

REVISED



TOWN OF HENRIETTA  
County of Monroe  
State of New York

475 Calkins Road, Rochester, NY 14623  
(585) 334-7700 • www.henrietta.org

TOWN OF HENRIETTA  
APPLICATION TO TOWN BOARD  
- SPECIAL USE PERMIT -

Appeal No. SP-2023-001

Date 02/03/2023

Applicant: Konar Properties and 65 Becker Road, LLC

Name

Email

75 Thruway Park Drive West Henrietta NY 14586

No. & Street

City

State

Zip Code

Phone Number

Business Owner: Rivian, LLC

Name

Email

15770 Laguna Canyon Rd Irvine CA 92618

No. & Street

City

State

Zip Code

Phone Number

Business Name: Rivian, LLC

Business Address:

No. & Street

City

Property Owner: 65 Becker Road, LLC

Name

Email

75 Thruway Park Drive West Henrietta NY 14586

No. & Street

City

State

Zip Code

Attorney & Agent: Betsy Brugg, Esq.

Name

Email

1900 Bausch & Lomb Place Rochester NY 14604

No. & Street

City

State

Zip Code

Phone Number

Hereby request from the Town Board for a Special Use Permit for the property located at:

65 Becker Road

Henrietta

NY

14586

No. & Street

City

State

Zip Code

188.02-1-75.111

Tax Map No.

Industrial

Zoning District

If property is under a purchase option, indicate date option expires: N/A

Under the Zoning Ordinance, a Special Permit is requested pursuant to:

Article: VIII Section: 295-25 Subsection: A Paragraph: (20)+(22) of the Zoning Ordinance.

Description of Proposal: Operation of Rivian electric vehicle facility, an auto service center only

servicing Rivian vehicles, including Amazon's fleet of electric delivery trucks to be rolled out in the

region, and other Rivian owners. To include specialty motor vehicle sales for delivery.

Multiple Dwelling Applications – Dwelling Units per Acre: \_\_\_\_\_

Does this exceed allowed amount per Henrietta Code §295-13[E](1)(b)  Yes  No

Printed Name: 65 Becker Road, LLC Applicant

Signature: Betsy Brugg

02/22/2023

Date of Meeting\*

(unless rescheduled)

TBD

Time

Received By


\*A meeting date will be assigned when applications are turned in but if the application is deemed incomplete, it will not be scheduled and the Applicant will be notified.

**Statement of Applicant and Owner with Respect to Reimbursement  
of Professional and Consulting Fees**

In conjunction with an application made to the Town of Henrietta, the undersigned states, represents and warrants the following:


- 1) I/We am/are the applicant and owner with respect to an application to the Town of Henrietta.
- 2) I/We have been advised of, are aware of and agree to comply with the obligation to reimburse the Town of Henrietta for any and all professional and consulting fees incurred by the Town in conjunction with this and any other applications by me/us, including but not limited to engineering and/or legal fees, all as more fully set forth in the Henrietta Town Code.
- 3) I/We have been provided with, or have otherwise reviewed the Henrietta Town Code provisions related to the obligation to reimburse the Town with respect to professional and consulting fees, and agree to comply with the same.
- 4) I/We understand that this obligation shall not be dependent upon the approval or success of the application.
- 5) I/We further agree that in the event the Town of Henrietta is required to refer for collection an outstanding debt for such professional and/or consulting fees due to the Town of Henrietta, I/we shall be obligated to pay the reasonable attorney's fees incurred as a result of the Town's efforts to collect such fees. Reasonable attorney's fees shall also include any and all disbursements that may result from the commencement of litigation.
- 6) Each party to the application, including the applicant and the owner, shall be jointly and severally liable for all consulting and professional fees and expenses incurred in conjunction with the application.

Applicant: Konar Properties and 65 Becker Road, LLC

By: 

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

Dated: 12/28/2022


Signed:  Trajia

Owner: Konar Properties and 65 Becker Road, LLC

By: 

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

Dated: 12/28/2022

Signed:  Trajia

1900 Bausch & Lomb Place  
Rochester, New York 14604  
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ATTORNEYS  
woodsoviatt.com

1900 Main Place Tower  
Buffalo, New York 14202  
P 716.248.3200 F 716.854.5100

Writer's Direct Dial Number: [REDACTED]

Writer's Direct Fax Number: [REDACTED]

Email: [REDACTED]

January 3, 2023

Town Board  
Town of Henrietta  
475 Calkins Road  
Henrietta, NY 14467

Dear Town Board Members:

This office has been retained by Konar Properties and 65 Becker Road LLC in connection with the property owned at 65 Becker Road in Erie Station Business Park. This letter is submitted as a part of our application requesting a special use permit to allow Rivian to operate a facility at 65 Becker Road, deemed to be a motor vehicle service use and specialty motor vehicle limited sales use requiring a special use permit for the operation.

### **PROPERTY**

The property at 65 Becker Road consists of a vacant 39,000 +/- square foot flex space building and adjacent parking lot on approximately 6.13 acres located discreetly at the end of a cul de sac in the Erie Station Business Park. The building is tucked back behind the DDS Engineers and FedEx, with no pass through traffic. Both of these neighboring uses are vehicle-intense. DDS has customer and employee parking, as well as outside storage of its fleet of construction trucks and equipment. FedEx also has employee and customer parking, with a large fleet of FedEx branded vehicles parked around the property. Construction of the building at issue was completed but has remained vacant during the pandemic. The site was developed pursuant to an approved site plan, and is located in a developed neighborhood, the Erie Station Business Park.

### **RIVIAN PROPOSED OPERATION**

Rivian is a manufacturer of electric vehicles for consumers and commercial markets. Their mission is driven by adventure, pushing boundaries into the unknown, and experiencing the best of the world around us. Rivian's vehicles are fully electric which produce zero tailpipe emissions. Due to the nature of servicing electric vehicles only, there is no oil or exhaust within the space providing a much cleaner service center than any conventional auto service use. The site and building are ideal

in location and condition for the proposed operation, requiring no changes to the site plan. The loading dock (located opposite neighboring DDS's outside storage of construction trucks and equipment) will be configured with a ramp and overhead door to provide vehicular access to the building for service, consistent with the approved plan. Other improvements required will be interior to the building

Rivian proposes to occupy approximately 20,000 square ft. of the vacant 39,000 square ft. building and primarily operate as a service center facility that will service only Rivian vehicles. The service area will be composed of 3-4 lift bays, an area for ADAS, alignment and calibration, a manual wash bay, pre-delivery inspection areas and a parts and storage area. Examples of indoor vehicle servicing would include wheel alignment, hardware replacement and software programming, as well as pre-delivery inspection: the process of deeply reviewing and cleaning each vehicle prior to delivering to customers. Other areas include front-of-house needs such as a customer lounge, breakrooms and office space. All work would be conducted inside the building. Electric vehicle charging stations would also be located inside and outside the building and would not be intended for public use.

All Rivian vehicles are made to order and purchased online. Customers will pick up their pre-ordered vehicles on site via appointments. Vehicles that are pre-ordered online could be stored on site for several days to undergo inspection and detailing before being picked up by the customers. There is no sales area or showroom required at the site. There will be no vehicles on display for sale or demonstration drives. The public will not be able to test drive or buy a vehicle off the lot at this location.

Much of the routine maintenance for the vehicles is done via over-the-air updates off site through the Rivian app or by calling Rivian support. Rivian also provides mobile service to customers when a Rivian employee will come directly to a customer for service. In instances when OTA or mobile service is not an option, vehicles will be brought to the service location for maintenance. Estimates are roughly 10-20 vehicles/day coming on site for service or more depending on the volume of the electrical delivery van service needs.

Rivian anticipates having 20-30 employees connected with the location including technicians and office staff. Number of employees on site at any given time will vary based on demand. Hours of operation are estimated to be Monday –Friday 7am-7pm and Saturday 9-5, subject to adjustment as needed.

The proposed motor vehicle service and specialty motor vehicle limited sales uses are permitted in the Industrial District with a special use permit. Accordingly, we are requesting that the Town Board grant the required special use permit to allow the operation. No other zoning approvals are required. The matter is a Type 2 action for purposes of SEQRA, requiring no further SEQRA review.

## SPECIAL PERMIT LAW

As you know, a special use permit is a use which carries the presumption of being permitted, such that the Courts have held that the "...inclusion of the permitted use in the ordinance is tantamount to a legislative finding that the permitted use is in harmony with the general zoning plan and will not adversely affect the neighborhood..." *Retail Property Trust v. Board of Zoning Appeals of Town of Hempstead*, 98 N.Y.2d 190, 746 N.Y.S.2d 662 (2002). *Matter of North Shore Steak House v Board of Appeals of the Inc. Vil. of Thomaston*, 30 NY2d 238 [1972]; *Gordon & Jack v. Peterson* 230 A.D. 2d 856 (2d Dept. 1996). "[O]nce it is shown that the contemplated use is in conformance with the conditions imposed, the special use permit must be granted unless there are reasonable grounds for its denial, supported by substantial evidence." *Matter of George Eastman House Inc. v Morgan Mgt. LLC*, 130 A.D.3d 1552 (4<sup>th</sup> Dept., 2015). The proposed Rivian operation satisfies the applicable criteria in the Town Board for the granting of the required special use permit.

## SPECIAL USE PERMIT STANDARDS

The proposed Rivian facility satisfies the standards set forth in Town Code Section 295-54, for the granting of the required special use permit to allow the motor vehicle service and specialty motor vehicle limited sales operation, as more specially described below.

**A. Whether the proposed use is substantially consistent in its scale and character with those uses permitted and the existing built permitted uses in the subject zoning district and neighborhood or will otherwise impair such uses due to inconsistency.**

The proposed Rivian operation is consistent in scale and character with the neighboring uses in the Erie Station Business Park, including immediate neighbors DDS and Fed Ex, and the district, and will not adversely impact any permitted uses in the neighborhood or district. Like other nearby uses, service activity will occur inside the building or off-site, with sufficient facilities on site for the operation.

As stated above, there will be approximately 20-30 employees affiliated with the location, including employees working remotely. Rivian estimates that the service center might serve 10-20 +/- customers daily in addition to the electric delivery vans. In respect to the specialty motor vehicle sales limited use, as sales occur online only, the pick up of new vehicles is a limited part of the activity occurring on site. There will be no sales showroom or unclaimed vehicles on display or available to the public for sale.

The operation is compatible with the neighboring business operations. The volume of vehicles on site will be consistent with or less intense than the neighboring FedEx - which has a high volume of vehicles on site- or DDS- which maintains outdoor storage of construction

vehicles and equipment. These users do not need to pass Rivian to access their sites. The proposed Rivian location is discreetly located and laid out, such that it has limited visibility and no pass-through traffic. The building and parking are oriented and located in a manner that contains and screens the site and its parking lot.

**B. Whether the proposed use aligns with the vision, goals and recommendations of the Comprehensive Plan and other applicable plans and studies conducted by or on behalf of the Town.**

The proposed special permit use is consistent with the Town's Comprehensive Plan and the purpose of the zoning district. The proposal is consistent with the Town's support of businesses and sustainable technology. The proposed facility will support an electric vehicle program in the region and support other Rivian owners and customers, with the only other location in New York currently in Brooklyn. To serve Rivian's business needs, the use requires access and proximity to transportation routes provided by the location. The light assembly, service, and administrative offices are also permitted aspects of the use.

**C. Whether the proposed use aligns with the purpose, intent, and applicable design and development standards of the zoning district(s) in which the use is proposed to be located.**

The proposed use is consistent with the design and development standards in the code applicable to the location and zoning. The attractive flex space building is newly built and currently vacant, with ample parking for the use and landscaped buffering in place as part of existing location. Minimal changes are required for use by Rivian. The proposal complies with the zoning code and existing site plan approval. The use is primarily a service center, with service contained and provided inside the building or off-site. The use is compatible with the neighboring business operations.

The specialty motor vehicle limited sales is a limited part of the overall operation. All new vehicle sales occur online, with payment made online. Pre-purchased vehicles will be picked up on site. The pre-purchased vehicles would be delivered from Rivian's plant in Normal, Illinois to the site, undergo inspections and detail work and then be ready for pick up. The number of new Rivian vehicles to be on site for pick up is projected to be on average 10-20 at any time. Pick up is by appointment only. There will be no showroom or inventory of vehicles on display or available for test drive to the public. The site is not intended to attract the general public, thus the remote and isolated location is desirable and appropriate for the operation.

**D. Whether the proposed use will be a nuisance in law or in fact due to its being materially noxious, offensive or injurious by reason of the production of or emission of dust, smoke, refuse, poisonous substances, odors, fumes, noise, radiation, vibration, unsightliness or similar conditions, or will contaminate waters.**

The Rivian operation will not be a nuisance in any way. It is a low intensity electric vehicle use. Much of the routine maintenance for the vehicles is done via over-the-air updates off site through the Rivian app or by calling Rivian support. Estimates are roughly 10-20 vehicles/day coming on site for service or more depending on the volume of the electrical delivery van service needs. Rivian also provides mobile service to customers off site.

**E. Whether the proposed use will create material hazards or dangers to the public or to persons in the vicinity from fire, explosion, electricity, radiation, traffic congestion, crowds, parking of vehicles, or other causes.**

The proposal will not create any such hazards or danger. Adequate parking is provided on site for the low intensity use.

**F. Whether the proposed use will create materially adverse impacts that cannot be adequately mitigated, such as to adversely impact natural resources or the environment, agriculture, community services or other areas required to be addressed by the State Environmental Quality Review Act (SEQRA).**

The use will not generate any adverse impact and no mitigation is required. The action is a Type 2 action pursuant to SEQRA such that no further SEQRA review is required.

**G. Whether the physical conditions and characteristics of the site are suitable for the proposed use considering site size, configuration, location, access, topography, vegetation, soils, and hydrology for effective stormwater management and, if necessary, the ability to be screened from neighboring properties and public roads.**

The physical conditions and characteristics of the existing building and site are suitable for the proposed modifications to the use and operation. Rivian will occupy a portion of an existing building and site with no significant exterior changes required. The proposed activity will be largely contained within the building, with adequate building and site access, and sufficient parking on site. The general appearance is consistent with other uses in the business park.

The location is appropriate to serve the needs for a service center and has necessary proximity to transportation routes. The dead end location within the business park, the nature of neighboring uses, orientation of the site, and sufficient parking area, are ideal for the proposed operation, with the site offering sufficient size, limited traffic, and screening. The proposed use is consistent and compatible with the neighboring DDS and Fed Ex operations, both of which have outside vehicular uses, with parking and storage of vehicles on their sites.

**H. Whether there are adequate public infrastructure, utilities, community facilities and emergency services, either existing or to be provided by the applicant or others, to effectively**

**serve the proposed use. A proposed use shall not create or contribute to an existing inadequacy.**

The site was developed pursuant to an approved site plan and is located in the Erie Station Business Park. It is served by adequate services and utilities. The proposed use will not adversely impact the adequacy of any such service.

**I. Whether the proposed use will provide, maintain, or enhance, as necessary, safe and efficient vehicular traffic patterns, nonmotorized travel, and pedestrian circulation as well as, where feasible, access to public spaces, parks, recreation, and open space resources.**

The site was developed pursuant to an approved site plan and is located in the larger developed Erie Station Business Park. The proposed use will maintain safe conditions and comply with the existing site plan. No site plan changes are required for the proposed Rivian operation. Being at the end of the road, there is no pass through traffic. The site has appropriate internal traffic circulation and access, as well as sufficient parking for Rivian's operation.

**CONCLUSION**

Based on satisfaction of the applicable criteria for approval, as described above, we respectfully request that the Town Board grant special use permit approval to allow Rivian to operate at 65 Becker Road. We are confident that Rivian will be an appropriate and positive addition to the Erie Station Business Park.

We look forward to presenting this special use permit application to you at a public hearing on February 8, 2023. In the interim, should you or any board member have any questions or require additional information about this matter, please do not hesitate to contact me. Thank you for your consideration.

Very Truly Yours,  
WOODS OVIATT GILMAN LLP



Betsy Brugg



December 19, 2022

Town of Henrietta  
475 Calkins Road  
Henrietta, New York 14467

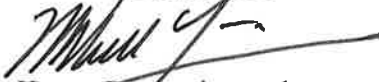
**Re: LETTER OF AUTHORIZATION  
65 Becker Road, Henrietta, NY**

Dear Sir or Madam:

Konar Properties and its affiliate 65 Becker Road, LLC which owns the property at 65 Becker Road, in Erie Station Business Park, hereby authorize the attorneys of Woods Oviatt Gilman, LLP, including Betsy Brugg, Esq. to act as our attorney and agent to submit and represent applications for municipal approvals for the operation of a Rivian electric vehicle facility to be proposed at our property.

If you have any questions, please do not hesitate to contact me.

Very truly yours,



Konar Properties and  
65 Becker Road, LLC

By: Michael Trojany  
As: Owner's agent

December 28, 2022

Town of Henrietta  
475 Calkins Road  
Henrietta, New York 14467

**Re: LETTER OF AUTHORIZATION  
65 Becker Road, Henrietta, NY  
Proposed Rivian facility**

Dear Sir or Madam:

Rivian, LLC authorizes Konar Properties and 65 Becker Road, LLC, the owners of the property at 65 Becker Road in Henrietta, together with their attorneys and agents, to submit and represent applications for a special use permit required to allow the operation of a Rivian electric vehicle facility for the motor vehicle service use and specialty motor vehicle limited sales use at 65 Becker Road in Henrietta.

If you have any questions, please do not hesitate to contact me.

Very truly yours,

Rivian, LLC

By: Angela Prowse  
Name: Angie Prowse  
Title: Director, Service Design, Facilities Design  
Email: [REDACTED]

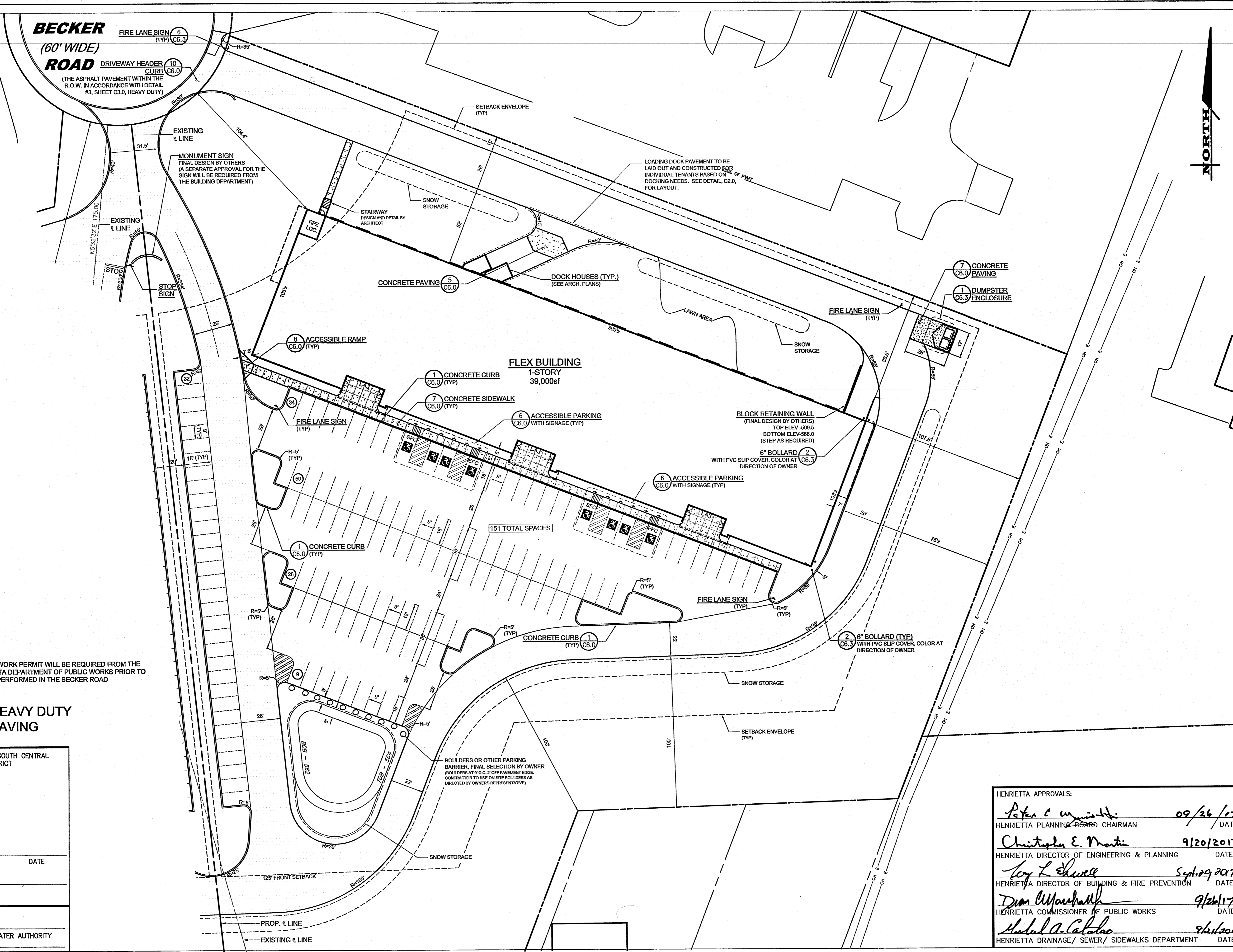
File: Z:\Engineering\Job Files\0689-15 Drawings\0689-15 Plans.dwg, Last saved: 9/15/2017, Plot Date: 9/15/2017, Plot Style: MARATHON STANDARD.CTB

NOTE: A HIGHWAY WORK PERMIT WILL BE REQUIRED FROM THE TOWN OF HENRIETTA DEPARTMENT OF PUBLIC WORKS PRIOR TO ANY WORK BEING PERFORMED IN THE BECKER ROAD RIGHT-OF-WAY.

**HEAVY DUTY PAVING**

IRONDEQUOIT BAY SOUTH CENTRAL PURE WATERS DISTRICT

SIGNATURE	DATE
REVIEW NUMBER	
APPROVED BY:	
MONROE COUNTY WATER AUTHORITY	
DATE:	



**MARATHON ENGINEERING**  
 39 CASCADE DRIVE  
 ROCHESTER, NY 14614  
 PHONE 585-458-7770  
 www.marathoneng.com

**FINAL SITE PLANS FOR KONAR PROPERTIES**  
 ERIE STATION BUSINESS PARK LOTS W AND X  
 TOWN OF HENRIETTA COUNTY OF MONROE STATE OF NEW YORK

JOB NO: 0689-15  
 SCALE: 1" = 30'  
 DRAWN: MT  
 DESIGNED: RPB  
 DATE: 09/08/2016

REVISIONS		
DATE	BY	REVISION
10/24/16	PG	TOWN COMMENTS
02/06/17	PG	TOWN COMMENTS
09/11/17	PG	MCWA, MCDOH AND TOWN COMMENTS

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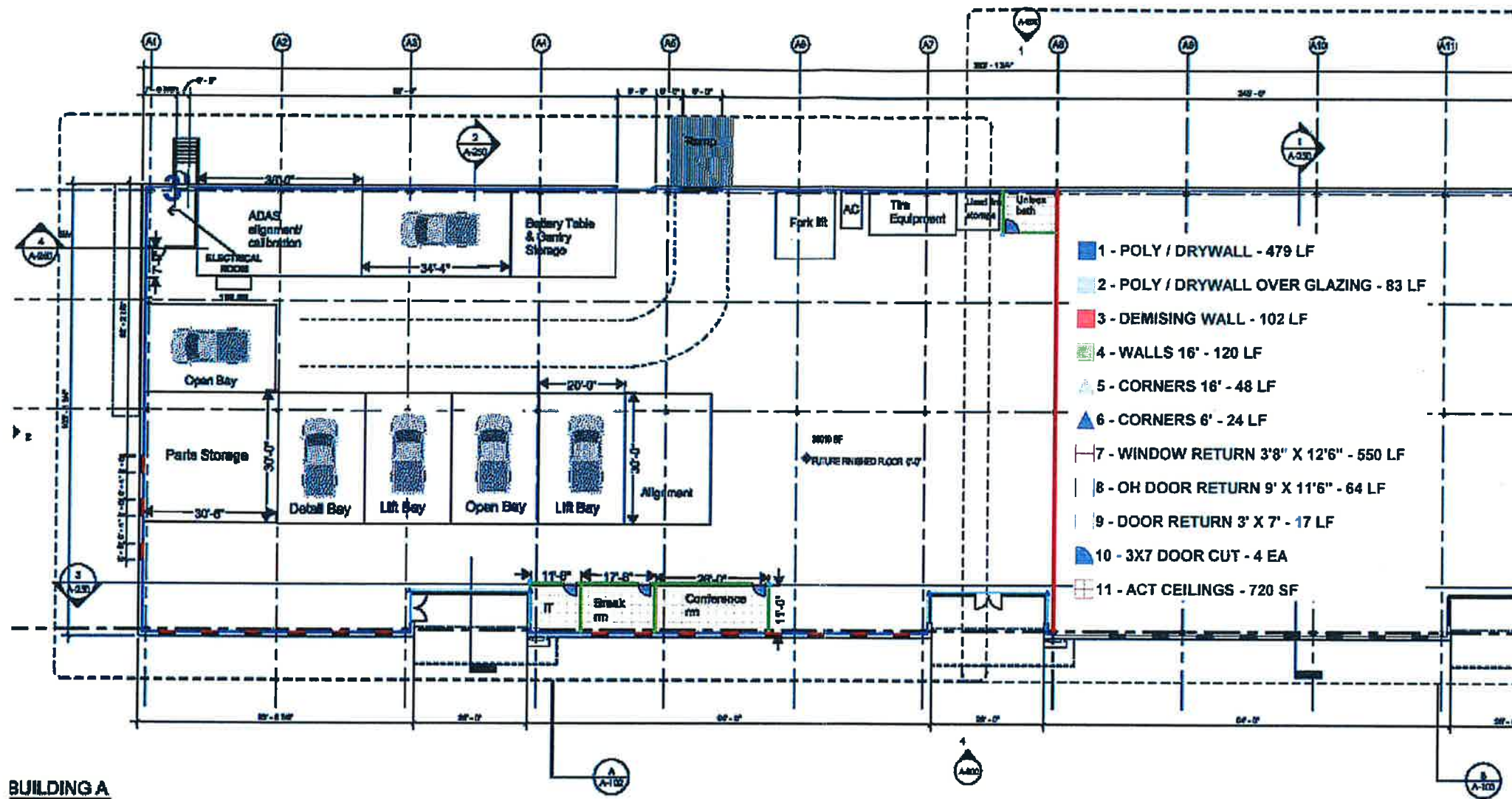
HENRIETTA APPROVALS:

<i>Peter C. ...</i>	09/26/17	DATE
HENRIETTA PLANNING BOARD CHAIRMAN		
<i>Christopher E. ...</i>	9/20/2017	DATE
HENRIETTA DIRECTOR OF ENGINEERING & PLANNING		
<i>Toy L. ...</i>	Sept. 29, 2017	DATE
HENRIETTA DIRECTOR OF BUILDING & FIRE PREVENTION		
<i>Dwan ...</i>	9/26/17	DATE
HENRIETTA COMMISSIONER OF PUBLIC WORKS		
<i>Shelby A. ...</i>	9/26/2017	DATE
HENRIETTA DRAINAGE/ SEWER/ SIDEWALKS DEPARTMENT		

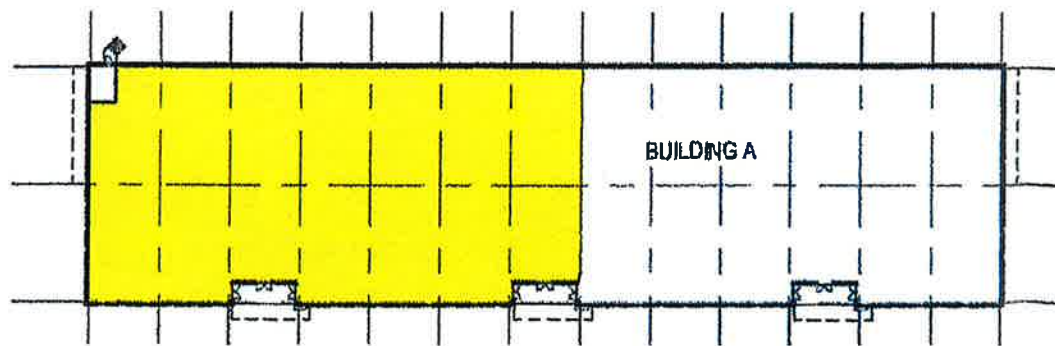
DRAWING TITLE:  
**LAYOUT PLAN LOT X**

6 of 19 SHEET No: **C2.1**

0689-15 JOB No: DRAWING No:



**BUILDING A**  
1/2" = 1'-0"



**EXHIBIT A**



**Erie Station Business Park**  
INDUSTRIAL COMMERCIAL  
PROUDLY OFFERED BY KONAR PROPERTIES



**Erie Station Business Park**  
 INDUSTRIAL COMMERCIAL  
 PROUDLY OFFERED BY KONAR PROPERTIES