, Furniture, room furnishings, small kitchen appliances

L. Will Project meet zoning/land use requirements at proposed location?

YES X

NO \_\_\_\_

1. Describe present zoning/land use: Light Industrial
2. Describe required zoning/land use, if different: Special Use permit
3. If a change in zoning/land use is required, please provide details/status of any request for change of zoning/land use requirements:

To Be Provided

M. Does the Applicant, or any related entity or person, currently hold a lease or license on the Project site? If YES, please provide details and a copy of the lease/license.

YES \_\_\_\_

NO X

N. Does the Applicant, or any related entity or person, currently hold fee title to (i.e. own) the Project site?

YES X\*

NO \_\_\_\_

\*Applicant owns all 3 lots (970, 1048, and 1050); The following information is for lot 1050 where the Addition will be constructed.

If YES, indicate:

- (a) Date of purchase: July 2000
- (b) Purchase price: \$600,000
- (c) Balance of existing mortgage, if any: \$0
- (d) Name of mortgage holder: N/A
- (e) Special conditions: \_\_\_\_\_

If NO, indicate name of present owner of Project site: \_\_\_\_\_

O. Does the Applicant or any related person or entity have an option or a contract to purchase the Project site and/or any buildings on the Project site?

YES \_\_\_\_

NO X

If YES, attach copy of contract or option and indicate:

- (a) Date signed: \_\_\_\_\_
- (b) Purchase price: \$ \_\_\_\_\_
- (c) Closing date: \_\_\_\_\_

Is there a relationship legally or by virtue of common control or ownership between the Applicant (and/or its principals) and the seller of the Project (and/or its principals)?  
If YES, describe:

YES \_\_\_\_\_

NO X

- P. Will customers personally visit the Project site for either of the following economic activities? If YES with respect to either economic activity indicated below, complete the attached Retail Questionnaire (Schedule E).

Retail Sales: YES \_\_\_\_\_ NO X Services: YES X NO \_\_\_\_\_

- Q. Describe the social and economic conditions in the community where the Project site is or will be located and the impact of the proposed Project on the community (including impact on infrastructure, transportation, fire and police and other government-provided services):

[To Be Provided]

- R. Identify the following Project parties (if applicable):

Architect: David Mammina Architects, 241 Rushmore Ave., Carle Place, NY 11514  
Engineer: undecided  
Contractors: undecided

- S. Will the Project be designed and constructed to comply with Green Building Standards? (if YES, describe the LEED green building rating that will be achieved):

YES \_\_\_\_\_

NO X

But we will try to the best of our ability to reach the best environmental standard we can in keeping in mind with budgetary constraints. We are long term owners who understand and value the long term savings and effect of being as "Green" as possible

- T. Is the proposed Project site located on a Brownfield? (if YES, provide description of contamination and proposed remediation)

YES \_\_\_\_

NO X**PART III. PROJECT COSTS**

A. Provide an estimate of cost of all items listed below:

	<u>Item</u>	<u>Cost</u>
1.	Land Acquisition	\$600,000
2.	Building Acquisition	\$0
3.	Construction or Renovation	\$2,782,400
4.	Site Work	\$250,000
5.	Infrastructure Work	\$_____
6.	Engineering Fees	\$146,280
7.	Architectural Fees	\$365,700
8.	Applicant's Legal Fees	\$511,980
9.	Financial Fees (incl. lender legal fees)	\$231,600
10.	Other Professional Fees	\$_____
11.	Furniture, Equipment & Machinery	\$712,040
12.	Other Soft Costs (describe)	\$_____
13.	Other (describe)	\$_____
	Total	\$5,600,000

B. Source of Funds for Project Costs:

a.	Bank Financing:	\$_____
b.	Public Financing	\$_____
c.	Tax Exempt Bonds	\$_____
d.	Taxable Bonds	\$_____
e.	Equity	\$5,600,000

TOTAL \$5,600,000

C. Have any of the above costs been paid or incurred (including contracts of sale or purchase orders) as of the date of this application? If YES, describe particulars on a separate sheet.

YES X

NO \_\_\_\_

The land has already been purchased.

- D. Has the Applicant made any arrangement for the provision of third party financing? If YES, indicate with whom (subject to Agency approval).

YES X

NO     

There will be third party financing through FNMA.

#### **PART IV. COST/BENEFIT ANALYSIS**

- A. If the Applicant presently operates in Nassau County, provide the current annual payroll, excluding benefits. Estimate payroll, excluding benefits, in First Year and Second Year after completion of the Project.

	<u>Present</u>	<u>First Year</u>	<u>Second Year</u>
Full-time:	\$2,371,614	\$2,659,795	\$3,221,852
Part-time:	n/a	n/a	n/a
Seasonal:	n/a	n/a	n/a
Total Annual Payroll:	\$2,371,614	\$2,659,795	\$3,221,852

✓ What is the average salary of employees presently employed by the Applicant in Nassau County? \$26,934

✓ What is the estimated average salary of the jobs to be created by the Applicant upon completion of the Project? \$33,000

Please note that the Agency may utilize the foregoing employment projections and the projections set forth in Schedule C, among other things, to determine the financial assistance that will be offered by the Agency to the Applicant. The Applicant acknowledges that the transaction documents may include a covenant by the Applicant to retain the number of jobs, types of occupations and amount of payroll with respect to the Project set forth in this Application.

- B. (i) Does the Applicant intend to employ new additional employees at the proposed Project site, or will Applicant transfer current employees from existing location(s)? If YES, describe, including the number of new employees to be hired during the year (a) starting with the date of commencement of operations (b) starting with the first anniversary of the commencement of operations and (c) starting with the second anniversary of the commencement of operations. If NO, please describe the number of current employees to be transferred and the location from where such employees would be transferred:

YES X

NO \_\_\_\_

Will hire 23 new employees to provide services to the additional 44 residents

(ii) What percentage of the jobs existing or to be created pay an amount higher than the Nassau County living wage (as determined by Nassau County from time to time):

N/A

(iii) Describe the number of estimated full time equivalent construction jobs to be created as a result of undertaking the project, to the extent any:

20

C. What, if any, is the anticipated increase in the dollar amount of production, sales or services rendered as a result of the Project?

20%

D. Describe, if applicable, other benefits to the County anticipated as a result of the Project, including a projected annual estimate of additional sales tax revenue generated, directly and indirectly, as a result of undertaking the project:

Completion of the Project will allow the County's indigent seniors to have a place to be cared for and will allow them to avoid paying for more costly Skilled Nursing Home services unnecessarily.

E. Costs to the County and affected municipalities:

Estimated Value of Sales Tax Exemption: \$416,156

Estimated Value of Mortgage Tax Exemption: \$0

Estimated Property Tax Exemption: \$2,635,974 (30 Year PILOT)

Existing Property Tax paid on the Land and/or Building: \$ 642,397.62

Estimated new Real Property Tax Revenue if the Project did **not** receive Real Property Tax exemption: \$ [TBD]

Estimated new Real Property Tax Revenue if the Project does receive Real Property Tax exemption: \$ [TBD]

## PART V. PROJECT CONSTRUCTION SCHEDULE

A. Has construction work on the Project begun? If YES, indicate the percentage of completion:

- |    |                               |          |             |                |
|----|-------------------------------|----------|-------------|----------------|
| 1. | (a) Site clearance            | YES ____ | NO <u>X</u> | ____% complete |
|    | (b) Environmental Remediation | YES ____ | NO <u>X</u> | ____% complete |
|    | (c) Foundation                | YES ____ | NO <u>X</u> | ____% complete |
|    | (d) Footings                  | YES ____ | NO <u>X</u> | ____% complete |
|    | (e) Steel                     | YES ____ | NO <u>X</u> | ____% complete |
|    | (f) Masonry                   | YES ____ | NO <u>X</u> | ____% complete |
|    | (g) Interior                  | YES ____ | NO <u>X</u> | ____% complete |
|    | (h) Other (describe below):   | YES ____ | NO <u>X</u> | ____% complete |

2. If NO to all of the above categories, what is the proposed date of commencement of construction, renovation or acquisition of the Project?

Spring/Summer 2011

B. Provide an estimate of time schedule to complete the Project and when the first use of the Project is expected to occur (attach additional sheet if necessary):

End of 2012



## **PART VI. ENVIRONMENTAL IMPACT**

- A. What is the expected environmental impact of the Project? (Complete the attached Environmental Assessment Form (Schedule G)).

Please See Schedule G.

- B. Is an environmental impact statement required by Article 8 of the N.Y. Environmental Conservation Law (i.e., the New York State Environmental Quality Review Act)?

YES \_\_\_\_\_

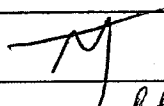
NO X

- C. Please be advised that the Agency may require at the sole cost and expense of the Applicant the preparation and delivery to the Agency of an environmental report in form and scope satisfactory to the Agency, depending on the responses set forth in the Environmental Assessment Form. If an environmental report has been or is being prepared in connection with the Project, please provide a copy.

- D. The Applicant authorizes the Agency to make inquiry of the United States Environmental Protection Agency, the New York State Department of Environmental Conservation or any other appropriate federal, state or local governmental agency or authority as to whether the Project site or any property adjacent to or within the immediate vicinity of the Project site is or has been identified as a site at which hazardous substances are being or have been used, stored, treated, generated, transported, processed, handled, produced, released or disposed of. The Applicant will be required to secure the written consent of the owner of the Project site to such inquiries (if the Applicant is not the owner), upon request of the Agency.

THE UNDERSIGNED HEREBY CERTIFIES that the answers and information provided above and in any statement attached hereto are true, correct and complete.

Name of  
Applicant: \_\_\_\_\_

Signature:  \_\_\_\_\_

Name: \_\_\_\_\_ RAPHAEEL WEISS

Title: \_\_\_\_\_ member

Date: \_\_\_\_\_ 7/7/10

Sworn to before me this \_\_\_\_\_  
day of \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
Notary Public

**RULES AND REGULATIONS OF THE NASSAU COUNTY  
INDUSTRIAL DEVELOPMENT AGENCY**

The Nassau County Industrial Development Agency (the "Agency"), in order to better secure the integrity of the projects it sponsors, declares that it is in the public interest (i) to ensure the continuity of such projects and the jobs created by such projects, (ii) to prevent the conversion of the use of the premises upon which a sponsored project is to be constructed or renovated and (iii) to limit and prevent unreasonable profiteering or exploitation of a project, and does hereby find, declare and determine as follows:

**FIRST:**

Upon the approval of a sponsored project, the Agency shall take title to, or acquire a leasehold or other interest in, all premises upon which an Agency sponsored project is to be constructed or renovated, and shall lease, sublease, license, sell or otherwise transfer the premises to the Applicant for a term to be determined by the Agency.

At such time as, among other things, the Applicant fails to retain or create the jobs as represented in the Application or changes the use of the project or ownership of the project or the Applicant during the life of the project in a manner inconsistent with the Application, and such employment default or change of use or ownership does not meet with the prior written approval of the Agency, a recapture of benefits may be required to be paid by the Applicant to the Agency. The amount and sufficiency (with respect to a particular applicant) of the applicable recapture of benefits payment shall be determined by the Agency and shall be set forth in the straight lease documents.

**SECOND:**

At such time as a proposed Project is reviewed, the members of the Agency must disclose any blood, marital or business relationships they or members of their families have or have had with the Applicant (or its affiliates). The Applicant represents that no member, manager, principal, officer or director of the Applicant has any such relationship with any member of the Agency (or any member of the family of any member of the Agency).

**THIRD:**

All applicants must disclose whether they have been appointed, elected or employed by New York State, any political division of New York State or any other governmental agency.

**FOURTH:**

All proposed lenders, title companies and their respective attorneys must be satisfactory to and approved in writing by the Agency.

Understood and Agreed to:

Name of  
Applicant: \_\_\_\_\_

By: \_\_\_\_\_  
Name/Title: \_\_\_\_\_

**CERTIFICATION AND AGREEMENT  
WITH RESPECT TO FEES AND COSTS**

The undersigned deposes and says: that I am an authorized representative of the Applicant named in the attached application for financial assistance ("Application") and that I hold the office specified below my signature at the end of this Certification and Agreement, that I am authorized and empowered to deliver this Certification and Agreement and the Application for and on behalf of the Applicant, that I am familiar with the contents of said Application (including all schedules and attachments thereto), and that said contents are true, correct and complete to my knowledge. Capitalized terms used but not otherwise defined in this Certification and Agreement shall have the meanings assigned to such terms in the Application.

The grounds of my belief relative to all matters in the Application that are not based upon my own personal knowledge are based upon investigations I have made or have caused to be made concerning the subject matter of this Application, as well as upon information acquired in the course of my duties and from the books and records of the Applicant.

As an authorized representative of the Applicant, I acknowledge and agree on behalf of the Applicant that the Applicant hereby releases the Nassau County Industrial Development Agency, its members, officers, servants, attorneys, agents and employees (collectively, the "Agency") from, agrees that the Agency shall not be liable for and agrees to indemnify, defend (with counsel selected by the Agency) and hold the Agency harmless from and against any and all liability, damages, causes of actions, losses, costs or expenses incurred by the Agency in connection with: (A) examination and processing of, and action pursuant to or upon, the Application, regardless of whether or not the Application or the financial assistance requested therein are favorably acted upon by the Agency, (B) the acquisition, construction and/or installation of the Project by the Agency, and (C) any further action taken by the Agency with respect to the Project; including, without limiting the generality of the foregoing, (i) all fees and expenses of the Agency's general counsel, transaction counsel, economic development consultant and independent tax assessor (if deemed necessary or advisable by the Agency), and (ii) all other expenses incurred by the Agency in defending any suits, actions or proceedings that may arise as a result of any of the foregoing. If, for any reason whatsoever, the Applicant fails to conclude or consummate necessary negotiations or fails within a reasonable or specified period of time to take reasonable, proper or requested action or withdraws, abandons, cancels, or neglects the Application or is unable to secure third party financing or otherwise fails to conclude the Project, then upon presentation of an invoice by the Agency, its agents, attorneys or assigns, the Applicant shall pay to the Agency, its agents, attorneys or assigns, as the case may be, all fees and expenses reflected in any such invoice.

As an authorized representative of the Applicant, I acknowledge and agree on behalf of the Applicant that each of the Agency's general counsel, transaction counsel, economic development consultant and independent tax assessor is an intended third-party beneficiary of this Certification and Agreement, and that each of them may (but shall not be obligated to) enforce the provisions of the immediately preceding paragraph, whether by lawsuit or otherwise, to collect the fees and expenses of such party or person incurred by the Agency (whether or not first paid by the Agency) with respect to the Application.

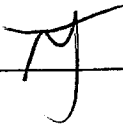
Upon successful closing of the "straight lease" transaction, the Applicant shall pay to the Agency an administrative fee set by the Agency (which amount is payable at closing) in accordance with the following schedule:

- (A) Six-tenths (6/10) of one percent (1%) for the first twenty million dollars (\$20,000,000) of total project costs and, if applicable, two-tenths (2/10) of one percent (1%) for any additional amounts in excess of twenty million dollars (\$20,000,000) of total project costs.
- (D) General Counsel Fee – One-tenth (1/10) of one percent (1%) of total project costs, with a minimum fee of \$2,000.

- (E) Two Thousand Five Hundred Dollars (\$2,500) closing compliance fee payable at closing and One Thousand Dollars (\$1,000) per year (or part thereof) administrative fee, payable in advance, at the closing for the first year (or part thereof) and on January 1st of each year for the term of the financing. The annual service fee is subject to periodic review and may be adjusted from time to time in the discretion of the Agency.
- (F) Refinancings – The Agency fee shall be determined on a case-by-case basis.
- (G) Assumptions – The Agency fee shall be determined on a case-by-case basis.
- (H) Modifications – The Agency fee shall be determined on a case-by-case basis.

Transaction counsel fees and expenses are payable at closing and are based on the work performed in connection with the Project.

Upon the termination of the Project, Applicant agrees to pay all costs in connection with any conveyance by the Agency to the Applicant of the Agency's interest in the Project and the termination of all related Project documents, including the fees and expenses of the Agency's general counsel, transaction counsel, and all applicable recording, filing or other related fees, taxes and charges.

Name   
Title: Raphael Woss  
member

Sworn to before me this \_\_\_\_\_  
day of \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
Notary Public

---

TABLE OF SCHEDULES:

<u>Schedule</u>	<u>Title</u>	<u>Complete as Indicated Below</u>
A.	Intentionally omitted	
B.	New York State Financial and Employment Requirements for Industrial Development Agencies	All applicants
C.	Guidelines for Access to Employment Opportunities	All applicants
D.	Anti-Raiding Questionnaire	If Applicant checked "YES" in Part I, Question Q.2. of Application
E.	Retail Questionnaire	If Applicant checked "YES" in Part II, Question P of Application (See Page 11)
F.	Applicant's Financial Attachments, consisting of:	All applicants
	1. Applicant's audited financial statements for the last two fiscal years (unless included in Applicant's annual reports).	
	2. Applicant's annual reports (or Form 10-K's) for the two most recent fiscal years.	
	3. Applicant's quarterly reports (Form 10-Q's) and current reports (Form 8-K's) since the most recent Annual Report, if any.	
	4. In addition, attach the financial information described above in items F1, F2, and F3 of any anticipated Guarantor of the proposed transaction, if different than the Applicant, including the personal financial statement of any anticipated Guarantor that is a natural person.	
	5. Dun & Bradstreet report.	
G.	Environmental Assessment Form	All applicants
H.	Other Attachments	As required

Schedule A

Intentionally omitted

**NEW YORK STATE FINANCIAL AND EMPLOYMENT REPORTING  
REQUIREMENTS FOR INDUSTRIAL DEVELOPMENT AGENCIES**

- A. Pursuant to applicable law, the Agency requires the completion of an Initial Employment Plan (see Schedule C) and a year-end employment plan status report, both of which shall be filed by the Nassau County Industrial Development Agency (the "Agency") with the New York State Department of Economic Development on January 15. The Project documents will require the Applicant to provide such report to the Agency on or before January 1 of each year, together with such employment verification information as the Agency may require.

Except as otherwise provided by collective bargaining agreements, the Applicant agrees to list any new employment opportunities with the New York Department of Labor Community Services Division and the administrative entity of the service delivery area created by the Federal Job Training Partnership Act (P.L. 97-300), or any successor statute thereto (the "JTPA Entities"). In addition, except as otherwise provided by collective bargaining agreements, the Applicant, where practicable, will first consider persons eligible to participate in JTPA programs who shall be referred by the JTPA Entities for such new employment opportunities.

- B. The Applicant will be required to file annually a statement with the New York State Department of Taxation and Finance and the Agency of the value of all sales or use tax exemptions claimed in connection with the Project by reason of the involvement of the Agency.
- C. Please be advised that the New York State Industrial Development Agency Act imposes additional annual reporting requirements on the Agency, and the Applicant will be required to furnish information in connection with such reporting, as follows:

The following information must be provided for straight-lease transactions entered into or terminated during the year:

Name, address and owner of the project; total amount of tax exemptions granted (broken out by state and local sales tax, property taxes, and mortgage recording tax); payments in lieu of taxes made; total real estate taxes on the Project prior to exemption; number of jobs created and retained, and other economic benefits realized.

**Failure to provide any of the aforesaid information will constitute a DEFAULT under the Project documents to be entered into by the Agency and the Applicant in connection with the proposed Project.**

Please sign below to indicate that the Applicant has read and understood the above and agrees to provide the described information on a timely basis.

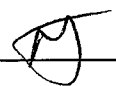
Name of  
Applicant:

Signature:

Name:

Title:

Date:

\_\_\_\_\_  
  
\_\_\_\_\_  
Raphael Weiss  
\_\_\_\_\_  
Member  
\_\_\_\_\_  
7/7/2010



**GUIDELINES FOR ACCESS TO EMPLOYMENT OPPORTUNITIES****INITIAL EMPLOYMENT PLAN**

Prior to the granting of financial assistance, the Applicant shall complete the following employment plan:

Applicant Name: Regency Realty/Baruch 1050 Realty  
 Address: 25 Shames Drive, Westbury, New York  
 Type of Business: Assisted Living  
 Contact Person: Raphael Weiss Tel. No.: 516.334.3838

Please complete the following table describing the Applicant's projected employment plan following receipt of financial assistance:

<u>Current and Planned Occupations</u>	<u>Current Number Full Time Equivalent Jobs Per Occupation</u>		<u>Estimated Number of Full Time Equivalent Jobs in the County After Completion of the Project:</u>		
			<u>1 year</u>	<u>2 years</u>	<u>3 years</u>
	<u>County</u>	<u>Statewide</u>			
<u>Health Staff</u>	<u>93</u>	<u>93</u>	<u>106</u>	<u>116</u>	<u>116</u>
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____

Please indicate the number of temporary construction jobs anticipated to be created in connection with the acquisition, construction and/or renovation of the Project: 20

Please indicate the estimated hiring dates for the new jobs shown above and any special recruitment or training that will be required:

TBD

Are the Applicant's employees currently covered by a collective bargaining agreement?

YES X

NO     

IF YES, Union Name and Local: Caregivers and Nursing are District 6, all others Local 348

Please note that the Agency may utilize the foregoing employment projections, among other things, to determine the financial assistance that will be offered by the Agency to the Applicant. The Applicant acknowledges that the transaction documents may include a covenant by the Applicant to retain the above number of jobs, types of occupations and amount of payroll with respect to the proposed project.

Attached hereto is a true, correct and complete copy of the Applicant's most recent Quarterly Combined Withholding, Wage Reporting, and Unemployment Insurance Return (Form NYS-45-MN) (first page only). Upon request of the Agency, the Applicant shall provide such other or additional information or documentation as the Agency may require with respect to the Applicant's current employment levels in the State of New York.

The UNDERSIGNED HEREBY CERTIFIES that the answers and information provided above and in any statement attached hereto are true, correct and complete.

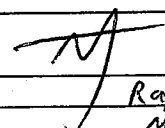
Name of  
Applicant:

Signature:

Name:

Title:

Date:

\_\_\_\_\_  
  
\_\_\_\_\_  
Raphael Weiss  
\_\_\_\_\_  
Member  
\_\_\_\_\_  
7/7/2010

**ANTI-RAIDING QUESTIONNAIRE**

(To be completed by Applicant if Applicant checked "YES" in Part I, Question Q.2 of the Application for Financial Assistance)

- A. Will the completion of the Project result in the removal of a plant or facility of Applicant, or of a proposed occupant of the Project, from an area in New York State (but outside of Nassau County) to an area within Nassau County?

YES \_\_\_\_

NO X

If the answer to Question A is YES, please provide the following information:

Address of the to-be-removed plant or facility: \_\_\_\_\_

\_\_\_\_\_

Names of all current occupants of the to-be-removed plant or facility: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

- B. Will the completion of the Project result in the abandonment of one or more plants or facilities of the Applicant, or of a proposed occupant of the Project, located in an area of the State of New York other than in Nassau County?

YES \_\_\_\_

NO X

If the answer to Question B is YES, please provide the following information:

Addresses of the to-be-abandoned plants or facilities: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Names of all current occupants of the to-be-abandoned plants or facilities:

\_\_\_\_\_

\_\_\_\_\_

- C. Has the Applicant contacted the local industrial development agency at which its current plants or facilities in New York State are located with respect to the Applicant's intention to move or abandon such plants or facilities?


YES \_\_\_\_

NO X

IF THE ANSWER TO EITHER QUESTION A OR B IS "YES", ANSWER QUESTIONS D AND E.

- NO \_\_\_\_\_

- NO X

  
 Raphael Weiss  
 Member  
 7/7/2010

**RETAIL QUESTIONNAIRE**

(To be completed by Applicant if Applicant checked either "YES" in Part II, Question P of the Application for Financial Assistance)

- A. Will any portion of the Project (including that portion of the cost to be financed from equity or other sources) consist of facilities or property that are or will be primarily used in making retail sales to customers who personally visit the Project?

YES \_\_\_\_\_

NO \_\_\_\_\_

For purposes of Question A, the term "retail sales" means (i) sales by a registered vendor under Article 28 of Tax Law of the State of New York (the "Tax Law") primarily engaged in the retail sale of tangible personal property (as defined in Section 1101(b)(4)(i) of the Tax Law), or (ii) sales of a service to customers who personally visit the Project.

- B. If the answer to Question A is YES, what percentage of the cost of the Project (including that portion of the cost to be financed from equity or other sources) will be expended on such facilities or property primarily used in making retail sales of goods or services to customers who personally visit the Project?

\_\_\_\_\_ %

- C. If the answer to Question A is YES, and the amount entered for Question B is greater than 33.33%, indicate whether any of the following apply to the Project:

1. Will the Project be operated by a not-for-profit corporation?

YES \_\_\_\_\_

NO \_\_\_\_\_

2. Is the Project likely to attract a significant number of visitors from outside the economic development region (i.e., Long Island) in which the Project is or will be located?

YES \_\_\_\_\_

NO \_\_\_\_\_

3. Would the Project occupant, but for the contemplated financial assistance from the Agency, locate the related jobs outside the State of New York?

YES \_\_\_\_\_

NO \_\_\_\_\_

4. Is the predominant purpose of the Project to make available goods or services which would not, but for the Project, be reasonably accessible to the residents of the city, town or village within which the Project will be located, because of a lack of reasonably accessible retail trade facilities offering such goods or services?

YES \_\_\_\_\_

NO \_\_\_\_\_

5. Will the Project be located in one of the following: (a) an area designed as an economic development zone pursuant to Article 18-B of the General Municipal Law; or (b) a census tract or block numbering area (or census tract or block numbering area contiguous thereto) which, according to the most recent census data, has (i) a poverty rate of at least 20% for the year in which the data relates, or at least 20% of the households receiving public assistance, and (ii) an unemployment rate of at least 1.25 times the statewide unemployment rate for the year to which the data relates?

YES \_\_\_\_\_

NO \_\_\_\_\_

If the answer to any of the subdivisions 1 through 5 of Question C is YES, attach details.

- D. If the answer to any of the subdivisions 3 through 5 of Question C is YES, will the Project preserve permanent, private sector jobs or increase the overall number of permanent, private sector jobs in the State of New York? If YES, attach details.

YES \_\_\_\_\_

NO \_\_\_\_\_

- E. State percentage of the Applicant's annual gross revenues comprised of each of the following:

Retail Sales: \_\_\_\_\_%

Services: \_\_\_\_\_%

- F. State percentage of Project premises utilized for same:

Retail Sales: \_\_\_\_\_%

Services: \_\_\_\_\_%

The UNDERSIGNED HEREBY CERTIFIES that the answers and information provided above and in any statement attached hereto are true, correct and complete.

Name of  
Applicant: \_\_\_\_\_

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

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

**APPLICANT'S FINANCIAL ATTACHMENTS**

AMBER COURT LLC  
(A Limited Liability Company)

FINANCIAL STATEMENTS  
AND  
INDEPENDENT AUDITOR'S REPORT

DECEMBER 31, 2008 AND 2007



**AMBER COURT LLC**  
(A Limited Liability Company)

*CONTENTS*

Independent Auditor's Report	1
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Statements of Operations	3
Statements of Members' Equity	4
Statements of Cash Flows	5
Notes to Financial Statements	6-8

## INDEPENDENT AUDITOR'S REPORT

To the Members  
Amber Court LLC  
Westbury, New York

We have audited the accompanying balance sheets of Amber Court LLC (a Limited Liability Company) as of December 31, 2008 and December 31, 2007, and the related statements of operations, members' equity, and cash flows for the years then ended. These financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on these financial statements based on our audit.

Except as discussed in the following paragraph, we conducted our audit in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

In accordance with the terms of our engagement, we did not audit the goodwill stated at \$1,837,500 as at December 31, 2008 and December 31, 2007.

In our opinion, except for the effects of such adjustments, if any, as might have been determined to be necessary had we been able to satisfy ourselves about the goodwill, the financial statements referred to in the first paragraph present fairly, in all material respects, the financial position of Amber Court LLC as of December 31, 2008 and December 31, 2007 and the results of its operations for the years then ended in conformity with accounting principles generally accepted in the United States of America.

New York, NY  
September 9, 2009

**AMBER COURT LLC**  
(A Limited Liability Company)

**Balance Sheets**  
**December 31, 2008 and 2007**

*See accompanying notes to financial statements.*

**AMBER COURT LLC**  
(A Limited Liability Company)

**Statements of Operations**  
**Years Ended December 31, 2008 and 2007**

*See accompanying notes to financial statements.*

AMBER COURT LLC  
(A Limited Liability Company)

Statements of Members' Equity  
Years Ended December 31, 2008 and 2007

*See accompanying notes to financial statements.*

AMBER COURT LLC  
(A Limited Liability Company)

Statements of Cash Flows  
Years Ended December 31, 2008 and 2007

*See accompanying notes to financial statements.*

**AMBER COURT LLC**  
(A Limited Liability Company)

**NOTES TO FINANCIAL STATEMENTS**

**Note 1 - Summary of Significant Accounting Policies:**

**Operations** – The Company is principally engaged in operating an assisted living facility for seniors and, as such, provides its residents with lodging and care in addition to the supervision of their day to day needs.

**Use of Estimates** - The preparation of financial statements in conformity with generally accepted accounting principles requires management to make estimates and assumptions that affect the amounts reported in the financial statements and accompanying notes. Actual results could differ from those estimates.

**Property and Equipment** - Property and equipment is stated at cost, less accumulated depreciation. The Company provides for depreciation principally using the straight-line method, as follows:

<u>Assets</u>	<u>Estimated Useful Lives</u>
Land improvements	15 Years
Furniture and equipment	5-7 Years

**Income Taxes** - No provision for income taxes has been recorded because the Company is taxed as a partnership. Accordingly, the individual members report their share of the Company's income or loss on their personal income tax returns.

**Accounts Receivable** - No allowance for doubtful accounts has been recorded since management deems substantially all accounts receivable as being collectible.

**Note 2 - Concentration of Credit Risk:**

The Company maintains its cash in bank deposit accounts, which at times, exceed federal insured limits. The Company has not experienced any losses in such accounts, and believes that it is not exposed to any significant credit risk on cash.

**Note 3 - Other Current Assets:**

Details of other current assets at December 31, 2008 and 2007 are as follows:

Prepaid expenses  
Loan receivable  
Sundry receivable

**AMBER COURT LLC**  
(A Limited Liability Company)

**NOTES TO FINANCIAL STATEMENTS**

**Note 4 - Property and Equipment:**

Details of property and equipment at December 31, 2008 and 2007 are as follows:

Furniture and equipment  
Less accumulated depreciation

**Note 5 - Goodwill:**

In connection with the Company's purchase of the assisted living operation in July 2000, of the purchase price was allocated to goodwill. Of this amount, represents the unamortized portion as of the January 1, 2003. Additionally, on January 1, 2007 the Company paid for the personal goodwill of an individual who had certain claims against the Company. FASB 144 addressed the accounting treatment for goodwill and no longer allows for amortization; goodwill must be valued as of the end of the fiscal year to determine whether there is any impairment in its value. It is Management's opinion that there has been no impairment of goodwill.

**Note 6 - Residents' Personal Allowance Account:**

We did not audit the residents' personal allowance accounts. The Company is custodian for the residents' personal allowance account of at December 31, 2008 and December 31, 2007, respectively. These funds are held by the facility, as an accommodation, until such time as requested by the residents. Accordingly, such amounts are not reflected in the balance sheets.

**Note 7 - Commitments and Contingencies:**

Amber Court rents vehicles and office equipment under various short term non-cancelable operating lease agreements.



**AMBER COURT LLC**  
(A Limited Liability Company)

**NOTES TO FINANCIAL STATEMENTS**

**Note 8 - Related Party Transactions:**

Amber Court had the following balances at December 31, 2008 and 2007 with companies affiliated by common ownership:

Management and administrative services were provided to Amber Court by Aljud Management Corp., a company owned by a family member. General and administrative expenses include fees of \_\_\_\_\_ for the years 2008 and 2007, respectively.

The Company rents the real property from Regency Plaza Realty Associates LLC (a company owned proportionately by the same individuals who are members of the Company) under a long term operating lease expiring June 30, 2030. The lease is a triple net lease and provides for minimum annual rentals of \_\_\_\_\_. Rent expense was \_\_\_\_\_ for the years 2008 and 2007, respectively and is included with the building operating costs.

The Company advanced \_\_\_\_\_ to family members. The loans are non-interest bearing and are included with the other current assets at December 31, 2008 and 2007.

**ENVIRONMENTAL ASSESSMENT FORM**



Town of Oyster Bay  
Environmental Assessment Form (EAF)

Town of Oyster Bay Department of Environmental Resources  
150 Miller Place  
Syosset, New York 11791

TO BE COMPLETED BY TOWN

FEE PAID \_\_\_\_\_

DATE \_\_\_\_\_

RECEIPT # \_\_\_\_\_

FILE # \_\_\_\_\_

Part 1 - PROJECT INFORMATION

Prepared by Project Sponsor

NOTICE: This document is designed to assist in determining whether the action may have a significant effect on the environment. Please complete the entire form, Parts A through E. Answers to these questions will be considered as part of the application for approval and may be subject to further verification and public review. Provide any additional information you believe will be needed to complete Parts 2 and 3.

It is expected that completion of the full EAF will be dependent on information currently available and will not involve new studies, research or investigation. If information requiring such additional work is unavailable, so indicate and specify each instance.

Please make sure that the \$100.00 review fee has been enclosed. Make your check or money order payable to "Supervisor, Town of Oyster Bay" and mail to the address specified above. Depending on the type of project and level of review required, additional fees may apply.

If you should have questions or would like to request guidance in the completion of this form, please feel free to contact the Department of Environmental Resources at (516) 677-5824, Monday to Friday 9:00 am to 4:45 pm, or by fax to (516) 677-5730.

NAME OF ACTION/PROJECT AMBER COURT AT WESTBURY			
LOCATION OF ACTION/PROJECT (Include Street Address, Municipality and County) 3400 Brush Hollow Road, Westbury, New York			
SECTION: 11	BLOCK: B	LOT(S): 970, 1048, 1050	
DESCRIPTION OF ACTION/PROJECT Modification to prior special use permit, modification to prior covenants and restrictions and amended site plan approval in order to construct additions totaling 36,570 square feet, increase the residential units to 153 and increase the number of beds to 250.			
NAME OF APPLICANT/SPONSOR REGENCY PLAZA REALTY ASSOCIATES, LLC and BARUCH 1050 REALTY, LLC		BUSINESS TELEPHONE (516 ) 334-3838	
ADDRESS 3400 Brush Hollow Road			
CITY/PO Westbury		STATE NY	ZIP CODE 11590
NAME OF OWNER (If different)		BUSINESS TELEPHONE ( )	
ADDRESS			
CITY/PO		STATE	ZIP CODE
NAME OF LEGAL REPRESENTATIVE JUDY LYNN SIMONCIC, ESQ. Forchelli, Curto, Crowe, Deegan, Schwartz, Mineo & Cohn, LLP		BUSINESS TELEPHONE ( 516 ) 248-1700	
ADDRESS 330 Old Country Road, P.O. Box 31			
CITY/PO Mineola		STATE NY	ZIP CODE 11501

Please Complete Each Question - Indicate N.A. if not applicable

## A. Site Description

Physical setting of overall project, both developed and undeveloped areas.

1. a. Present land use: ☐ Urban ☐ Industrial ☒ Commercial ☒ Residential (suburban) ☐ Rural (non-farm)

☐ Forest ☐ Agriculture ☐ Other

1. b. Previous use(s): assisted living facility and catering facility

2. Total acreage of project area: 3.14 acres.

### APPROXIMATE ACREAGE

Meadow or Brushland (Non-Agricultural)

Forested

Agricultural (Includes orchards, croplands, pasture, etc.)

Freshwater Wetland

Tidal Wetland

Water Surface Area

Unvegetated (Rock, earth or fill)

Roads, buildings and other paved surfaces

Turf Grasses

Other Landscaping Vegetation

Other (Indicate type)

### PRESENTLY

### AFTER COMPLETION

_____	acres	_____	acres
_____	acres	_____	acres
_____	acres	_____	acres
_____	acres	_____	acres
_____	acres	_____	acres
_____	acres	_____	acres
_____	acres	_____	acres
2.00	acres	1.80	acres
.84	acres	.94	acres
.30	acres	.40	acres
_____	acres	_____	acres

3. What is predominant soil type(s) on project site? (Refer to Nassau County Soil Survey)

urban

a. Soil drainage: ☒ Well drained 100 % of site ☐ Moderately well drained \_\_\_\_\_ % of site  
☐ Poorly drained \_\_\_\_\_ % of site

b. If any agricultural land is involved, how many acres of soil are classified within soil group 1 through 4 of the NYS Land Classification System? \_\_\_\_\_ acres. (See 1 NYCRR 370)

4. General character of land: ☒ Generally uniform slope

☐ Generally rolling or irregular

5. Approximate percentage of proposed project site with slopes:

☒ 0-10% \_\_\_\_\_ % ☐ 10-15% \_\_\_\_\_ %  
☐ 15% or greater \_\_\_\_\_ %

6. Is project substantially contiguous to, or contain a building, site, or district, listed on the State or the National Registers of Historic Places? ☐ Yes ☒ No

a. Has the project site been designated or nominated for Town Historical Landmark status?

☐ Yes ☒ No

7. Is project substantially contiguous to a site listed on the Register of National Natural Landmarks?

☐ Yes ☒ No

8. What is the depth of the water table? 35' ± (in feet) (Consult U.S. Geological Survey or local water district)

9. Is site located over a primary, principal, or sole source aquifer? ☒ Yes ☐ No

10. Do hunting, fishing or shell fishing opportunities presently exist in the project area? ☐ Yes ☒ No

11. Does project site contain any species of plant or animal life that is identified as threatened or endangered?

☐ Yes ☒ No According to \_\_\_\_\_  
Identify each species \_\_\_\_\_

12. Are there any unique or unusual land forms on the project site? (i.e., cliffs, dunes, other geological formations)

☐ Yes ☒ No Describe \_\_\_\_\_

13. Is the project site presently used by the community or neighborhood as an open space or recreation area?

☐ Yes ☒ No If yes, explain \_\_\_\_\_

14. Does the present site include scenic views known to be important to the community?

☐ Yes ☒ No If yes, explain \_\_\_\_\_

15. Streams within or contiguous to project area: none

a. Name of Stream and name of River to which it is tributary \_\_\_\_\_

16. Lakes, ponds, wetland areas within or contiguous to project area:

a. Name N/A

b. Size (In acres) \_\_\_\_\_

c. If wetlands are present, are they designated by New York State? ☐ Yes ☐ No

17. Is the site served by existing public utilities? ☒ Yes ☐ No

a) If Yes, does sufficient capacity exist to allow connection? ☒ Yes ☐ No

b) If Yes, will improvements be necessary to allow connection? ☐ Yes ☐ No

18. Is the site located in an agricultural district certified pursuant to Agriculture and Markets Law, Article 25-AA, Section 303 and 304? ☐ Yes ☒ No

19. Is the project site located in or substantially contiguous to a Critical Environmental Area designated pursuant to Article 8 of the ECL, and 6 NYCRR 617? ☐ Yes ☐ No If yes, identify \_\_\_\_\_

a. Is the project site located in the Oyster Bay Special Groundwater Protection Area (SGPA)? ☐ Yes ☐ No

b. If the project site is not situated within the SGPA, does it directly adjoin the SGPA? ☐ Yes ☐ No

20. Has the site ever been used for the disposal of solid or hazardous wastes? ☐ Yes ☐ No

## B. Project Description

1. Physical dimensions and scale of project (fill in dimensions as appropriate)

a. Total contiguous acreage owned or controlled by project sponsor 3.14 acres.

b. Project acreage to be developed. 3.14 acres initially; 3.14 acres ultimately.

c. Project acreage to remain undeveloped 0 acres.

d. Length of project, in miles: N/A (if appropriate)

e. If the project is an expansion, indicate percent of expansion proposed 60.14 %

f. Number of off-street parking spaces existing 59; proposed 71

g. Maximum vehicular trips generated per hour (combined arriving and departing trips)?

49 currently (if applicable); 49 upon project completion. (# of beds will remain the same)

Indicate source of vehicular trip data: VHB, based on ITE "Trip Generation" Land Use Code 254

h. If residential: Number and type of housing units: one- and two-bed units (Assisted Living)  
One Family Two Family Multiple Family Condominium

Initially 96 units

Ultimately 153 units

i. Dimensions (in feet) of largest proposed structure 38 height; 340 width, 320 length.

j. Linear feet of frontage along a public thoroughfare project will occupy is? 560 ft.

k. What are the peak hours of traffic generation (write NA if not applicable)?

Weekday morning peak: 7:00 a.m. to 8:00 a.m.

Weekday evening peak: 5:00 p.m. to 6:00 p.m.

Saturday peak: N/A to \_\_\_\_\_

Sunday peak: N/A to \_\_\_\_\_

l. Gross floor area of buildings proposed: 91,570 square feet

m. Floor area ratio of proposed project upon completion (gross building floor area in square feet divided by site area in square feet) .60

2. How much natural material (i.e. rock, earth, etc.) will be removed from the site? see below cubic yards

How much fill material will be brought onto the site? see below cubic yards

If fill is required, what will be the source of this material? \_\_\_\_\_

3. Will disturbed areas be reclaimed? ☐ Yes ☐ No ☒ N/A

a. If yes, for what intended purpose is the site being reclaimed? \_\_\_\_\_

b. Will topsoil be stockpiled for reclamation? ☐ Yes ☐ No

c. Will upper subsoil be stockpiled for reclamation? ☐ Yes ☐ No

4. How many acres of vegetation (trees, shrubs, ground covers) will be removed from site? N/A acres.

Depending on quality of soils, whatever is<sup>3</sup> removed for new excavation will be put  
in a few fillers in old excavation with some left over perhaps

March 2004

5. Will any mature forest (over 100 years old), large trees (greater than 8 inches in diameter at 4 feet above the ground), or other locally-important vegetation be removed by this project? ☐ Yes ☒ No

If yes, describe: \_\_\_\_\_

6. If single phase project: Anticipated period of construction \_\_\_\_\_ months, (including demolition).

7. If multi-phased:

3-story addition - Phase 1 - 18 mos.  
2/A/Z 600 sf addition - Phase 2 - 6 mos.  
(number).

- a. Total number of phases anticipated \_\_\_\_\_
- b. Anticipated date of commencement phase 1 \_\_\_\_\_ month \_\_\_\_\_ year, (including demolition).
- c. Approximate completion date of final phase \_\_\_\_\_ month \_\_\_\_\_ year.
- d. Is phase 1 functionally dependent of subsequent phases? ☐ Yes ☒ No
8. Will blasting occur during construction? ☐ Yes ☒ No
9. Number of jobs generated: during construction 25 ; after project is complete 8 ;
- Number of jobs eliminated by this project None
10. Will project require relocation of any projects or facilities? ☐ Yes ☒ No If yes, explain \_\_\_\_\_

11. Where will project's sanitary waste be discharged?

☐ New on-site septic system

☐ Existing on-site sanitary system

☒ Municipal sewer system

☐ Other (specify) \_\_\_\_\_

12. Will the project generate other types of liquid waste, other than sanitary waste? ☐ Yes ☒ No

a. If yes, indicate type (e.g., industrial, cooling water, etc.) \_\_\_\_\_

13. Will the project involve the generation, or temporary or permanent storage of infectious or hazardous substances (e.g., medical waste; chemicals, fuel oil, herbicides, pesticides, etc.)? ☐ Yes ☒ No

a. If yes, describe types of hazardous substances: \_\_\_\_\_

b. If yes, describe how hazardous wastes will be removed: \_\_\_\_\_

14. Will surface area of an existing water body increase or decrease by proposal? ☐ Yes ☒ No

Explain \_\_\_\_\_

15. Is project or any portion of project located in a 100 year flood plain? ☐ Yes ☒ No

16. Will the completed project generate solid waste (garbage, trash, rubbish, etc.)? ☒ Yes ☐ No

a. If yes, what is the amount per month app. 6 tons after completion

Indicate source of solid waste data current waste provider - Jamaica Ash

b. If yes, will an existing solid waste facility be used? ☒ Yes ☐ No

c. If yes, give name Oyster Bay Landfill ; location Old Bethpage

d. Will any wastes from the completed project not go into a sewage disposal system or into a sanitary landfill?

☐ Yes ☒ No

e. If Yes, explain \_\_\_\_\_

f. Will the project incorporate recycling measures? ☒ Yes ☐ No

If yes, specify materials to be recycled: \_\_\_\_\_

If yes, specify methods of disposal: \_\_\_\_\_

g. If the project includes a manufacturing facility, will the facility utilize recycled materials as part of the manufacturing process? ☐ Yes ☒ No

If yes, explain \_\_\_\_\_

17. Will the project involve the on-site disposal or transfer of solid waste? ☐ Yes ☒ No  
 a. If yes, what is the anticipated rate of disposal or transfer? \_\_\_\_\_ tons/month.  
 b. If yes, what is the anticipated site life? \_\_\_\_\_ years.
18. Has the site ever been used for the disposal of solid or hazardous waste? ☐ Yes ☒ No  
 If yes, has the site been listed by the NYS Department of Environmental Conservation or U.S. Environmental Protection Agency as an Inactive Hazardous Waste Disposal (Superfund) site? ☐ Yes ☒ No
19. Will demolition of existing structures occur during construction? ☒ Yes ☐ No  
 a. If yes, estimated quantity of construction & demolition debris to be generated: \_\_\_\_\_ 600 \_\_\_\_\_ cubic yards  
 b. If yes, will any of this material be reused or recycled? ☐ Yes ☒ No  
 If yes, explain \_\_\_\_\_  
 c. How will non-recycled/reused construction & demolition waste be disposed?  
Landfill
20. Will project use herbicides or pesticides? ☒ Yes ☐ No  
 a. If yes, describe types: routine rodent extermination  
 b. If yes, list measures, if any, that will be taken to minimize usage: N/A
21. Will project routinely produce odors (more than one hour per day)? ☐ Yes ☒ No  
 22. Will project produce operating noise exceeding the local ambient noise levels? ☐ Yes ☒ No  
 23. Will project result in an increase in energy use? ☒ Yes ☐ No  
 If yes, indicate type(s) electric and water, fuel for mechanical equipment
24. Total water usage per day: 19,389 gallons/day at present; 29,000 gallons/day upon completion.  
 a. Indicate source of water use data (e.g., water district, standard rate [cite source], County sewage generation rate, etc.): water bills
25. If water supply is from on-site wells, indicate pumping capacity N/A gallons/minute.  
 26. Does project involve Local, State or Federal funding? ☐ Yes ☐ No  
 If Yes, explain \_\_\_\_\_

27. Approvals Required (check all that apply):

		Type	Submittal Date	Approval Date
Town Board	<input checked="" type="checkbox"/>	modification to special use permit, covenants and restrictions and site plan approval	1/21/09	
Town Planning Dept.	<input type="checkbox"/>			
Town Zoning Board of Appeals	<input checked="" type="checkbox"/>	parking variance	TBS	
Local Water District	<input type="checkbox"/>			
County Planning Commission	<input type="checkbox"/>			
County Health Dept.	<input checked="" type="checkbox"/>		TBS	
NYS Department of Transportation	<input type="checkbox"/>			
NYS Department of Environmental Conservation	<input type="checkbox"/>			
US Army Corps of Engineers	<input type="checkbox"/>			
Other (Specify)	<input checked="" type="checkbox"/>	NYS Dept. of Health - architectural review		
Other (Specify)	<input type="checkbox"/>			
Other (Specify)	<input type="checkbox"/>			

### C. Zoning and Planning Information

1. Does proposed action involve a planning or zoning decision? ☒ Yes ☐ No
- If Yes, indicate decision required:
- ☐ zoning amendment ☒ zoning variance ☒ amendment special use permit ☐ subdivision ☐ site plan
- ☐ new/revision of master plan ☐ resource management plan ☐ other \_\_\_\_\_
2. What is the present zoning classification(s) of the site? "LI" Light Industrial
3. What is the maximum potential development of the site if developed as permitted by the present zoning?
4. What is the proposed zoning of the site? unchanged
5. What is the maximum potential development of the site if developed as permitted by the proposed zoning?
6. Is the proposed action consistent with the recommended uses in adopted local land use plans? ☒ Yes ☐ No
- Explain \_\_\_\_\_
7. What are the predominant land use(s) and zoning classifications with a ¼ mile radius of proposed action?
- "LI" and Residential
8. Is the proposed action compatible with adjoining/surrounding land uses within a ¼ mile? ☒ Yes ☐ No
9. If the proposed action is the subdivision of land, how many lots are proposed? N/A
- a. What is the minimum lot size proposed? \_\_\_\_\_
10. Will proposed action require any authorization(s) for the formation of sewer or water districts? ☐ Yes ☒ No
11. Will the proposed action create a demand for any community provided services (recreation, education, police, fire protection)? ☒ Yes ☐ No
12. Will the proposed action result in the generation of traffic significantly above present levels? ☐ Yes ☒ No
- a. If yes, is the existing road network adequate to handle the additional traffic? ☐ Yes ☐ No

### D. Informational Details

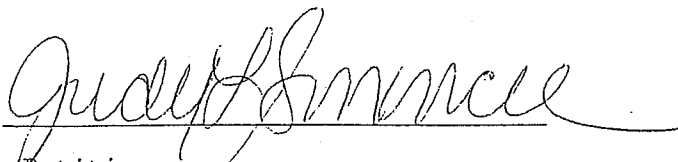
Attach any additional information as may be needed to clarify the proposed action. If there are or may be any adverse impacts associated with your proposal, please discuss such impact and the measures which you propose to mitigate or avoid them.

### E. Verification

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

JUDY LYNN SIMONCIC, ESQ. - FORCHELLI, CURTO, CROWE, DEEGAN, SCHWARTZ, MINEO & COHN, LLP  
print name of preparer  
330 Old Country Road, P.O. Box 31  
address  
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post office state zip  
(516) 248-1700  
phone  
(516) 248-1729  
fax

PREPARER'S  
SIGNATURE:



TITLE: Attorney for Petitioners

DATE: January 21, 2009



File

LCW

✓ GS

TOWN OF OYSTER BAY  
INTER-DEPARTMENTAL MEMO

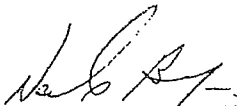
March 8, 2010

TO: GREGORY GIAMMALVO, TOWN ATTORNEY

FROM: NEIL BERGIN, COMMISSIONER, DEPARTMENT OF  
ENVIRONMENTAL RESOURCES

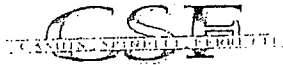
SUBJECT: APPLICATION OF AMBER COURT AT WESTBURY FOR  
MODIFICATION OF A SPECIAL USE PERMIT, MODIFICATION  
OF RESTRICTIVE COVENANTS AND SITE PLAN APPROVAL  
3400 BRUSH HOLLOW ROAD, WESTBURY, NY

Attached hereto is the report of the Town Environmental  
Quality Review Division, relative to the above-captioned  
action.

  
NEIL BERGIN  
COMMISSIONER  
ENVIRONMENTAL RESOURCES

cc: Frederick Ippolito, Commissioner, P&D  
att: Ginger Sottile, Planning Consultant  
June Mascia, Director, Legislative Affairs  
Aldona Lawson, TEQR Division  
File: Westbury/Regency Plaza Realty (Amber Court)  
sndngdec

PLANNING AND DEVELOPMENT  
2010 MAR 10 P 3:15  
TOWN OF OYSTER BAY



**Cashin Spinelli & Ferretti, LLC**  
*Program & Construction Management*  
*Municipal Planning*

801 Motor Parkway, Suite 103  
Hauppauge, New York 11788

(T) 631-737-9170  
(F) 631-737-9171

**Memorandum**

**To:** Department of Environmental Resources, Neil Bergin, Commissioner  
Attention: Aldona Lawson, Town Environmental Quality Review (TEQR) Division

**From:** Cashin Spinelli & Ferretti, LLC (CSF)  
John M. Ellsworth, Director of Planning and Environmental Services

**Subject:** Application of Amber Court at Westbury for a Modification of Special Use Permit, Modification of Restrictive Covenants and Site Plan Approval to Allow the Construction of Additions to an Existing Assisted Living Facility, 3400 Brush Hollow Road, Westbury; Section 11, Block B, Lots 970, 1048 and 1050

**Date:** March 8, 2010 (amended application)

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At the Town's request, CSF has reviewed the above referenced application pursuant to the New York State Environmental Quality Review Act (SEQRA, 6 NYCCR, Part 617) and the Town of Oyster Bay Environmental Quality Review Law (Chapter 110 of the Code of the Town of Oyster Bay). The following report summarizes the findings of CSF's review.

As set forth below, CSF believes that sufficient information and analysis regarding relevant environmental issues have been compiled with respect to this proposed action to allow the matter to be referred for the Town Board's consideration. If the Town Board concurs with this conclusion, and accordingly schedules the requisite public hearing, any commentary received during said hearing, including oral testimony and correspondence and other documents submitted before the close of the public hearing record, should be taken into account in arriving at a Determination of Significance pursuant to SEQRA.

- **Applicant:** Regency Plaza Realty Associates, LLC and Baruch 1050 Realty, LLC
- **Title of Project:** Amber Court at Westbury
- **Description of Proposed Action:** Application to the Town Board for Modification of a Special Use Permit, Modification of Restrictive Covenants, and Site Plan Approval and to the Zoning Board of Appeals for Parking and Setback Variances, to allow construction of 34,135 square feet of additions to an existing assisted living facility and the demolition of an existing 10,253-square foot catering hall (for a net increase in floor area of 23,882 square feet), along with associated site improvements. The subject property is approximately 3.14 acres in area and is located at the southeast corner of Brush Hollow Road and Shames Drive.

The subject property currently is operated as an assisted living facility of approximately 55,006 square feet; and also contains the aforementioned, vacant catering facility. The existing assisted

living facility would be retained and expanded under the proposed action; the entire catering facility would be demolished and removed.

The proposed action includes modification of the restrictive covenants which were enacted in connection with the Town Board's approval in 2001 (via Resolution #301-01) of a Special Use Permit to allow the existing adult home to be maintained and expanded; and, specifically, to increase the permissible size of the subject facility from 96 units and 232 beds at present to 138 units and 282 beds as proposed.

The proposed *Site Plan* provides 71 on-site parking spaces, which is less than the 137-space parking requirement under the Zoning Code, based on the number of units and employees at the expanded facility. Accordingly, a variance will be needed with respect to parking. Variances also will be required with respect to front and rear yard setbacks. Where a front yard setback of 50 feet and a rear yard setback of 30 feet are required, 10 feet and 29.7 feet are proposed, respectively. According to the applicant's submissions to the Town, no other variances would be required in connection with the proposed action.

- **Other Possible Approvals Required:**
  - Nassau County Planning Commission – 239m referral
  - Westbury Water District – water availability
- **Location of Proposed Action:** Southern portion of the corner of Brush Hollow Road and Shames Drive, Westbury, Town of Oyster Bay, State of New York; and further identified as Section 11, Block B, Lots 970, 1048 and 1050 on the Land and Tax Map of Nassau County.
- **SEQRA Classification:** Unlisted
- **Type of Review:** Uncoordinated
- **Lead Agency:** Not applicable
- **Documents Reviewed** (Unless otherwise noted, all plans are prepared by David Lawrence Mammina Architect, as revised 1/26/2010):
  - *Site Plan & Zoning Information* (Drawing A-1.0);
  - *Site Lighting & Photometric Plan* (Drawing A-1.1);
  - *Master Signage Plan* (Drawing A-1.2);
  - *Cellar Floor Plan & First Floor Plan* (Drawing A-2.0);
  - *Second Floor Plan* (Drawing A-2.1);
  - *Building Elevations* (drawing A-3.0);
  - *Landscape Plan* (Drawing L-1), prepared by AZ Associates, dated 9/15/09;
  - *Landscape Plan* (Drawing L-2), prepared by AZ Associates, dated 9/15/09;
  - *Landscape Plan* (Drawing L-3), prepared by AZ Associates, dated 9/15/09;
  - *Amended Verified Petition*, dated 9/22/09;
  - *Environmental Assessment Form* (EAF), Part 1 (EAF), dated 9/15/09;
  - *Applicant's Responses to Comments*, dated 9/23/09;
  - *Application for Site Plan Approval*, dated 12/30/08; and

- *Traffic and Parking Information*, prepared by VHB, dated 11/15/09, revised 2/11/2010.

The environmental review of this application also included a site inspection.

The following is a summary of CSF's analysis of the relevant environmental parameters with regard to the subject application, based on the information contained in the documents enumerated above and observations made during the site inspection:

- **Zoning and Land Use** – The subject premises contain a two-story 55,006-square foot assisted living facility (on Section 11 Block B, Lots 970 and 1048) and a vacant one-story, 10,253-square foot catering facility (on Section 11 Block B, Lot 1050). Lots 970 and 1048 were approved for use as a hotel/motel in 1959, and subsequently were converted to an assisted living facility (which was approved in 2001). Lot 1048 was approved for use as a restaurant in 1958.

The proposed action would include the construction of approximately 34,135 square feet of additions to the existing assisted living facility, which would be 89,141 square feet in floor area upon project completion; the existing catering facility would be demolished under the proposed action. Assisted living facilities are permitted uses in the Light Industrial (LI) zoning district, within which the subject property is located, subject to the issuance of a special use permit by the Town Board.

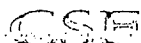
The site is located in an area which is occupied by mixed commercial, industrial and residential land uses, summarized as follows:

- multi-family and commercial uses to the northwest, north and northeast, across Brush Hollow Road and Shames Drive, in Multi-Family Residence (RMF-16) and LI zoning districts, respectively;
- commercial uses to the immediate south, in an LI district;
- mixed commercial and industrial uses, to the east, in an LI district;
- a performing arts theater to the immediate southeast, in an LI district; and
- single-family residential uses, to the west, across Brush Hollow Road, in an R1-7 Residence zoning district.

The nearest residential properties are situated approximately 75 feet to the west of the subject parcel, across Brush Hollow Road.

The proposed action includes modification of the restrictive covenants which were enacted in connection with the Town Board's approval in 2001 (via Resolution #301-01) of a Special Use Permit to allow the existing adult home to be maintained and expanded. The applicant's attorney has provided information regarding the existing restrictive covenants which are proposed for modification, summarized as follows:

- Condition #1 limits the subject property to 96 units and 232 beds. The applicant seeks to increase the maximum allowable units and beds to 138 and 282, respectively.



- Condition #15 would be amended to reflect the new site plan, with which the applicant must comply.

The applicant is not proposing to alter any other conditions of the prior approval for the subject property.

- **Traffic** – The subject property fronts on Brush Hollow Road and Shames Drive. Brush Hollow Road, an arterial thoroughfare, is under the jurisdiction of Nassau County; Shames Drive is a local street, under the jurisdiction of the Town of Oyster Bay. Brush Hollow Road contains two travel lanes in each direction, with a left turn lane into the subject property, while Shames Drive contains one travel lane in each direction.

Currently, the subject property contains one two-way and one ingress-only driveway on Brush Hollow Road, and one ingress-only and one egress-only driveway on Shames Drive. The proposed action retains the access configuration on Brush Hollow Road and combines the two one-way driveways on Shames Drive into a single two-way driveway.

Based on the applicant's *Traffic and Parking Information* submission(as amended), using land use code #254 (Assisted Living Facility) from the Institute of Transportation Engineers' *Trip Generation Manual*, it is estimated that the proposed action would increase site-generated traffic by ten two-way trips, as compared to the existing facility, during the weekday afternoon (PM) peak hour. On the basis of this information, which indicates only a minor increase in the maximum, peak-hour trip generation at the subject facility, the applicant's traffic consultant concludes that the proposed action would not significantly impact the local roadway system.

- **Parking** – As noted previously, the proposed *Site Plan* includes 71 on-site parking spaces, which is 66 parking spaces fewer than the 137 parking spaces required under the Zoning Code, necessitating the issuance of a parking variance from the Zoning Board of Appeals. The applicant's traffic consultant performed a parking analysis to evaluate whether the number of stalls to be provided under the proposed action is adequate to accommodate peak parking demand. This analysis included parking counts during a typical weekday and Saturday. During these counts, a maximum of 49 occupied parking stalls were observed on the subject property.

To estimate future parking demand, the existing parking demand was increased by 16 percent, to account for the proposed 16 percent increase in the number of beds (from 232 to 282) to be provided at the subject facility, resulting in an increased parking demand of 11 spaces. Additional parking demand also was included to account for the increased staff that would be associated with the expanded facility during the peak work shift (in the morning), resulting in an increased parking demand of six spaces. Combining these projections with the peak parking demand observed under existing conditions (at 49 spaces) results in an estimated future peak parking demand of 66 parking spaces, which is five fewer than the 71 parking spaces included on the proposed site plan.

- **Soils and Topography** – The subject property contains Urban Land soils, which do not have significant limitations for the type of redevelopment activities that are proposed. A large percentage of the site area currently is occupied by impervious surfaces (i.e., buildings and pavement) and the entire site has minimal topographic relief. The erosion potential during the proposed construction would be low, due to the soil types and gentle slopes present on the site.

- **Flora and Fauna** – The majority of the subject property already is covered by impervious surfaces (i.e., building and pavement). The existing vegetated areas, which are completely surrounded by fairly intense development, do not contain significant ecological resources.

As part of the proposed action, additional areas of turf grasses and other landscaped vegetation are proposed, totaling approximately 8,700 square feet. The majority of the proposed landscaping is to occur around the former catering facility and at the site perimeter. The additional landscaping to be provided may have a minor benefit with respect to fauna (especially birds).

- **Surface Waters** – The subject property does not contain, nor lie in the immediate vicinity of, any surface water body. Existing dry wells provide on-site stormwater storage capacity to mitigate potential flooding of adjacent roadways and neighboring properties.
- **Groundwater** – The proposed facility expansion would discharge sewage to the existing Nassau County sewer line which serves the site, thereby avoiding potential groundwater quality impacts that may be associated with the use of subsurface sewage disposal systems.

The existing use, an assisted living facility, which is proposed for expansion under the proposed action, does not entail the types of activities or operations that are associated with a significant potential for groundwater contamination.

- **Special Groundwater Protection Area (SGPA)/Critical Environmental Area (CEA)** – The subject property is not located in or substantially contiguous to the SGPA or in any other area designated as a CEA by the Town of Oyster Bay.
- **Air Quality, Odors, Noise, and Lighting** – The existing use, an assisted living facility, which is proposed for expansion under the proposed action, does not involve the types of activities that typically generate excessive noise, air emissions or odors, and generally would decrease the potential for impacts with respect to these environmental parameters when compared to the prior use (i.e., catering hall) on the portion of the site proposed for redevelopment.

Exterior lighting installed for the proposed facility expansion would include a shielded design, and is not expected to adversely affect neighboring uses.

- **Water Usage and Sewage Generation** – The EAF indicates that water use for the existing assisted living facility is approximately 19,389 gallons per day; while it is estimated that the proposed project would consume water at a rate of approximately 22,480 gallons/day, an increase of approximately 3,100 gallons per day (not accounting for water use that would occur if the existing, vacant catering hall were re-occupied).

Sanitary wastewater generated by the proposed facilities would be discharged to the existing Nassau County sewer connection which serves the site. This sewage would be conveyed to the County's Cedar Creek facility on the south shore of the Town of Hempstead (hamlet of Wantagh) for treatment and effluent discharge to the Atlantic Ocean. Sewage typically is generated at about the same rate as water consumption, or a net increase of approximately 3,100 gallons per day (not accounting for sewage generation if the existing, vacant catering hall were re-occupied).

- **Solid Waste Generation** – The EAF estimates that the proposed project would generate solid waste at a rate of approximately six tons per month, based on information provided by the current waste provider. A private carter would collect solid wastes on the redeveloped site, and recycling would be undertaken in accordance with Town of Oyster Bay requirements.

Partial demolition of existing catering building on the subject property would occur under the proposed action. The EAF estimates that approximately 400 cubic yards of demolition debris would be generated.

- **Other Community Services** – The proposed project involves a 16 percent expansion of an existing assisted living facility, which is not expected to significantly impact other community services.
- **Aesthetic Resources** – The architectural design and materials of construction for the proposed building additions would be aesthetically appealing and would be consistent with the existing assisted living facility on the site and nearby commercial facilities along Brush Hollow Road. Enhanced landscaping to be installed as part of the proposed action would contribute to an improved aesthetic quality for the site; this includes buffer plantings around the perimeter of the site.
- **Historic and Archaeological Resources** – The subject property does not contain historically significant resources. As the site previously had been developed, it lacks the characteristics which would suggest the potential presence of significant archaeological resources.
- **Open Space and Recreation** – The project site is a commercially developed parcel, which does not comprise public open space and is not used for recreation.
- **Energy** – The site is connected to existing utilities, and it is expected that sufficient capacity exists to accommodate any increase in energy demand that would result from the proposed facility expansion.
- **Public Health and Safety** – The proposed project is not expected to involve the storage or use of significant quantities of hazardous materials, and does not otherwise entail uses or activities that pose a significant threat to public health and safety. Any medical wastes generated in conjunction with the operation of the expanded assisted living facility is required to be handled and disposed in a manner that protects public health and safety.
- **Community Growth and Character** – The proposed additions to the existing assisted living facility would increase population by a maximum of 37 people.

The expanded facility is consistent with the character of the existing development in the surrounding area.

**OTHER ATTACHMENTS**

Schedule D.

- F. Yes, the Project is reasonably necessary to preserve the competitive position of the Applicant in its industry because the costs of maintaining and operating an assisted living facility in the State of New York are very high. In order to remain competitive with other facilities within and without the state, the Applicant needs to continue to expand its existing operations and continue to lessen the financial burdens associated with an assisted living facility. In order to accomplish this, the Applicant will need to procure IDA benefits including the sales tax exemption and a favorable PILOT agreement.



**Architectural Narrative - DRAFT**  
**for**  
**Amber Court at Westbury**  
**3400 Brush Hollow Road**  
**Westbury, Nassau County, New York**

**44 Bed Adult Home, comprised of 22-EALR beds and 22-SNALR beds**

**March \_\_\_\_\_, 2010**

**Site and Location**

The site is situated on the southeast corner of Brush Hollow Road and Shames Drive in Westbury, NY. There are a total of 3.14 acres of land. Site access is from both Brush Hollow Road and Shames Drive. The parcel is bounded on the south and east by light industrial/commercial development.

**Project Scope**

The project will consist of a new two story and cellar adult home addition comprised of 22-Special Needs Assisted Living Residence beds on the first floor, and 22-Enhanced Assisted Living Residence beds on the second floor. The addition will total 29,383 square feet and requires the demolition of an adjacent one story catering hall structure. The creation of an outdoor recreation space and site work to reconfigure a parking area along with new curbs and landscaping complete the proposed development.

**New Building Construction**

The new building addition and the rehabilitated/conversion will be constructed in accordance with the Building Code of New York State (2007) as an I-1 Institutional Occupancy. The building will be fully protected with an automatic fire sprinkler and fire/smoke detection alarm system. The loosely "L" shaped floor plan will contain exit stairs at each end, as well as an exit directly from the lounge area.

The new addition will be designed as much as practical to be energy efficient. Targeted goals are an energy efficient envelope, heating and air conditioning equipment systems and lighting systems.

The exterior walls of the new addition will be finished with a combination of manufactured stone veneer and an exterior insulation and acrylic finish system that replicates a stucco type finish.

### **Height and Floor Area**

The existing assisted living building is two stories in height with a very small partial cellar. The total area of the existing building is 55,006 square feet. The proposed addition will be two stories in height with a cellar under approximately 80% of the footprint. The existing one story catering hall is to be demolished. The total proposed gross area of the new construction will be 10,535 square feet on the first floor, 10,526 square feet on the second floor, and 8,322 square feet in the cellar. The new addition gross area will total 29,383 square feet when complete. The entire facility will be 85,359 square feet when including another 970 square feet addition that is part of a separate D.O.H. project number 2239.

### **Mechanical and Electrical System**

Only systems and equipment of the highest energy efficiency ratings will be used. All systems will be central.

### **Cost of Construction**

The cost of new construction at this preliminary point in the building design is proposed on a square foot basis of \$200.00 per sq. ft. Based upon an addition of 29,383 sq. ft., the construction cost for the new addition is estimated at \$5,876,600.00. Demolition and site work costs are presently estimated at \$250,000.00. Therefore, the total estimated cost of all construction for the project is \$6,126,600.00. The time frame for construction is estimated to be 14-16 months.

### **Unit Distribution**

The proposed development will total 262 residents in 138 apartments. The new addition will contain 44 residents in 42 apartments of which 40 will be singles or studios, and 2 will be "friendship" type units that consist of two single rooms that share a pantry and a bathroom. All new resident units will have bathrooms that will be provided with grab bars at the toilets and showers to assist the handicapped, closet space, and a pantry that is equipped with a sink, counter space, and an undercounter refrigerator. The balance of the building will consist of 26 existing triple bedded rooms, and 70 existing double bedded rooms once the 14 bed reduction under separate D.O.H. project # 2239 is accomplished.

### **Design Features**

The new addition will contain a 22-bed Special Needs Assisted Living Residence (SNALR) on the first floor that will provide self-contained leisure and dining spaces for the residents. There will be a large lounge space that looks out to an outdoor recreation courtyard for the residents use which will have paved walkways, landscaping, and is enclosed by the building's exterior walls and a 7'-0" high picket fence to prevent injury and elopement. The SNARL unit will also have a generously proportioned "country kitchen" space that will provide tables for dining. There will also be the opportunity for participating in food preparation activities in the "kitchen" area that will be designed much like a residential kitchen. The residents regular meals will be prepared in the facility's kitchen and brought to the unit on carts. The SNARL unit will have additional features for the safety and protection of the residents. For example, the sliding windows will have limiters secured to the window track so that the windows will not slide open more than four inches. Exit doors will have delayed egress systems that meet Life Safety Code criteria as well as the Dementia Guidelines for ALR's.

The second floor of the new addition will house a 22- bed Enhanced Assisted Living Residence (EALR). The second floor plan mimics that of the first floor, and the residents of the EALR will have all the benefits that a self-contained unit provides, as well as accessibility to the rest of the facility. The EALR will also have the benefit of allowing its residents to age in place.

The new cellar space of the proposed addition will provide space for staff lockers, staff lounge, and meeting room. The mechanical equipment and utility rooms will also be in the cellar, along with a laundry room for on-site laundry cleaning. A large proportion of the cellar area will be for storage.

To ensure regulatory requirements can and will be met, it must be noted that the Operator of the SNALR and EALR will have control over the entire building in which these units are located.

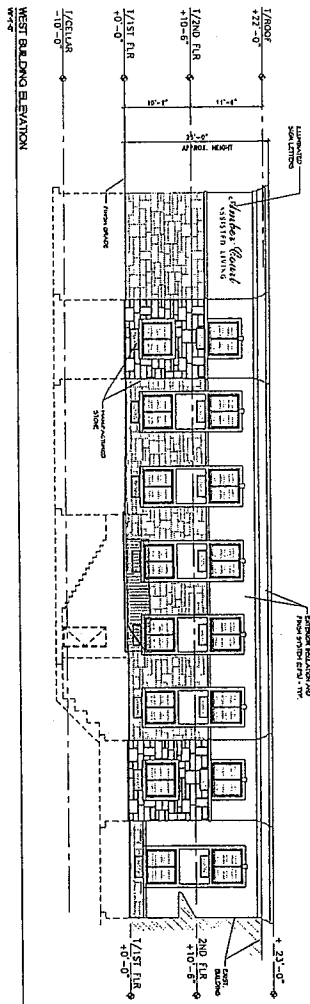
### **Health and Safety Environmental Conditions**

For the health and safety of the residents, the requirements of Section 487.11, Environmental Standards, of Part 487 Adult Care Facilities Standards for Adult Homes will be Provided. This will include such features as:

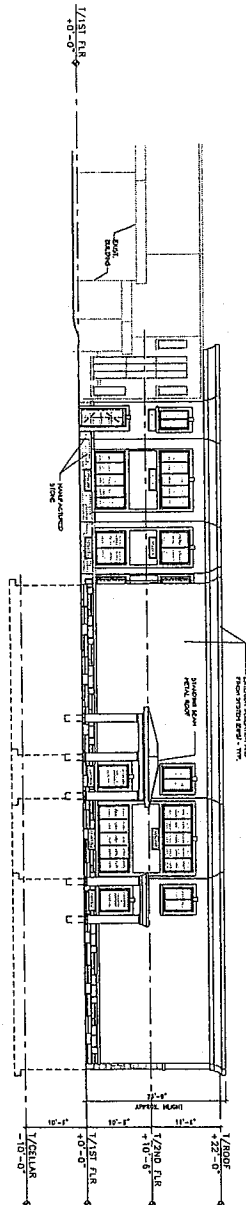
- Night lights in hallways and stairs

- Lockable doors to dwellings
- Protection of heating pipes and radiators which could potentially cause burns
- Slip resistant finishes
- Water temperature limits at 110 degrees
- Grab bars for toilets, tubs, and showers
- Smoke doors and walls
- Emergency communication between resident bed/bathrooms and staff station.
- Handrails on both sides of corridors.

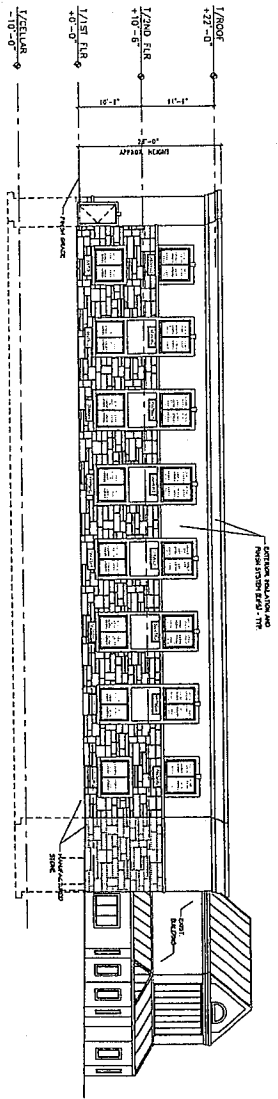
All of this is in addition to the fire sprinkler and alarm equipment previously described.



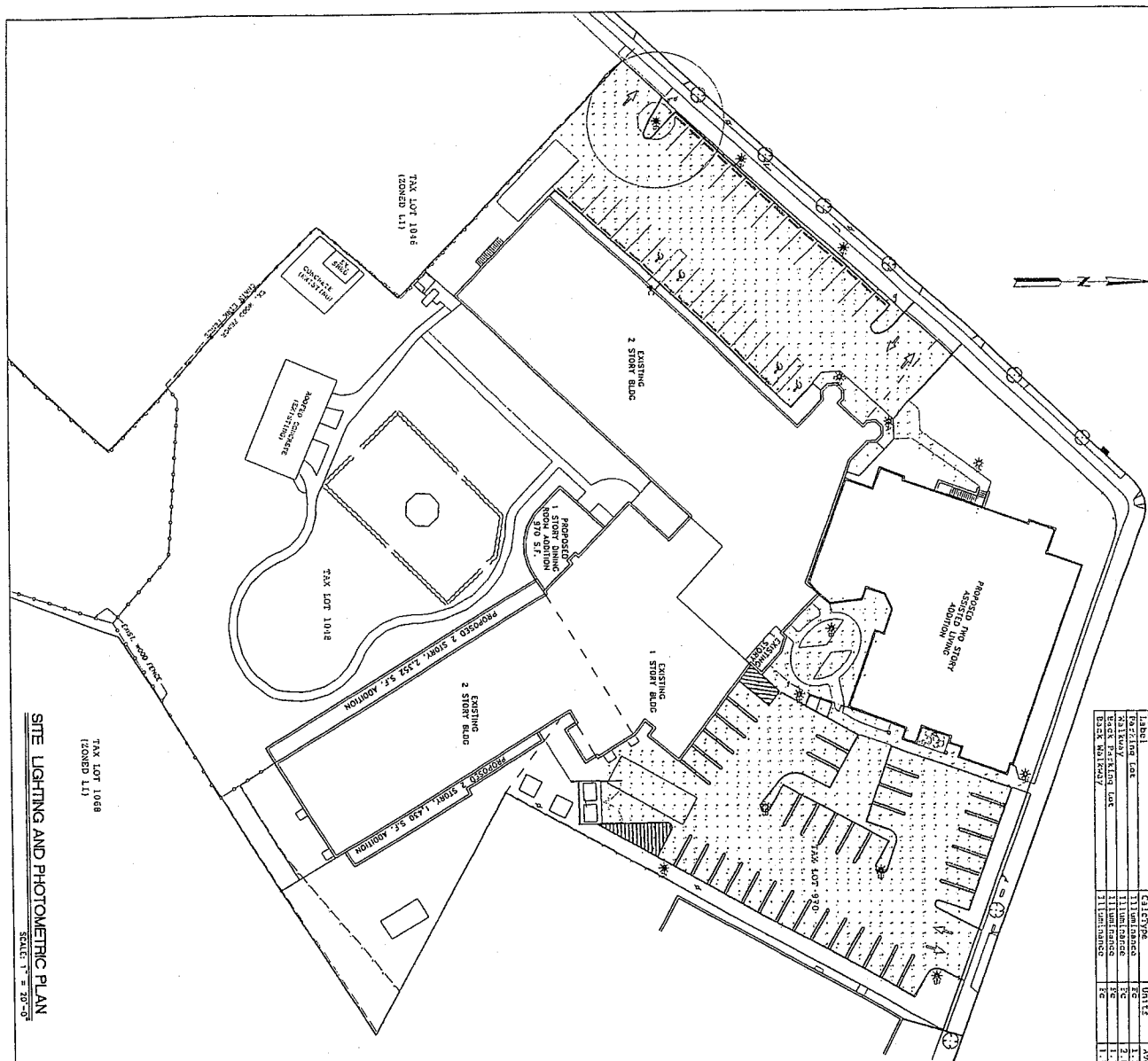
WEST BUILDING ELEVATION



EAST BUILDING ELEVATION



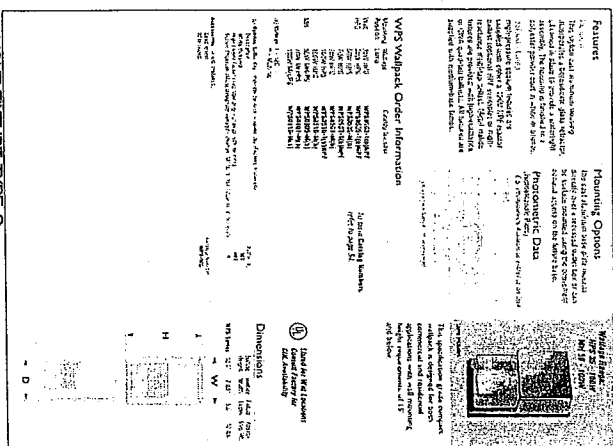
NORTH BUILDING ELEVATION



Labeling technique	Label	Arrangement	Lengths	Base/position
1	Ury	Stimulac	13500	115-123-ATC-33-ATC-5-710-1-07-9-DECA-1-15000-AT-11/PL
2	A	Stimulac	13500	Pemo 115-123-ATC-33-ATC-5-710-1-07-9-DECA-1-15000-AT-11/PL
3	B	Stimulac	13500	Pemo 115-123-ATC-33-ATC-5-710-1-07-9-DECA-1-15000-AT-11/PL
4	C	Stimulac	6200	Similar 115-123-ATC-33-ATC-5-710-1-07-9-DECA-1-15000-AT-11/PL

[illegible]

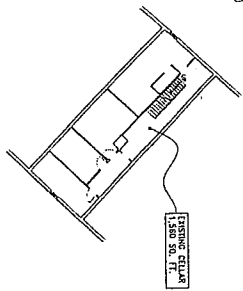
LIGHT FIXTURE TYPE A AND B



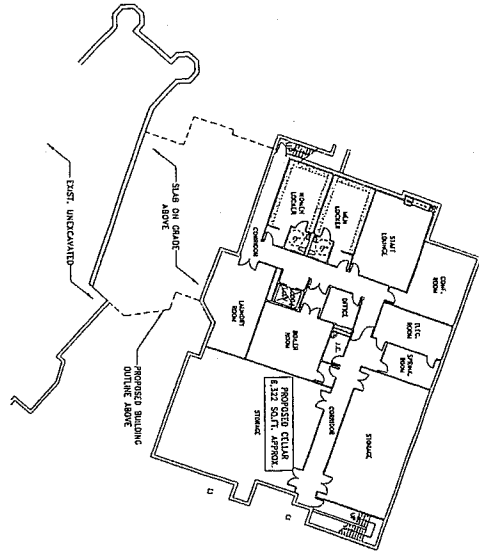
## SITE LIGHTING AND PHOTOMETRIC PLAN

LIGHT FIXTURE TYPE C

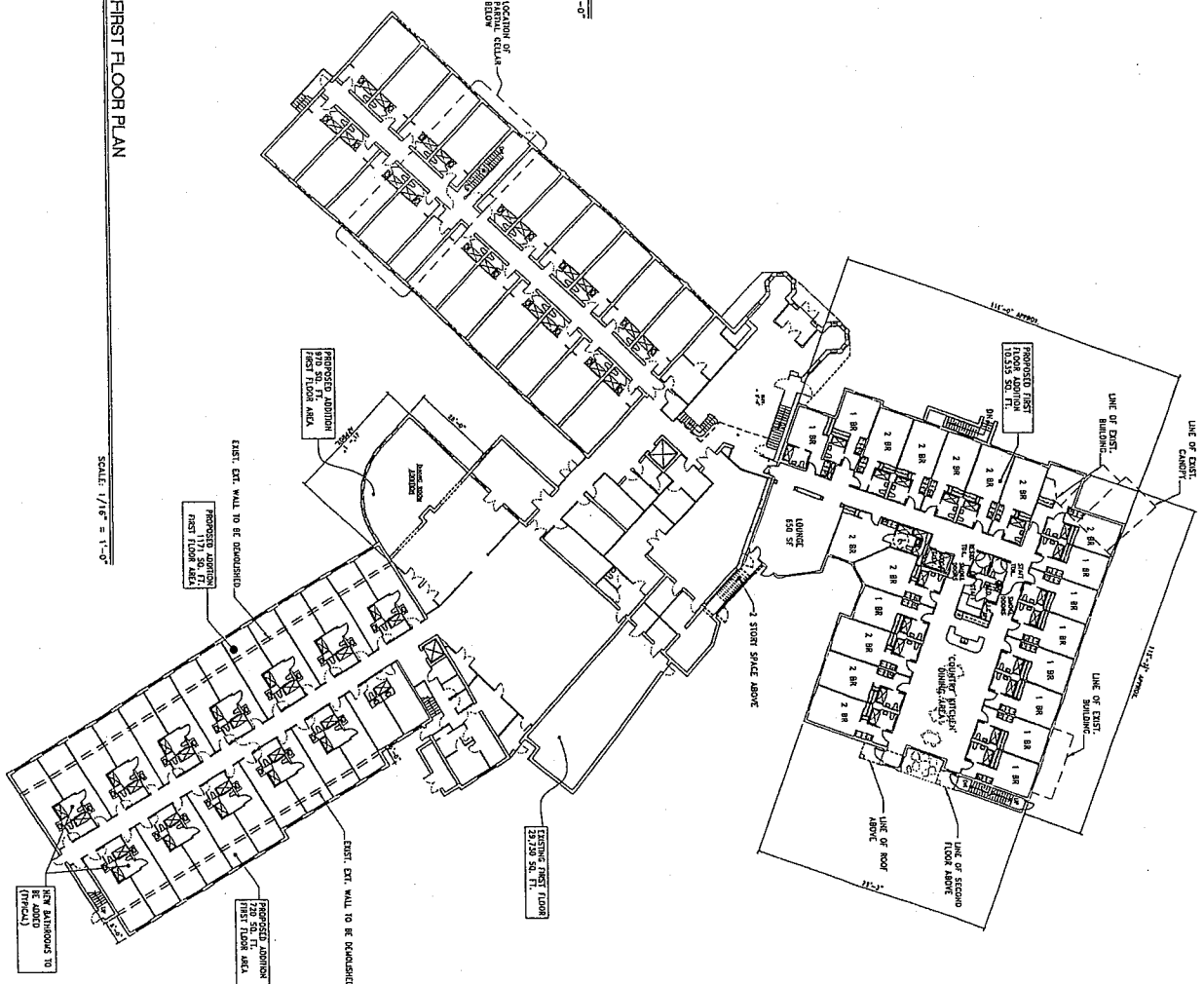
N  
EXISTING PARTIAL CELLAR FLOOR PLAN  
SCALE: 1/16" = 1'-0"



N  
CELLAR FLOOR PLAN  
SCALE: 1/16" = 1'-0"



N  
FIRST FLOOR PLAN  
SCALE: 1/16" = 1'-0"



A-2.0

DRAWING TITLE:  
CELLAR FLOOR PLAN  
AND  
FIRST FLOOR PLAN

PROJECT TITLE:  
**AMBER COURT  
AT WESTBURY**  
3400 BRUSH HOLLOW ROAD, WESTBURY, NEW YORK  
SECTION 11, BLOCK B, LOTS 870, 1048, 1050

DATE	REVISION	DATE	REVISION
01/11/10	1.0.1, REVIEW		

SCALE: AS NOTED	CONSULTING ENGINEER:
DATE: 01/11/10	
BY: DUBNO	
CHECKED: DUBNO	
PROJECT: 0727	

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