

TOWN BOARD: TOWN OF YORKTOWN
COUNTY OF WESTCHESTER: STATE OF NEW YORK

In the Matter of the Application of	:	
	:	
CELESTIAL ROUTE 6 ASSOCIATES II, LLC,	:	PETITION FOR
	:	ZONING
To Amend the Town of Yorktown Zoning Map to Rezone	:	<u>AMENDMENT</u>
Property Identified as Route 6 and Mohegan Avenue, Listed	:	
As SBL 15.16.-1-21 on the Town's Tax Map	:	
	X	

Petitioner CELESTIAL ROUTE 6 ASSOCIATES II, LLC (“Petitioner”), by its attorneys Zarin & Steinmetz, respectfully petitions the Town Board (“Town Board”) of the Town of Yorktown (“Town”) as follows:

SUMMARY OF PETITION

1) This is a Petition pursuant to Section 300-26 of the Zoning Chapter of the Town Code to rezone the real property located at Route 6 and Mohegan Avenue, which is listed as Section, Block, and Lot Number 15.16-1-21 on the Town’s Tax Map (the “Property”), from the Office Zoning District to the C-2 Zoning District.

2) The Property is part of a what was formerly a large parcel that was subdivided into four (4) lots with shared parking facilities. While Petitioner successfully developed two (2) of the lots with the Learning Experience (day care center) and Hudson Teachers Credit Union, and donated one lot to the Town, the Property – which makes up the third lot – has remained vacant for over ten (10) years.

3) Despite Petitioner’s repeated efforts to market the third lot, which is the one remaining vacant lot in the development, Petitioner has been unable to find a viable user under the current zoning for the Property.

4) Town Code Section 300-21C(15), which sets forth the permitted uses in the Office Zoning District, currently only permits limited uses at the Property, such as professional and business offices, post offices, and banks, and among the special permit uses, day care facilities.

5) Respectfully, the permitted uses in the Office District are overly restrictive, inconsistent with the prevailing character of the Route 6 corridor, and have not allowed for the successful use of the Property.

6) The lots immediately adjacent to the Property and along Route 6 are all zoned commercial, in the C-2, C-3, and C-4 Districts. Rezoning the Property to C-2 would bring the Property into harmony with the surrounding community.

7) The Property is a particularly appropriate location for the commercial uses permitted in the C-2 District due to its central location and frontage on Route 6 and Mohegan Avenue, with a pedestrian friendly sidewalk and flagpole area, and its consistency with the uses and zoning designation of the surrounding properties along Route 6.

8) As shown in the accompanying Traffic Study, which was prepared by JMC, the Applicant's planning and engineering consultant, overall, the pertinent intersections will operate at similar or improved levels of service as compared to the projected 2021 No-Build Volumes.

9) Accordingly, the Petitioner respectfully requests that the Town Board rezone the Property to the C-2 Commercial Hamlet Center District, which would expand the permitted uses to include retail stores, restaurants, and personal service establishments, allowing for a more diverse range of commercial uses at the Property in line with the prevailing uses along Route 6 and making the Property marketable.

THE PETITIONER

10) The Petitioner, Celestial Route 6 Associates II, LLC, is a limited liability company organized under the laws of the State of New York and has an address at 222 Bloomingdale Road, Suite 115, White Plains, New York, 10605.

11) The Petitioner is a real estate developer with over thirty (30) years' experience in Westchester County, including Yorktown.

12) One of Petitioner's successful developments is directly across the street from the Property, consisting of a CVS, Subway, and other popular commercial retail and food service uses.

13) Petitioner purchased the Property in 2006, as part of a larger parcel that was subdivided into four (4) lots on the corner of Route 6 and Mohegan Avenue, including frontage along Mohegan Lake.

14) While the Property and adjacent lots were originally zoned in a commercial district, the Town subsequently downzoned the Property to the Office District.

15) In 2005, Petitioner obtained Site Plan Approval to develop the Property and adjacent parcels with the Hudson Valley Credit Union, the Learning Experience, a bank branch on the subject Property, and to donate the fourth lot along Mohegan Lake to the Town.

16) Petitioner was negotiating a lease with a popular commercial bank to develop the subject Property with a bank branch when the 2008 economic downturn took place.

17) As set forth in the accompanying Affidavit of Eric Goldschmidt, sworn to September 12, 2018 ("Goldschmidt Aff."), the Property has been vacant ever since, despite Petitioner's significant efforts to market the Property for uses permitted in the Office Zoning District for the past ten (10) years.

18) These efforts including listing the Property on the CoStar commercial real estate listing service, listing the Property on other real estate marketing websites, and persistent and significant outreach to potential users. (Goldschmidt Aff. at ¶ 14).

19) While Celestial received numerous inquiries from retail and food-service oriented business, Celestial was forced to decline these inquiries due to the user's inconsistency with the Office District zoning of the Property. (Goldschmidt Aff. at ¶ 15).

20) The Petitioner proposes to rezone the Property to facilitate the development of a commercial retail or food service use consistent with the prevailing uses along Route 6 and to serve the Yorktown community.

THE PROPOSED AMENDMENT

A. The C-2 Zoning District is Consistent With the Character of Route 6 And Will Allow for the Efficient and Adequate Use of the Property

21) The current Office District zoning designation only allows for the development of limited professional office and business uses, which are inconsistent with the adjacent commercially-zoned properties and the character of the Route 6 corridor containing a wide array of commercial and retail uses.

22) Town Code Section 300-21C(15) for the Office District currently only permits limited uses, such as professional and business offices, post offices, and banks.

23) In contrast, Town Code Section 300-21C(9) for the C-2 Commercial Hamlet Center District provides the more diverse commercial uses, including retail, restaurant, and food service uses.

24) Accordingly, Petitioner respectfully submits that the Town Zoning Map should be amended to rezone the Property to the C-2 Zoning District to reflect the zoning of other parcels along Route 6 and the zoning needed to successfully develop the Property.

B. Similar Properties Have Been Rezoned to Commercial on Route 6 and Rezoning Will Benefit Yorktown Community

25) The Property is an excellent location for the uses allowed in the C-2 Zoning District, as the C-2 designation is consistent with the other commercially zoned properties along Route 6.

26) The rezoning of the Property to the C-2 Zoning District will also enable the development of a lot that has been vacant and underutilized for over ten (10) years.

27) The rezoning will provide Petitioner with greater flexibility in marketing the Property.

28) The re-zoning of the Property will also provide ground level retail and commercial uses, further contributing to the creation of a vibrant and pedestrian-oriented commercial hamlet on Route 6 and Mohegan Avenue.

29) The re-zoning and subsequent commercial use of the Property will have the added benefits of generating additional tax revenue for the Town and providing greater commercial, retail and food service options for area residents.

30) The proposal's contributions to the Town's finances would be compounded by its relatively low demand for municipal services.

31) The development of the Property would also come with extremely limited potential environmental impacts, as was previously determined in connection with the environmental review of these previous Site Plan Approval.

32) The shared parking facilities serving the adjacent lots owned by Petitioner will adequately meet the Property's parking needs and are placed behind the Property, shielding the parking area from view on Route 6 and Mohegan Avenue.

33) Petitioner will also use landscaping to provide attractive screening and further beautify the pedestrian streetscape along Route 6.

34) The Petitioner's proposal will also be benign in terms of its traffic impacts, as set forth in the enclosed Traffic Study, prepared by JMC, dated September 20, 2018 ("Traffic Study").

35) Since a tenant for the proposed building has not been finalized, the Traffic Study analyzes traffic associated with a 7,200-sf retail building and a 2,000 sf fast-food restaurant with drive-through window.

36) As set forth in the Traffic Study, intersection capacity analysis for the relevant intersections based on 2021 Build Volumes indicate that the overall intersections will operate at similar or improved levels of service as projected for the 2021 No-Build scenario for both the retail and fast-food restaurant buildings. (See Traffic Study at 13-15.)

37) The Traffic Study analyzed the following intersections:

- a. U.S. Route 6 and Lexington Avenue;
- b. U.S. Route 6 and Old Farm Lane;
- c. U.S. Route 6 and Mohegan Avenue/Lakeland Street, and;
- d. Mohegan Avenue and the Site driveway/CVS driveway.

38) For the 7,200-sf retail building, the levels of service projected under Build conditions for all studied turning movements remain the same as projected under No-Build conditions, except for six (6) movements where levels of service are project to *improve* from No-Build conditions. (Id. at 14.)

39) For the 2,000 sf fast-food restaurant with drive through window, during the peak weekday PM hour, the studied turning movements remain the same as projected under No-Build

conditions except for two (2) movements at the intersection of US 6 and Mohegan Avenue with Lakeland Street that are projected to *improve* compared to No-Build conditions.

40) During the peak weekday AM hour, the levels of service projected under Build conditions for all studied turning movements remain the same as projected under No-Build conditions except for one movement at the US 6 westbound left turn lane at US 6's intersection with Mohegan Avenue and Lakeland Street. At this movement, the level of service is projected to technically increase from level of service A under No-Build conditions to level of service B under Build conditions, based on an incremental 1.3 second delay. (Id. at 13). In JMC's professional opinion, the incremental 1.3 second delay is not significant. (Id. at 15).

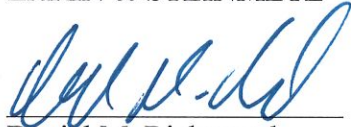
41) In addition, if the New York State Department of Transportation were to implement the common signal phasing capabilities at the Mohegan Avenue and Lakeland Street approaches to the intersection with US 6, the overall intersection level of service could be further improved compared to No-Build conditions for both the retail and fast food uses. Such improvements would also maintain the level of service during the peak weekday AM hour at the US 6 westbound left turn lane at US 6's intersection with Mohegan Avenue and Lakeland Street for the fast-food use at a level of service A, the same level of service as under No-Build conditions. (Id. at 15-16).

WHEREFORE, Petitioner respectfully requests that the Town Board: (a) amend the Town's official Zoning Map to rezone the Property to the C-2 Zoning District, and; (b) declare itself Lead Agency for the purposes of conducting environmental review under the State Environmental Quality Review Act ("SEQRA").

Dated: September 20, 2018
White Plains, New York

ZARIN & STEINMETZ

By:



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