



BROWNFIELD CLEANUP PROGRAM (BCP) APPLICATION TO AMEND BROWNFIELD CLEANUP AGREEMENT AND AMENDMENT

PART I. BROWNFIELD CLEANUP AGREEMENT AMENDMENT APPLICATION

Check the appropriate box below based on the nature of the amendment modification requested:

Amendment to [check one or more boxes below]

- Add
- Substitute
- Remove
- Change in Name

applicant(s) to the existing Brownfield Cleanup Agreement [*Complete Section I-IV below and Part II*]

Does this proposed amendment involve a transfer of title to all or part of the brownfield site? Yes No

If yes, pursuant to 6 NYCRR Part 375-1.11(d), a Change of Use form should have been previously submitted. If not, please submit this form with this Amendment. See <http://www.dec.ny.gov/chemical/76250.html>

Amendment to modify description of the property(ies) listed in the existing Brownfield Cleanup Agreement [*Complete Sections I and V below and Part II*]

Amendment to Expand or Reduce property boundaries of the property(ies) listed in the existing Brownfield Cleanup Agreement [*Complete Section I and V below and Part II*]

Sites in Bronx, Kings, New York, Queens, or Richmond counties ONLY: Amendment to request determination that the site is eligible for the tangible property credit component of the brownfield redevelopment tax credit. Please answer questions on the supplement at the end of the form.

Other (explain in detail below)

Please provide a brief narrative on the nature of the amendment:

Please refer to the attached instructions for guidance on filling out this application

Section I. Existing Agreement Information			
BCP SITE NAME:		BCP SITE NUMBER:	
NAME OF CURRENT APPLICANT(S):			
INDEX NUMBER OF EXISTING AGREEMENT:		DATE OF EXISTING AGREEMENT:	
Section II. New Requestor Information (if no change to Current Applicant, skip to Section V)			
NAME			
ADDRESS			
CITY/TOWN		ZIP CODE	
PHONE	FAX	E-MAIL	
Is the requestor authorized to conduct business in New York State (NYS)?		Yes	No
<ul style="list-style-type: none"> If the requestor is a Corporation, LLC, LLP or other entity requiring authorization from the NYS Department of State to conduct business in NYS, the requestor's name must appear, exactly as given above, in the NYS Department of State's (DOS) Corporation & Business Entity Database. A print-out of entity information from the DOS database must be submitted to DEC with the application, to document that the applicant is authorized to do business in NYS. 			
NAME OF NEW REQUESTOR'S REPRESENTATIVE			
ADDRESS			
CITY/TOWN		ZIP CODE	
PHONE	FAX	E-MAIL	
NAME OF NEW REQUESTOR'S CONSULTANT (if applicable)			
ADDRESS			
CITY/TOWN		ZIP CODE	
PHONE	FAX	E-MAIL	
NAME OF NEW REQUESTOR'S ATTORNEY (if applicable)			
ADDRESS			
CITY/TOWN		ZIP CODE	
PHONE	FAX	E-MAIL	
Requestor must submit proof that the party signing this Application and Amendment has the authority to bind the Requestor. This would be documentation from corporate organizational papers, which are updated, showing the authority to bind the corporation, or a Corporate Resolution showing the same, or an Operating Agreement or Resolution for an LLC. Is this proof attached?			
		Yes	No
Describe Requestor's Relationship to Existing Applicant:			

Section III. Current Property Owner/Operator Information (only include if new owner/operator or new existing owner/operator information is provided, and highlight new information)

OWNER'S NAME (if different from requestor)

ADDRESS

CITY/TOWN

ZIP CODE

PHONE

FAX

E-MAIL

OPERATOR'S NAME (if different from requestor or owner)

ADDRESS

CITY/TOWN

ZIP CODE

PHONE

FAX

E-MAIL

Section IV. Eligibility Information for New Requestor (Please refer to ECL § 27-1407 for more detail)

If answering "yes" to any of the following questions, please provide an explanation as an attachment.

1. Are any enforcement actions pending against the requestor regarding this site? Yes No
2. Is the requestor presently subject to an existing order for the investigation, removal or remediation relating to contamination at the site? Yes No
3. Is the requestor subject to an outstanding claim by the Spill Fund for this site? Yes No
Any questions regarding whether a party is subject to a spill claim should be discussed with the Spill Fund Administrator.
4. Has the requestor been determined in an administrative, civil or criminal proceeding to be in violation of i) any provision of the subject law; ii) any order or determination; iii) any regulation implementing ECL Article 27 Title 14; or iv) any similar statute, regulation of the state or federal government? If so, provide an explanation on a separate attachment. Yes No
5. Has the requestor previously been denied entry to the BCP? If so, include information relative to the application, such as name, address, Department assigned site number, the reason for denial, and other relevant information. Yes No
6. Has the requestor been found in a civil proceeding to have committed a negligent or intentionally tortious act involving the handling, storing, treating, disposing or transporting of contaminants? Yes No
7. Has the requestor been convicted of a criminal offense i) involving the handling, storing, treating, disposing or transporting of contaminants; or ii) that involves a violent felony, fraud, bribery, perjury, theft, or offense against public administration (as that term is used in Article 195 of the Penal Law) under federal law or the laws of any state? Yes No
8. Has the requestor knowingly falsified statements or concealed material facts in any matter within the jurisdiction of the Department, or submitted a false statement or made use of or made a false statement in connection with any document or application submitted to the Department? Yes No
9. Is the requestor an individual or entity of the type set forth in ECL 27-1407.9(f) that committed an act or failed to act, and such act or failure to act could be the basis for denial of a BCP application? Yes No
10. Was the requestor's participation in any remedial program under DEC's oversight terminated by DEC or by a court for failure to substantially comply with an agreement or order? Yes No
11. Are there any unregistered bulk storage tanks on-site which require registration? Yes No

THE NEW REQUESTOR MUST CERTIFY THAT IT IS EITHER A PARTICIPANT OR VOLUNTEER IN ACCORDANCE WITH ECL §27-1405 (1) BY CHECKING ONE OF THE BOXES BELOW:

<p style="text-align: center;">PARTICIPANT</p> <p>A requestor who either 1) was the owner of the site at the time of the disposal of contamination or 2) is otherwise a person responsible for the contamination, unless the liability arises solely as a result of ownership, operation of, or involvement with the site subsequent to the disposal of contamination.</p>	<p style="text-align: center;">VOLUNTEER</p> <p>A requestor other than a participant, including a requestor whose liability arises solely as a result of ownership, operation of or involvement with the site subsequent to the disposal of hazardous waste or discharge of petroleum.</p> <p>NOTE: By checking this box, a requestor whose liability arises solely as a result of ownership, operation of or involvement with the site certifies that he/she has exercised appropriate care with respect to the hazardous waste found at the facility by taking reasonable steps to: i) stop any continuing discharge; ii) prevent any threatened future release; iii) prevent or limit human, environmental, or natural resource exposure to any previously released hazardous waste.</p> <p>If a requestor whose liability arises solely as a result of ownership, operation of or involvement with the site, submit a statement describing why you should be considered a volunteer – be specific as to the appropriate care taken.</p>
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Requestor's Relationship to Property (check one):

Prior Owner
 Current Owner
 Potential /Future Purchaser
 Other _____

If requestor is not the current site owner, **proof of site access sufficient to complete the remediation must be submitted.** Proof must show that the requestor will have access to the property before signing the BCA and throughout the BCP project, including the ability to place an easement on the site. Is this proof attached? Yes No

Note: a purchase contract does not suffice as proof of access.

Section V. Property description and description of changes/additions/reductions (if applicable)

ADDRESS

CITY/TOWN

ZIP CODE

TAX BLOCK AND LOT (TBL) (in existing agreement)

Parcel Address	Parcel No.	Section No.	Block No.	Lot No.	Acreage

***The acreage shown is that shown in the original BCA. One BCA Amendment each has been executed for the 8 Cottage Place and 209 Warburton Avenue parcels. The BCA Amendment for 8 Cottage Place (executed by NYSDEC on 3/27/2018) expanded the acreage from 1.006 acre to 1.108 acre. The BCA Amendment for 209 Warburton Avenue (executed by NYSDEC on 8/29/2017) reduced the acreage from 0.954 acre to 0.787 acre.**

Check appropriate boxes below:

Changes to metes and bounds description or TBL correction

Addition of property (may require additional citizen participation depending on the nature of the expansion – see attached instructions)

Approximate acreage added: _____

ADDITIONAL PARCELS:

Parcel Address	Parcel No.	Section No.	Block No.	Lot No.	Acreage

Reduction of property

Approximate acreage removed: _____

PARCELS REMOVED:

Parcel Address	Parcel No.	Section No.	Block No.	Lot No.	Acreage
	*0.062 acre will be removed from the portion of the Site at 209 Warburton Avenue, Yonkers; reducing this parcel from 0.787 acre to 0.725 acre.				

If requesting to modify a metes and bounds description or requesting changes to the boundaries of a site, please attach a revised metes and bounds description, survey, or acceptable site map to this application.

See Exhibit C for Amended Survey Map. See Exhibit D for Amended Property Description.

Supplement to the Application To Amend Brownfield Cleanup Agreement And Amendment - Questions for Sites Seeking Tangible Property Credits in New York City ONLY.

Property is in Bronx, Kings, New York, Queens, or Richmond counties.	Yes	No
Requestor seeks a determination that the site is eligible for the tangible property credit component of the brownfield redevelopment tax credit.	Yes	No
Please answer questions below and provide documentation necessary to support answers.		
1. Is at least 50% of the site area located within an environmental zone pursuant to Tax Law 21(6)? Please see DEC's website for more information.	Yes	No
2. Is the property upside down as defined below?	Yes	No
<p>From ECL 27-1405(31):</p> <p>"Upside down" shall mean a property where the projected and incurred cost of the investigation and remediation which is protective for the anticipated use of the property equals or exceeds seventy-five percent of its independent appraised value, as of the date of submission of the application for participation in the brownfield cleanup program, developed under the hypothetical condition that the property is not contaminated.</p>		
3. Is the project an affordable housing project as defined below?	Yes	No
<p>From 6 NYCRR 375- 3.2(a) as of August 12, 2016:</p> <p>(a) "Affordable housing project" means, for purposes of this part, title fourteen of article twenty seven of the environmental conservation law and section twenty-one of the tax law only, a project that is developed for residential use or mixed residential use that must include affordable residential rental units and/or affordable home ownership units.</p> <p>(1) Affordable residential rental projects under this subdivision must be subject to a federal, state, or local government housing agency's affordable housing program, or a local government's regulatory agreement or legally binding restriction, which defines (i) a percentage of the residential rental units in the affordable housing project to be dedicated to (ii) tenants at a defined maximum percentage of the area median income based on the occupants' households annual gross income.</p> <p>(2) Affordable home ownership projects under this subdivision must be subject to a federal, state, or local government housing agency's affordable housing program, or a local government's regulatory agreement or legally binding restriction, which sets affordable units aside for home owners at a defined maximum percentage of the area median income.</p> <p>(3) "Area median income" means, for purposes of this subdivision, the area median income for the primary metropolitan statistical area, or for the county if located outside a metropolitan statistical area, as determined by the United States department of housing and urban development, or its successor, for a family of four, as adjusted for family size.</p>		

PART II. BROWNFIELD CLEANUP PROGRAM AMENDMENT

Existing Agreement Information	
BCP SITE NAME:	BCP SITE NUMBER:
NAME OF CURRENT APPLICANT(S):	
INDEX NUMBER OF EXISTING AGREEMENT:	
EFFECTIVE DATE OF EXISTING AGREEMENT:	

Declaration of Amendment:

By the Requestor(s) and/or Applicant(s) signatures below, and subsequent signature by the Department, the above application to amend the Brownfield Cleanup Agreement described above is hereby approved. This Amendment is made in accordance with and subject to all of the BCA and all applicable guidance, regulations and state laws applicable thereto. All other substantive and procedural terms of the Agreement will remain unchanged and in full force and effect regarding the parties to the Agreement.

Nothing contained herein constitutes a waiver by the Department or the State of New York of any rights held in accordance with the Agreement or any applicable state and/or federal law or a release for any party from any obligations held under the Agreement or those same laws.

Statement of Certification and Signatures: New Requestor(s) (if applicable)
(Individual) I hereby affirm that information provided on this form and its attachments is true and complete to the best of my knowledge and belief. I am aware that any false statement made herein is punishable as a Class A misdemeanor pursuant to section 210.45 of the Penal Law. My signature below constitutes the requisite approval for the amendment to the BCA Application, which will be effective upon signature by the Department. Date: _____ Signature: _____ Print Name: _____
(Entity) I hereby affirm that I am (title _____) of (entity _____); that I am authorized by that entity to make this application; that this application was prepared by me or under my supervision and direction; and that information provided on this form and its attachments is true and complete to the best of my knowledge and belief. I am aware that any false statement made herein is punishable as a Class A misdemeanor pursuant to Section 210.45 of the Penal Law. _____ signature below constitutes the requisite approval for the amendment to the BCA Application, which will be effective upon signature by the Department. Date: _____ Signature: _____ Print Name: _____

Statement of Certification and Signatures: Existing Applicant(s) (an authorized representative of each applicant must sign)

(Individual)

I hereby affirm that I am a party to the Brownfield Cleanup Agreement and/or Application referenced in Section I above and that I am aware of this Application for an Amendment to that Agreement and/or Application. My signature below constitutes the requisite approval for the amendment to the BCA Application, which will be effective upon signature by the Department.

Date: _____ Signature: _____

Print Name: _____

(Entity)

I hereby affirm that I am an Authorized Agent (title) of CPG Phase III Limited Partnership (entity) which is a party to the Brownfield Cleanup Agreement and/or Application referenced in Section I above and that I am aware of this Application for an Amendment to that Agreement and/or Application. Susan McCann's signature below constitutes the requisite approval for the amendment to the BCA Application, which will be effective upon signature by the Department.

Date: 3/5/19 Signature: [Handwritten Signature]

Print Name: Susan McCann, VP & Authorized Agent

REMAINDER OF THIS AMENDMENT WILL BE COMPLETED SOLELY BY THE DEPARTMENT

Status of Agreement:

<input type="checkbox"/> PARTICIPANT A requestor who either 1) was the owner of the site at the time of the disposal of contamination or 2) is otherwise a person responsible for the contamination, unless the liability arises solely as a result of ownership, operation of, or involvement with the site subsequent to the disposal of contamination.	<input type="checkbox"/> VOLUNTEER A requestor other than a participant, including a requestor whose liability arises solely as a result of ownership, operation of or involvement with the site subsequent to the contamination.
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Effective Date of the Original Agreement:

Signature by the Department:

DATED:

June 4, 2019

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

By: [Handwritten Signature]
Michael J. Ryan, P.E., Director
Division of Environmental Remediation

SUBMITTAL INFORMATION:

- **Two (2)** copies, one hard copy with original signatures and one electronic copy in Portable Document Format (PDF) must be sent to:

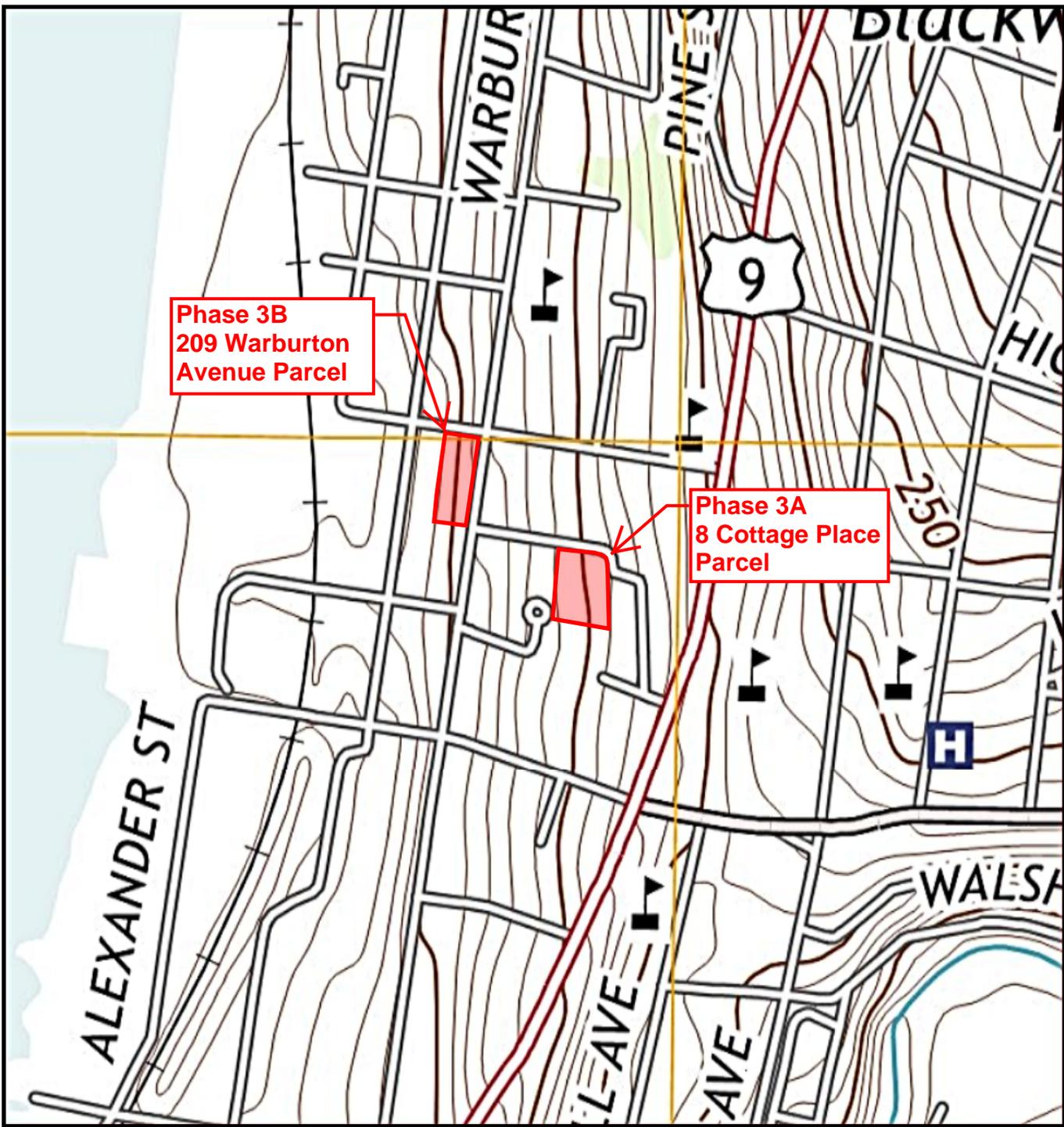
Chief, Site Control Section
New York State Department of Environmental Conservation
Division of Environmental Remediation
625 Broadway
Albany, NY 12233-7020

FOR DEPARTMENT USE ONLY

BCP SITE T&A CODE: _____ **LEAD OFFICE:** _____

PROJECT MANAGER: _____

EXHIBIT A
SITE LOCATION MAP



MAP REFERENCE

United States Geological Survey
 7.5 Minute Series Topographic Map
 Quadrangle: Yonkers, NY-NJ
 Date: 2013



C.T. MALE ASSOCIATES

ENGINEERING, SURVEYING, ARCHITECTURE & LANDSCAPE ARCHITECTURE, P.C.

50 CENTURY HILL DRIVE
 LATHAM, NY 12110

SITE LOCATION MAP
COTTAGE PLACE GARDENS – PHASE 3

CITY OF YONKERS

WESTCHESTER COUNTY, NY

SCALE: NONE

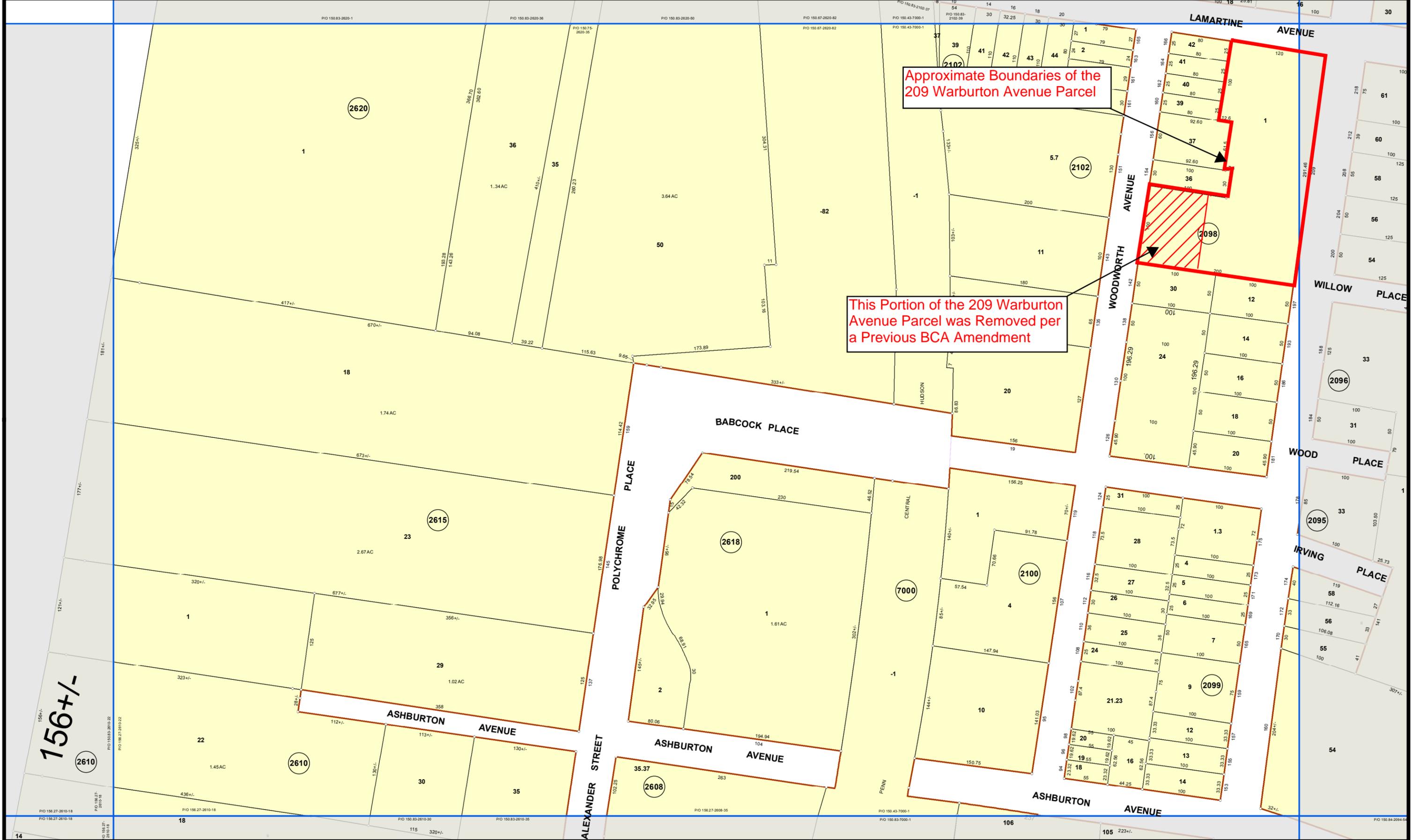
DRAFTER: PAL

PROJECT No: 15.5268

The locations and features depicted on this map are approximate and do not represent an actual survey.

EXHIBIT B

CITY OF YONKERS TAX MAP



CITY OF YONKERS
Assessment Department
FOR TAX PURPOSES ONLY
NOT TO BE USED FOR CONVEYANCE
LEGEND APPLIES ONLY TO THE
UNSHADED PORTION OF THE MAP

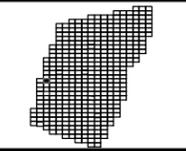


REVISION TABLE			
DATE	CHANGES	DATE	CHANGES
10/17	2098 22 24, 26 and 28 to 24		

SPECIAL DISTRICTS					
TYPE	SYMBOL	NAME	TYPE	SYMBOL	NAME

LEGEND	
	COUNTY LINE
	CITY LINE
	BLOCK LINE
	PRECINCT DISTRICT LINE
	ASSEMBLY LINE
	PROPERTY LINE
	MATCH LINE

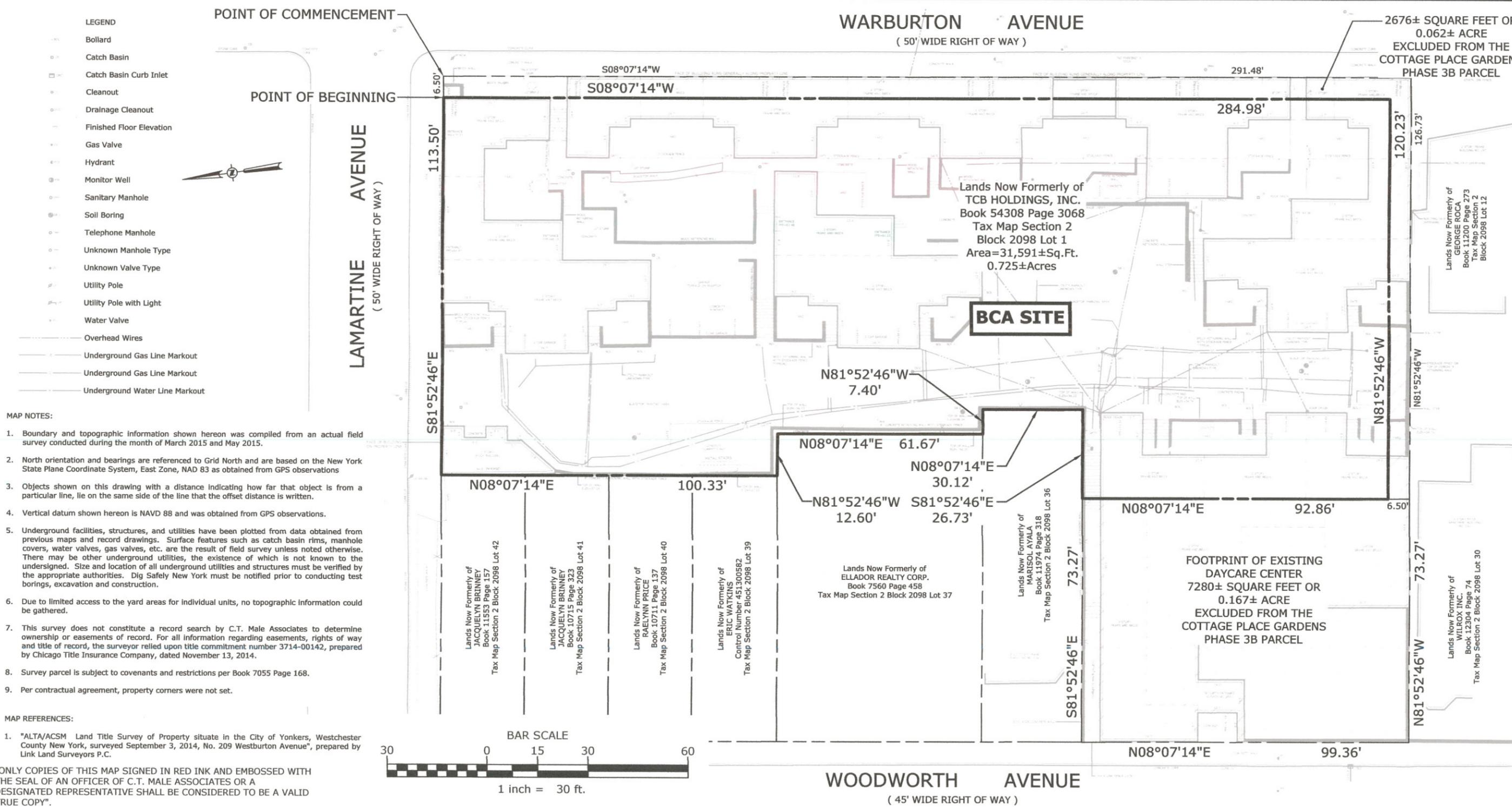
205	206
218	219
220	
232	233
	234



Tax Map 219 of 399
Assessment Section 2
Tile 150.83

EXHIBIT C

**AMENDED SURVEY FOR THE 209
WARBURTON AVENUE PARCEL**



CAD DWG. FILE NAME: K:\Projects\155128\Survey\EXHIBIT MAP PHASE 3B.dwg

WILLIAM J. NETTLETON
P.L.S. NO. 49513

DATE	REVISIONS RECORD/DESCRIPTION	DRAFTED	CHECK	APPR.
07/12/17	REVISED PHASE 3B BOUNDARY	GLB	JAM	WJN
07/20/17	REVISED PER COMMENTS	SMW	MIG	WJN
09/19/17	MISC. REVISIONS	GLB		
03/01/19	REVISE BCA BOUNDARY	GLB	WJN	WJN

UNAUTHORIZED ALTERATION OR ADDITION TO THIS DOCUMENT IS A VIOLATION OF THE NEW YORK STATE EDUCATION LAW.

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C.T. MALE ASSOCIATES

APPROVED : WJN

DRAFTED : GLB

CHECKED : JAM

PROJ. NO : 15.5268

SCALE : 1" = 30'

DATE : JUNE 10, 2015

AMENDED BCA SITE BOUNDARY MAP
COTTAGE PLACE GARDENS
PHASE 3B PARCEL
209 Warburton Avenue

CITY OF YONKERS WESTCHESTER COUNTY, NEW YORK

C.T. MALE ASSOCIATES
Engineering, Surveying, Architecture & Landscape Architecture, D.P.C.
50 CENTURY HILL DRIVE, LATHAM, NY 12110
518.786.7400 * FAX 518.786.7299

SHEET 1 OF 1
DWG. NO: 15-331

EXHIBIT D

**AMENDED METES & BOUNDS DESCRIPTION
FOR THE 209 WARBURTON AVENUE PARCEL**

C. T. MALE ASSOCIATES

Engineering, Surveying, Architecture, Landscape Architecture & Geology, D.P.C.

**AMENDED BCA SITE BOUNDARY
DESCRIPTION
PHASE 3B
209 WARBURTON AVENUE
CITY OF YONKERS, COUNTY OF WESTCHESTER, STATE OF NEW YORK
AREA = 31,591± SQUARE FEET OR 0.725± ACRE OF LAND**

All that certain tract, piece or parcel of land situate in the City of Yonkers, County of Westchester, State of New York, lying West of Warburton Avenue and South of Lamartine Avenue, and being more particularly bounded and described as follows:

COMMENCING at the point of intersection of the Westerly street boundary of Warburton Avenue (50-foot-wide right-of-way) with the Southerly street boundary of Lamartine Avenue (50-foot-wide right-of-way); thence from said point of commencement along said Southerly street boundary of Lamartine Avenue North 81 deg. 52 min. 46 sec. West 6.50 feet to the point or place of beginning and runs thence from said point of beginning through the lands now or formerly of TCB Holdings, Inc. as described in Book 54308 of Deeds at Page 3068 the following three (3) courses: 1) South 08 deg. 07 min. 14 sec. West 284.98 feet to a point; 2) North 81 deg. 52 min. 46 sec. West 120.23 feet to a point; and 3) North 08 deg. 07 min. 14 sec. East 92.86 feet to a point on the division line between the said lands now or formerly of TCB Holdings, Inc. on the South and the lands now or formerly of Marisol Ayala as described in Book 11974 of Deeds at Page 318 on the North; thence South 81 deg. 52 min. 46 sec. East along said division line 26.73 feet to its point of intersection with the division line between the said lands now or formerly of TCB Holdings, Inc. on the East and the said lands now or formerly of Marisol Ayala on the West; thence North 08 deg. 07 min. 14 sec. East along said division line 30.12 feet to its point of intersection with the division line between the

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Engineering, Surveying, Architecture, Landscape Architecture & Geology, D.P.C.

DESCRIPTION

AREA = 31,591± SQUARE FEET OF LAND

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said lands now or formerly of TCB Holdings, Inc. on the North and the said lands now or formerly of Marisol Ayala on the South; thence North 81 deg. 52 min. 46 sec. West along said division line 7.40 feet to its point of intersection with the division line between the said lands now or formerly of TCB Holdings, Inc. on the East and the lands now or formerly of Ellador Realty Corp. as described in Book 7560 of Deeds at Page 458 on the West; thence North 08 deg. 07 min. 14 sec. East along said division line 61.67 feet to its point of intersection with the division line between the said lands now or formerly of TCB Holdings, Inc. on the North and the said lands now or formerly of Ellador Realty Corp. on the South; thence North 81 deg. 52 min. 46 sec. West along said division line 12.60 feet to its point of intersection with the common division line between the said lands now or formerly of TCB Holdings, Inc. on the East and the lands now or formerly of Eric Watkins as described in Control Number 451300582, lands now or formerly of Raelynn Price as described in Book 10711 of Deeds at Page 137, lands now or formerly of Jacquelyn Brinney as described in Book 10715 of Deeds at Page 323 and other lands now or formerly of Jacquelyn Brinney as described in Book 11553 of Deeds at Page 157 on the West; thence North 08 deg. 07 min. 14 sec. East along said common division line 100.33 feet to its intersection with the above first mentioned Southerly street boundary of Lamartine Avenue; thence South 81 deg. 52 min. 46 sec. East along said Southerly street boundary 113.50 feet to the point or place of beginning and containing 31,591± square feet or 0.725 acre of land, more or less.

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Engineering, Surveying, Architecture, Landscape Architecture & Geology, D.P.C.

DESCRIPTION

AREA = 31,591± SQUARE FEET OF LAND

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Subject to any covenants, easements or restrictions of record



March 1, 2019

WJN/amb

C.T. Male Project No. 15.5268