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ENTERED
Office of Proceedings
May 30, 2023
Part of
Public Record

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May 30, 2023

VIA E-FILING

Cynthia T. Brown
Chief, Section of Administration
Office of Proceeding
Surface Transportation Board
395 E Street, SW
Washington, DC 20024

Re: Docket No. FD 36678
MMD Investment, LLC – Petition for Declaratory Order

Dear Ms. Brown:

Enclosed for filing in the above-referenced docket is a Petition for Declaratory Order of MMD Investment, LLC. The filing fee has been paid via PAY.GOV.

If there are any questions related to this filing, please contact me.

Respectfully,

CLARK HILL, PLC

s/ Eric M. Hocky

Eric M. Hocky

EMH:e
Enclosure

FILED
May 30, 2023
SURFACE
TRANSPORTATION BOARD

FEE RECEIVED
May 30, 2023
SURFACE
TRANSPORTATION BOARD

Before the
SURFACE TRANSPORTATION BOARD

Docket No. FD 36678

**MMD INVESTMENT, LLC –
PETITION FOR DECLARATORY ORDER**

PETITION

(color copies included)

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Dated: May 30, 2023

Before the
SURFACE TRANSPORTATION BOARD

Docket No. FD 36678

**MMD INVESTMENT, LLC –
PETITION FOR DECLARATORY ORDER**

PETITION

MMD Investment, LLC (“MMD”) owns property in Irvington, NJ, with plans to redevelop the property (the “MMD Property”).¹ As part of the redevelopment project, MMD would like to acquire and use an adjacent strip of property that is approximately 50 feet wide and 400 feet long (the “Subject Property”), as shown the survey attached as Exhibit A. There are no railroad tracks on the Subject Property of Way, nor have there been any since at least 2009 when MMD made its initial acquisition of the MMD Property occupied by UniPro. MMD understands that Consolidated Rail Corporation (“Conrail”) claims that the Subject Property is subject at least in part to an easement for a railroad right of way (the “Subject Right of Way”) that is an extension of its adjacent right of way. As best MMD can determine (and discussed more fully below), to the extent Conrail has any rights to the Subject Right of Way or the adjacent right of way, it would only be as a spur or industrial side track (ancillary track under 49 USC §10906).

Discussions between MMD and Conrail for a voluntary sale of Conrail’s interest in the Subject Right of Way have not been successful. Accordingly, MMD seeks a declaration from the Board that Conrail has not exhibited a continuing intent to provide common carrier service to the public over the Subject Right of Way, and that therefore, Conrail has abandoned the Subject Right

¹ The property is currently occupied by a related business, Asia Trading Intl LLC d/b/a UniPro International (“UniPro”).

of Way. Alternatively, MMD seeks a declaration that the Subject Right of Way does not need to be part of Conrail's interstate rail system, and that the Board removes its jurisdiction over the Subject Right of Way because it is not necessary for any of Conrail's Section 10906 operations. Either declaration would allow MMD to pursue its redevelopment plans in state court to acquire through condemnation any of Conrail's remaining rights with respect to the Subject Right of Way and Subject Property. MMD is not seeking to remove the Board's jurisdiction over the remainder of Conrail's industrial side track right of way where tracks remain on the ground.

In recent decisions, the Board has explained that the proper vehicle for removing the Board's jurisdiction over industrial side tracks or other Section 10906 ancillary tracks, or for determining if ancillary tracks have in fact been abandoned, is through a declaratory order proceeding, and not through the adverse abandonment application process. *See NewVista Property Holdings, LLC – Petition for Declaratory Order*, STB Docket No. FD 36040 (served June 24, 2016) (“*New Vista I*”), slip op. at 2; *Pinelawn Cemetery – Petition for Declaratory Order*, STB Docket No. FD 35468 (served April 21, 2015) (“*Pinelawn*”), slip op. at 11 n.31. Therefore, MMD is filing this Petition.

The Board has discretionary authority under 5. U.S.C. §554(e) and 49 U.S.C. §1321 to issue a declaratory order to eliminate a controversy or remove uncertainty. MMD hereby asks the Board to resolve the controversy regarding whether Conrail's interest in the Subject Right of Way has been abandoned by Conrail or, in the alternative, can be removed from the Board's jurisdiction.

BACKGROUND

MMD first acquired its interest in the MMD Property in 2009. As the occupant of the MMD Property, UniPro has never requested rail service from Conrail via the Subject Right of Way, nor to MMD's knowledge, have any of the other businesses occupying the buildings adjacent

to UniPro. The other side of the Subject Right of Way is a large parking lot, and MMD does not believe that occupants of the property have requested rail service during the time of MMD's ownership.

There are no railroad tracks on the Subject Right of Way (nor have there been any since prior to 2009 when MMD acquired the initial portion of the property occupied by UniPro. The Subject Property currently appears on Irvington's Tax Maps as "Woolsey Street" although MMD does not believe that it has been dedicated as a public street.²

Examination of photographs and maps indicate that (1) any industrial side track that Conrail (or its predecessors) owned at one time currently ends at a point south of the Subject Right of Way where there are bushes and overgrowth and a chain link fence with only a pedestrian-sized gate³; (2) the remaining industrial side track right of way to the south and to connections with other Conrail track is overgrown and appears not to have been used for some time; (3) the Subject Right of Way has been paved over (with all track removed); and (4) any Conrail right of way (including the Subject Right of Way) ends either at the southern end of Woolsey Street (as the tax map appears to show), or at Nye Avenue where there has been no evidence of an at-grade railroad crossing since MMD acquired its property in 2009. See Exhibits B (in particular page 3), C (survey with Google Earth overlay), and D (photographs)⁴.

² Attached as Exhibit B are selected pages of the Irvington Tax Maps showing the Subject Property as "Woolsey Street." From a review of a deed for the adjacent property, the Subject Property has been referred to as Woolsey Street since at least 1964.

³ MMD believes that Conrail has an end of track / derail device at the end of its tracks; however, the bushes and overgrowth prevented MMD from photographing or locating the exact end of track.

⁴ Photographs were taken by MMD's real estate advisor VisionRE on December 20, 2022.

MMD has now acquired the additional buildings marked on Exhibit A. It has plans to redevelop the property that would include the Subject Property, including the Subject Right of Way. MMD is in preliminary talks with Irvington to be designated as redevelopers with the power of condemnation. MMD proposes to construct a warehouse and related facilities with the Subject Property to be used as staff parking and to circulate truck traffic. *See Exhibit E (preliminary site plan).*

MMD's inquiries to purchase from Conrail any remaining rights Conrail might have to the Subject Right of Way were rebuffed. While MMD has requested the power under its redevelopment plan to condemn the Subject Right of Way, MMD recognizes that before doing so, it needs the Board to determine either that Conrail has already abandoned any of its rights to the Subject Right of Way, or that the Subject Right of Way is not necessary for any of Conrail's operations or for the interstate rail system. Therefore, MMD is bringing this action for declaratory order before the Board.

DISCUSSION

A. Status of Right of Way

Ancillary track is typically used for loading, unloading, switching and other purposes incidental to main line operations. Ancillary track does not allow a carrier to penetrate or invade a new market, but simply augments the capacity of existing main line operations. *See Brazos River Bottom Alliance – Petition for Declaratory Order*, FD 35781 (STB served Feb. 19, 2014), slip op. at 4-5. The Subject Right of Way is stub-ended, ending at Nye Avenue. From a review of the tax maps which show both Conrail's Irvington Branch and the sidetrack that connects with the end of the Subject Property / Woolsey Street (Exhibit B, pages 1 and 3), and the overlay showing the Conrail's adjacent right of way and tracks (Exhibit C), it is clear that the Subject Right of Way and

adjacent right of way are not part of Conrail's through (main line) track.⁵ The Subject Right of Way has been paved over, and there are no customers or potential customers located on the Subject Right of Way. There is no service, let alone regularly scheduled service. There is a fence and an overgrowth of bushes separating the Subject Right of Way from the remainder of Conrail's right of way. As best as MMD can determine, to the extent Conrail has any rights to the Subject Right of Way or the adjacent right of way, it would only be as a spur or industrial track (ancillary track under 49 USC §10906). *See generally, New York City Economic Development Corporation – Petition for Declaratory Order*, STB Docket No. FD 36467 (served June 11, 2021), slip op. at 3-4. The Board has authority to reach the abandonment issue where there is no dispute as to the nature of the track / right of way. *See Holland Park Owner, LLC – Petition for Declaratory Order*, STB Docket No. FD 36308 (served January 6, 2020).⁶

B. Standards and process for abandonment or removal of jurisdiction over ancillary tracks

A railroad must obtain authority from the Board under 49 U.S.C. §10903 to abandon a “line of railroad” that is part of the interstate rail network. However, under 49 U.S.C. §10906, prior Board approval is not required for the abandonment of spur, industrial, team, switching or side tracks.⁷ Such track known as excepted or ancillary track, is exempt from the Board's prior approval requirements (for construction, operation and abandonment) “because it simply augments

⁵ The tax maps do not indicate any Conrail property interest ownership of the Subject Property/ Woolsey Street. *See Exhibit B.*

⁶ If Conrail disagrees with this characterization, it should present supporting information of its position in its response to this Petition.

⁷ MMD acknowledges that although “excepted” under 49 U.S.C. §10906, ancillary tracks are part of the national rail system and thus generally remain subject to federal regulation, although such track can be removed from the system by a carrier without Board approval. *Pinelawn*, slip op. at 6-7.

the capacity of existing mainline operations that have already been authorized.” *Pinelawn*, slip op. at 1 fn.3 (citing *Brazos River Bottom Alliance – Petition for Declaratory Order*, FD 35781 (STB served Feb. 19, 2014), slip op. at 4-5).

Therefore, because any of Conrail’s rights in the Subject Right of Way would have been as Section 10906 ancillary track, it is not subject to the Board’s abandonment authority under 49 U.S.C. §10903, or to the Board’s adverse abandonment process. See *NewVista I*, slip op. at 2. Under Section 10906, Conrail had the authority to abandon any interests that it had in the Subject Right of Way without obtaining any authority from the Board, and MMD believes it has done so. See Section C below. To the extent the Board were to find that Conrail has not done so, the Board has further held that the proper method for removing the Board’s jurisdiction over ancillary track is through a declaratory order proceeding such as this. *Id.*; *Pinelawn*, slip op. at 11 n.31.

In determining whether a carrier has voluntarily abandoned the Subject Right of Way, the Board looks at whether the carrier has exhibited a fixed and continuing intent to provide common carrier services to the public. *JGB Properties, LLC – Petition for Declaratory Order*, STB Docket No. FD 35817 (served May 21, 2015) (“*JGB Properties*”), slip op. at 7-8 (citing *Pinelawn*, slip op. at 10).

Ancillary track “can be removed from the Board’s jurisdiction upon a showing it is no longer needed for the interstate rail system.” *NewVista Property Holdings, LLC – Petition for Declaratory Order*, STB Docket No. FD 36040 (served March 17, 2017) (“*New Vista II*”), slip op. at 2; *Pinelawn*, slip op. at 9. In order to determine if the Board’s jurisdiction over excepted tracks should be removed, the Board applies a case-by-case analysis to the particular facts and circumstances. *NewVista I*, slip op. at 2; *NewVista II*, slip op. at 2 fn3 (noting Board can look at the “totality of the circumstances”).

C. Conrail has not exhibited a continuing intent to provide common carrier service to the public over the Subject Right of Way.

It is clear from the condition of the Subject Right of Way that Conrail has not evidenced any intent to continue using the Subject Right of Way to provide rail service to customers. The tracks have been paved over for over 13 years. A fence has been placed across the right of way, and bushes allowed to grow along the fence, further preventing railroad access to the Subject Right of Way. Even if there were railroad access, there are no rail customers located along the Subject Right of Way. Based on the lack of upkeep and non-use by Conrail, the Board should find that Conrail has not exhibited any continuing intent to use the Subject Right of Way, and has therefore voluntarily abandoned the Subject Right of Way. *See Pinelawn*, slip op. at 11 n.31.

D. Lack of need for Conrail's use of the Subject Right of Way for the interstate rail system

In the alternative, it is clear that the Subject Right of Way is no longer needed as part of Conrail's interstate rail system. The tracks have been paved over for over 13 years, and the Subject Right of Way has been severed from Conrail's remaining tracks by a fence and overgrowth. Conrail is believed to have marked the end of the remaining industrial track at a point south of the fence. The Subject Right of Way is not part of a through route, ending at Nye Avenue. UniPro which has occupied two of the adjacent buildings beginning in 2007, has never used, nor does it need, rail service. There are no other potential customers located along the Subject Right of Way. Thus, it is clear that Conrail does not need the Subject Right of Way to perform any carrier rail service.

The fact that the Subject Right of Way has not seen any use for many years is a clear indication that it is not needed to support Conrail's interstate rail system. *Cf. NewVista I*, slip op. at 4 (holding that actual use is an indication that excepted track is needed for the interstate rail

system). This is not a case where the totality of the circumstances indicates that Conrail has kept the tracks and ties in place and maintained them in a state of readiness for service. *Compare Beaufort Railroad – Modified Rail Certificate*, FD 34943 (STB served March 19, 2008), slip op. at 6-8.

Moreover, continuing Conrail's rights in the Subject Right of Way would frustrate the redevelopment project that MMD is proposing for the area, and the public benefits that such project would bring. Allowing MMD to proceed with condemnation of the unneeded Subject Right of Way will facilitate the proposed redevelopment project.

Based on the lack of use and need for the Subject Right of Way to support Conrail's interstate rail network operations, and the public benefits that would flow from allowing MMD to proceed with the redevelopment project, the Board should find under the totality of the circumstances that the Subject Right of Way does not need to be part of Conrail's interstate rail network. As such, the Board should remove its Section 10906 jurisdiction over the Subject Right of Way to the extent such jurisdiction stands as a bar to MMD's ability to acquire Conrail's interest in the Subject Property under state law.

REQUESTED PROCEDURAL SCHEDULE

MMD requests that the Board accept this Petition and commence a proceeding using the Board's modified procedures at 49 C.F.R. Part 1112. This Petition would constitute MMD's opening statement and evidence. In accordance the Board's modified procedures, MMD asks that

the Board set the following procedural schedule⁸:

- Board acceptance of Petition and opening of proceeding Day 0
- Replies to Petition due Day 20
- Rebuttal of MMD due Day 30

SERVICE

Although there are no required service requirements for a petition for declaratory order, MMD is serving a copy of this Petition on counsel for Conrail as the party that would be affected by the relief requested herein so that it will have time to prepare any reply.

⁸ This procedural schedule is similar to the one established in a previous declaratory proceeding for abandonment of excepted tracks. *See NewVista I*, slip op. at 2.

CONCLUSION

For the foregoing reasons, MMD requests that the Board issue an order declaring either (1) that Conrail has voluntarily abandoned its interest in the Subject Right of Way, or (2) that the Subject Right of Way is not required for Conrail to conduct its interstate rail operations and that the Board is removing its jurisdiction over Conrail's use of the Subject Right of Way property.

Respectfully submitted,

/s/ Eric M. Hocky

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Attorneys for MMD Investment,
LLC

Dated: May 30, 2023

VERIFICATION

I, Meir Frei, sole member of MMD Investment, LLC, verify under penalty of perjury that the foregoing Petition for Declaratory Order is true and correct. Further, I certify that I am qualified and authorized to file the foregoing document.

Executed on May 30, 2023.

A handwritten signature in black ink, appearing to read 'Meir Frei', is written over a horizontal line.

Meir Frei

CERTIFICATE OF SERVICE

I hereby certify that on this 30th day of May, 2023, a copy of the forgoing Petition for Declaratory Order was served by email and U.S. first class mail, postage prepaid upon the following persons:

Jocelyn Gabrynowicz Hill

jocelyn.hill@Conrail.com

Ashley Peacock

ashley.peacock@conrail.com

Danielle Goebel

danielle.goebel@conrail.com

Consolidated Rail Corporation

330 Fellowship Road, Suite 300

Mount Laurel, NJ 08054

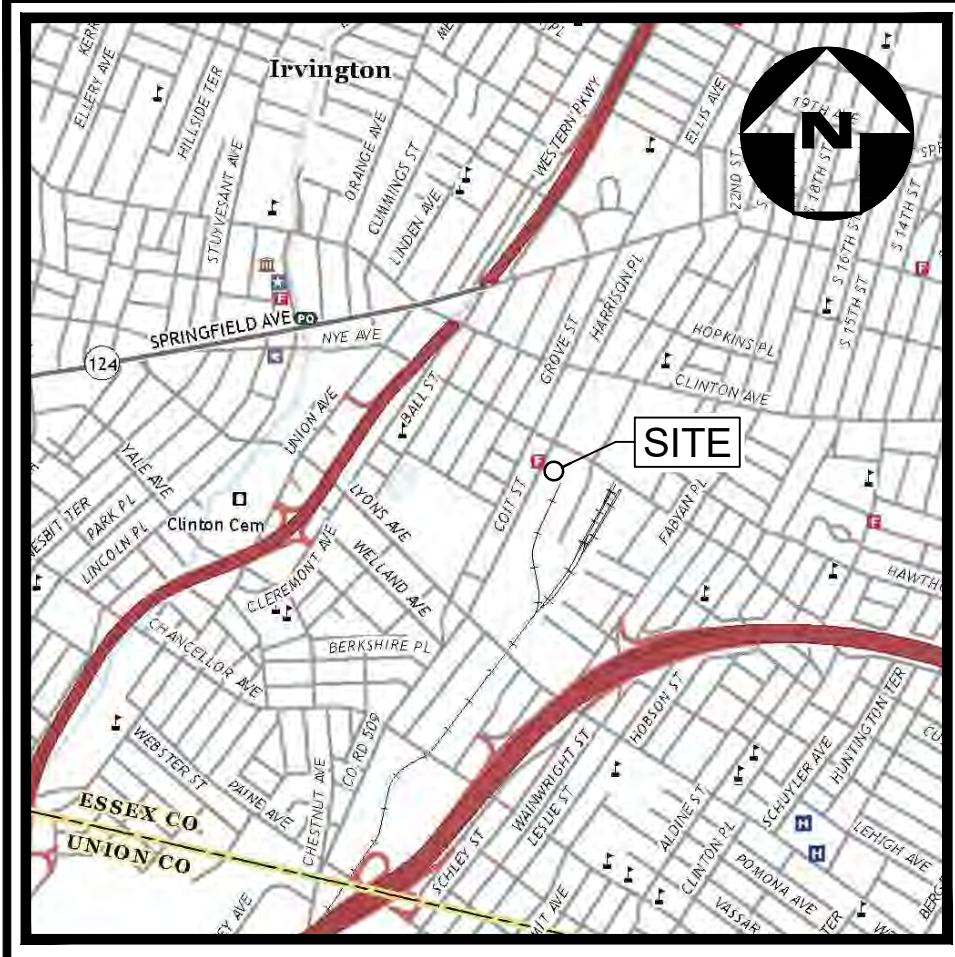
Counsel for Consolidated Rail Corporation

/s/ Eric M. Hocky

Eric M. Hocky

EXHIBIT A

Survey



VICINITY MAP
U.S.G.S. QUADRANGLE MAP
ELIZABETH, NJ - PANEL (2019)
SCALE: 1"=2,000'

INFORMATION OF FACT

1. THIS SURVEY AND PLAN IS BASED UPON THE FOLLOWING DATA AND/OR EXCEPTIONS:

	YES	NO	ITEM
a.) OWNER	X		84 REALTY, LLC SMD INVESTMENT LLC MMD INVESTMENT LLC
b.) DEED OF RECORD	X		D.B. 12153, 8183 D.B. 12337, 5087 D.B. 12199, 9698
c.) FIELD SURVEY	X		FIELD LOCATED ON APRIL 25, 2022
d.) FILED MAP		X	N/A
e.) TAX MAP	X		LOT 3, BLOCK 203, SHEET 42
f.) TITLE REPORT		X	N/A
g.) OTHER (SEE REFERENCES)	X		N/A

CERTIFIED TO:

2. THIS IS TO CERTIFY THAT, TO THE BEST OF MY KNOWLEDGE AND BELIEF, THIS MAP OR PLAN IS THE RESULT OF A FIELD SURVEY PERFORMED ON MONTH APRIL 26, 2022, BY ME OR UNDER MY DIRECT SUPERVISION, IN ACCORDANCE WITH THE RULES AND REGULATIONS PROMULGATED BY THE "STATE BOARD OF PROFESSIONAL ENGINEERS AND LAND SURVEYORS" THE INFORMATION DEPICTED HEREON, CORRECTLY REPRESENTS THE CONDITIONS FOUND AT, AND AS OF THE DATE OF THE FIELD SURVEY, EXCEPT SUCH IMPROVEMENTS OR EASEMENTS, IF ANY BELOW THE SURFACE AND NOT VISIBLE. ACCORDINGLY, THE UNDERSIGNED PROFESSIONAL IS NOT RESPONSIBLE FOR THE PRESENCE OF UNDERGROUND UTILITIES OR STRUCTURES, IF SAME ARE NOT VISIBLE OR OTHERWISE DISCLOSED BY ANY AFOREMENTIONED DATA LISTED ABOVE.

3. PROPERTY KNOWN AS LOTS 3, 4, 5, & 6 BLOCK 204, TOWNSHIP OF IRVINGTON, ESSEX COUNTY, STATE OF NEW JERSEY.

4. TOTAL AREA (LOTS 3, 4, 5, & 6) = 80,000 SQ. FT. OR 1.837 AC.
LOT 3 AREA = 40,000 SQ. FT. OR 0.918 AC.
LOT 4 AREA = 10,000 SQ. FT. OR 0.230 AC.
LOT 5 AREA = 10,000 SQ. FT. OR 0.230 AC.
LOT 6 AREA = 20,000 SQ. FT. OR 0.459 AC.

REFERENCES

A. PLAN ENTITLED "EXISTING AND PROPOSED SEWERS, TOWN OF IRVINGTON, DEPARTMENT OF PUBLIC WORKS, DIVISION OF ENGINEERING, SEWER MASTER PLAN," PAGE 9, PREPARED BY EDWARDS AND KELEY, INC., DATED 03/28/1997.

6. THE USE OF THE WORD "CERTIFY" OR "CERTIFICATION" CONSTITUTES AN EXPRESSION OF PROFESSIONAL OPINION REGARDING THOSE FACTS OR FINDINGS WHICH ARE THE SUBJECT OF THE UNDERSIGNED PROFESSIONAL'S KNOWLEDGE, INFORMATION, AND BELIEF, AND IN ACCORDANCE WITH THE COMMONLY ACCEPTED PROCEDURE CONSISTENT WITH THE APPLICABLE STANDARDS OF PRACTICE, AND DOES NOT CONSTITUTE A WARRANTY OR GUARANTEE EITHER EXPRESSED OR IMPLIED.

7. THE LOCATION OF ALL UNDERGROUND UTILITIES AS SHOWN HEREON ARE APPROXIMATE AND ARE BASED ON VISIBLE ABOVE GROUND STRUCTURES. NO EXCAVATIONS WERE MADE DURING THE PROGRESS OF THIS SURVEY TO LOCATE BURIED UTILITIES/STRUCTURES. ADDITIONAL BURIED UTILITIES/STRUCTURES MAY BE ENCOUNTERED, THE CONTRACTOR SHALL HAVE ALL UNDERGROUND UTILITIES FIELD VERIFIED BY THE PROPER UTILITY COMPANIES BEFORE ANY CONSTRUCTION BEGINS.

8. CONTROL: ESTABLISHED USING THE KEYNET VIRTUAL REFERENCE SYSTEM RTK NETWORK.
HORIZONTAL DATUM: NORTH AMERICAN DATUM OF 1983 (NAD83) (NEW JERSEY STATE PLANE COORDINATE SYSTEM)
VERTICAL DATUM: NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD 88) BASED UPON NGS BENCHMARK #A7800; ELEVATION: 14.41.

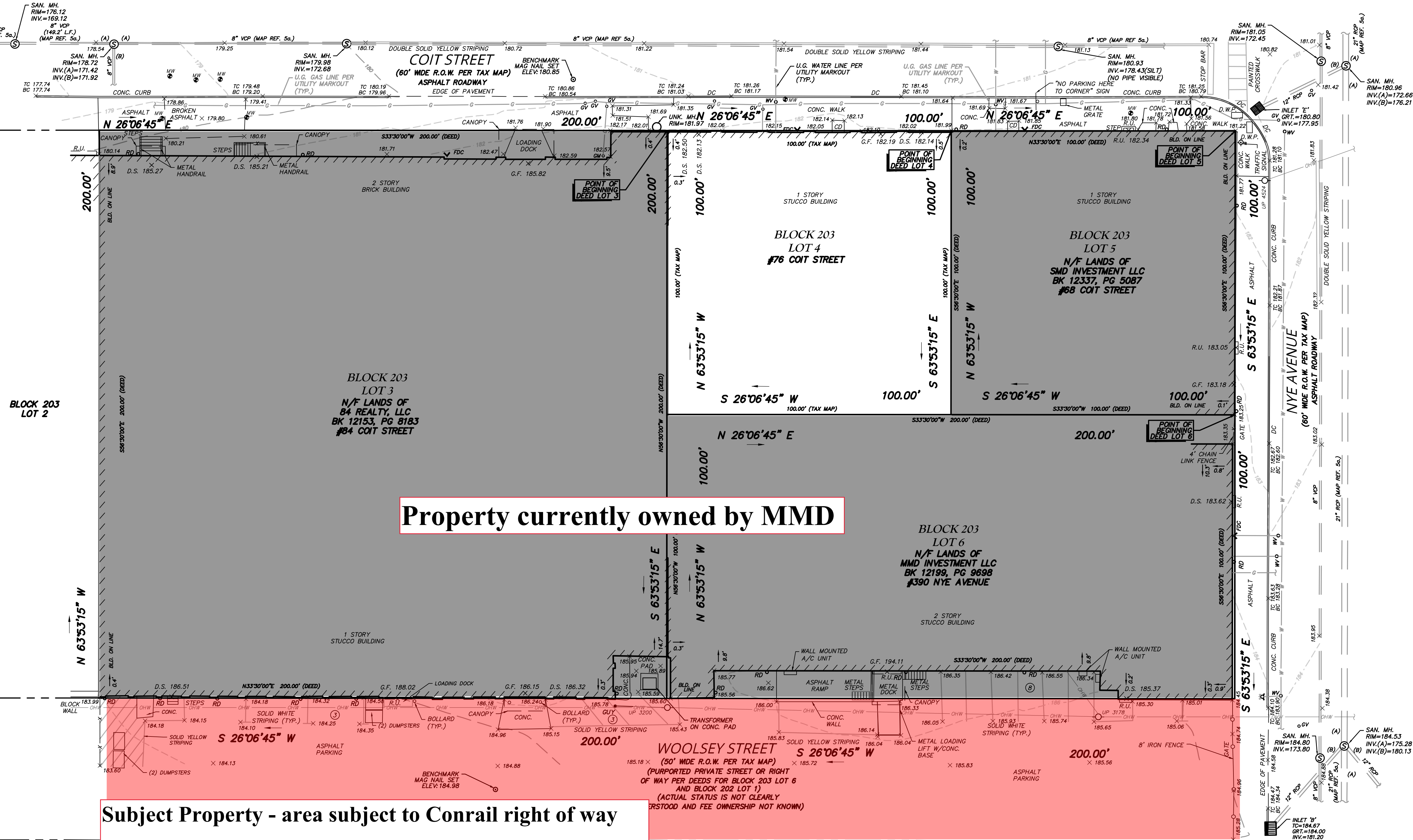
9. TOXIC WASTE: THE UNDERSIGNED PROFESSIONAL IS NOT QUALIFIED TO DETERMINE THE EXISTENCE OR NON-EXISTENCE OF TOXIC WASTES. THEREFORE IT SHOULD NOT BE ASSUMED OR CONSTRUED THAT ANY STATEMENT IS BEING MADE BY THE FACT THAT NO EVIDENCE OF TOXIC WASTE IS PORTRAYED HEREON. IT IS IN THE BEST INTEREST OF THE CLIENT TO PURSUE THIS MATTER AS A SEPARATE CONCERN APART FROM THIS SURVEY.

10. SURVEY IS SUBJECT TO SUCH FACTS THAT A COMPLETE AND UP TO DATE TITLE REPORT MAY DISCLOSE.

11. THE SPATIAL RELATIONSHIP BETWEEN EXISTING FEATURES AND THE PROPERTY BOUNDARY LINES IS SHOWN HEREON. HOWEVER A DETERMINATION BETWEEN WHAT IS AND IS NOT CONSIDERED AN ENCROACHMENT IS UNABLE TO BE MADE.

12. WAIVER OF SETTING CORNER MARKERS OBTAINED FROM 84 REALTY, LLC, PURSUANT TO THE BOARD OF PROFESSIONAL ENGINEERS AND LAND SURVEYORS REGULATION, N.J.A.C. 13:40-5.2.

13. CAUTION: IF THIS DOCUMENT DOES NOT CONTAIN A RAISED IMPRESSION SEAL OR STATE APPROVED DIGITAL SIGNATURE AND SEAL OF THE UNDERSIGNED PROFESSIONAL IT IS NOT AN AUTHORIZED ORIGINAL DOCUMENT AND MAY HAVE BEEN ALTERED.



Property currently owned by MMD

Subject Property - area subject to Conrail right of way

		12+00		TELEPHONE MANHOLE		U/G ELECTRIC LINE		TRAFFIC SIGNAL POLE		STORM INLET TYPE 'A'
				UNMARKED MANHOLE		OVERHEAD WIRE		POLE MOUNTED LIGHT		STORM INLET TYPE 'B'
				SANITARY MANHOLE		WATER MAIN		UTILITY POLE		STORM INLET TYPE 'C'
				DRAINAGE MANHOLE		GAS MAIN		GUY WIRE		STORM INLET TYPE 'D'
				MAJOR CONTOUR		SAN. SEWER LATERAL		TRANSFORMER		STORM INLET TYPE 'E'
				MINOR CONTOUR		SAN. SEWER MAIN		FIRE DEPT. CONNECTION		STORM INLET TYPE 'F'
		X G 29.0		SPOT ELEVATION		STORM PIPE		FIRE HYDRANT		STORM INLET TYPE 'G'
		X BC 29.0		TOP OF CURB ELEV.		WETLAND MARKER		WATER VALVE		STORM INLET TYPE 'H'
				BOTTOM OF CURB ELEV.		TREE		GAS VALVE		STORM INLET TYPE 'I'
				U/G CABLE TV LINE		ROADWAY SIGNS		SANITARY CLEANOUT		STORM INLET TYPE 'J'
				U/G FIBER OPTIC LINE		MAILBOX		CONCRETE MONUMENT		STORM INLET TYPE 'K'
				U/G TELEPHONE LINE				CAPPED REBAR/IRON PIPE		STORM INLET TYPE 'L'

LEGEND			

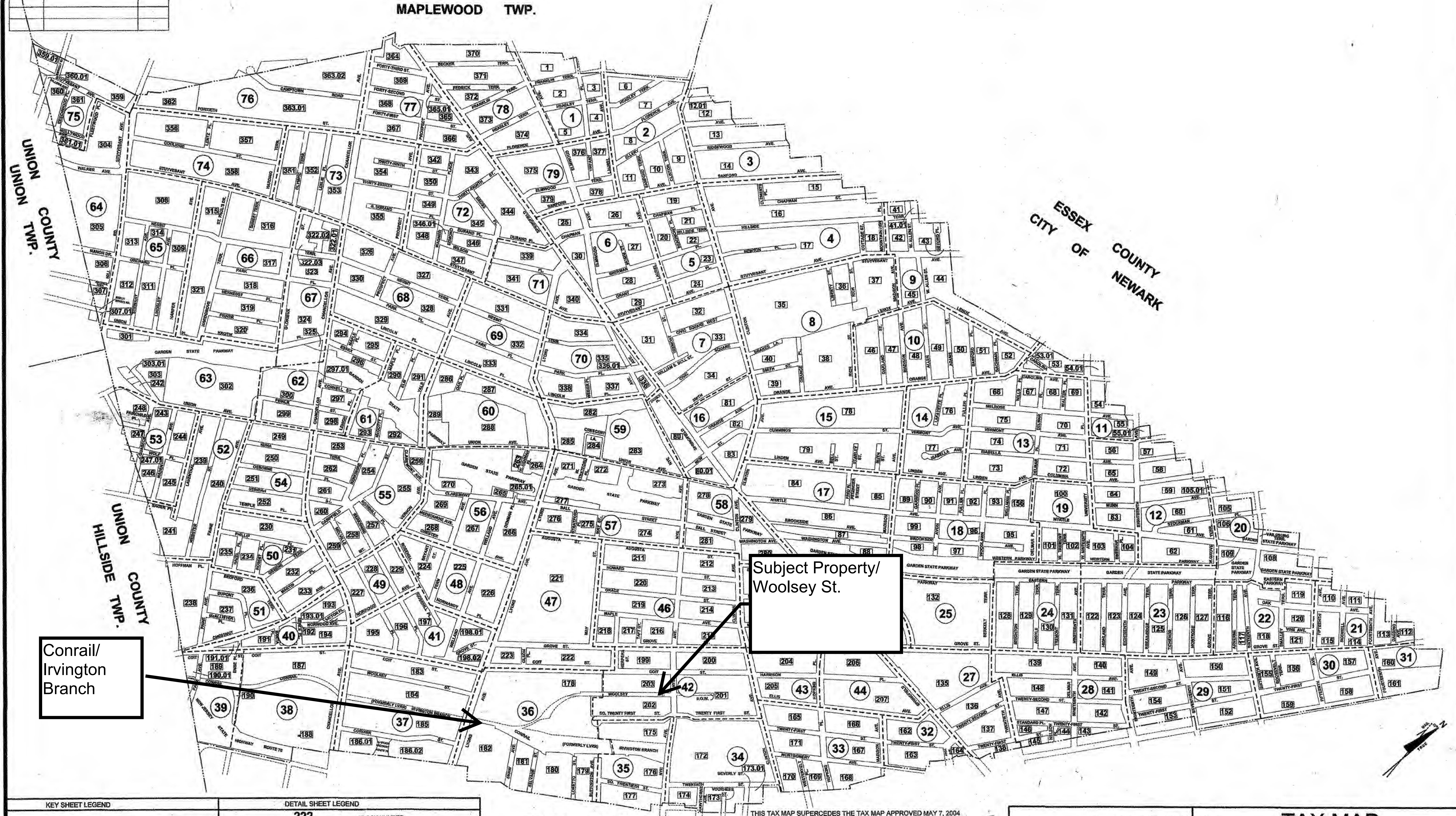
EXHIBIT B

Irvington Tax Maps

(selected pages)

REVISIONS		
DATE	NAME	NO.

ESSEX COUNTY
MAPLEWOOD TWP.



Conrail/
Irvington
Branch

Subject Property/
Woolsey St.

KEY SHEET LEGEND		DETAIL SHEET LEGEND	
①	DETAIL SHEET NUMBER	222	BLOCK NUMBER
184	BLOCK NUMBER	25	LOT NUMBERS
---	SHEET LIMIT LINE	48.5'	LOT DIMENSION
---	BLOCK LINE	35ac	LOT ACREAGE
---	ROW & OUTSIDE MUNICIPALITY	②	CONDO NUMBERING EXAMPLES
---	MUNICIPAL BOUNDARY LINE	---	LOT LINE (PROPERTY LINE)
---	COUNTY LINE	---	ROW & OUTSIDE MUNICIPALITY
---		---	ASSESSMENT LINE
---		---	BLOCK LIMIT LINE
---		---	MUNICIPAL BOUNDARY LINE
---		---	COUNTY LINE

ESSEX COUNTY
CITY OF NEWARK

THE AREAS, BOUNDRIES AND DIMENSIONS SHOWN ON THIS TAX MAP ARE DERIVED FROM GROUND SURVEYS, AERIAL SURVEYS AND RECORDED PLANS, MAPS, DEEDS, WILLS, AND ARE TO BE USED FOR ASSESSMENT PURPOSES ONLY.

THIS TAX MAP SUPERCEDES THE TAX MAP APPROVED MAY 7, 2004.

I HEREBY CERTIFY THAT THE REVISION OF THIS MAP HAS BEEN MADE UNDER MY IMMEDIATE SUPERVISION AND COMPLIES WITH THE LAWS OF THE STATE OF NEW JERSEY, TO SHOW CONDITIONS AS OF JANUARY 31, 2013.

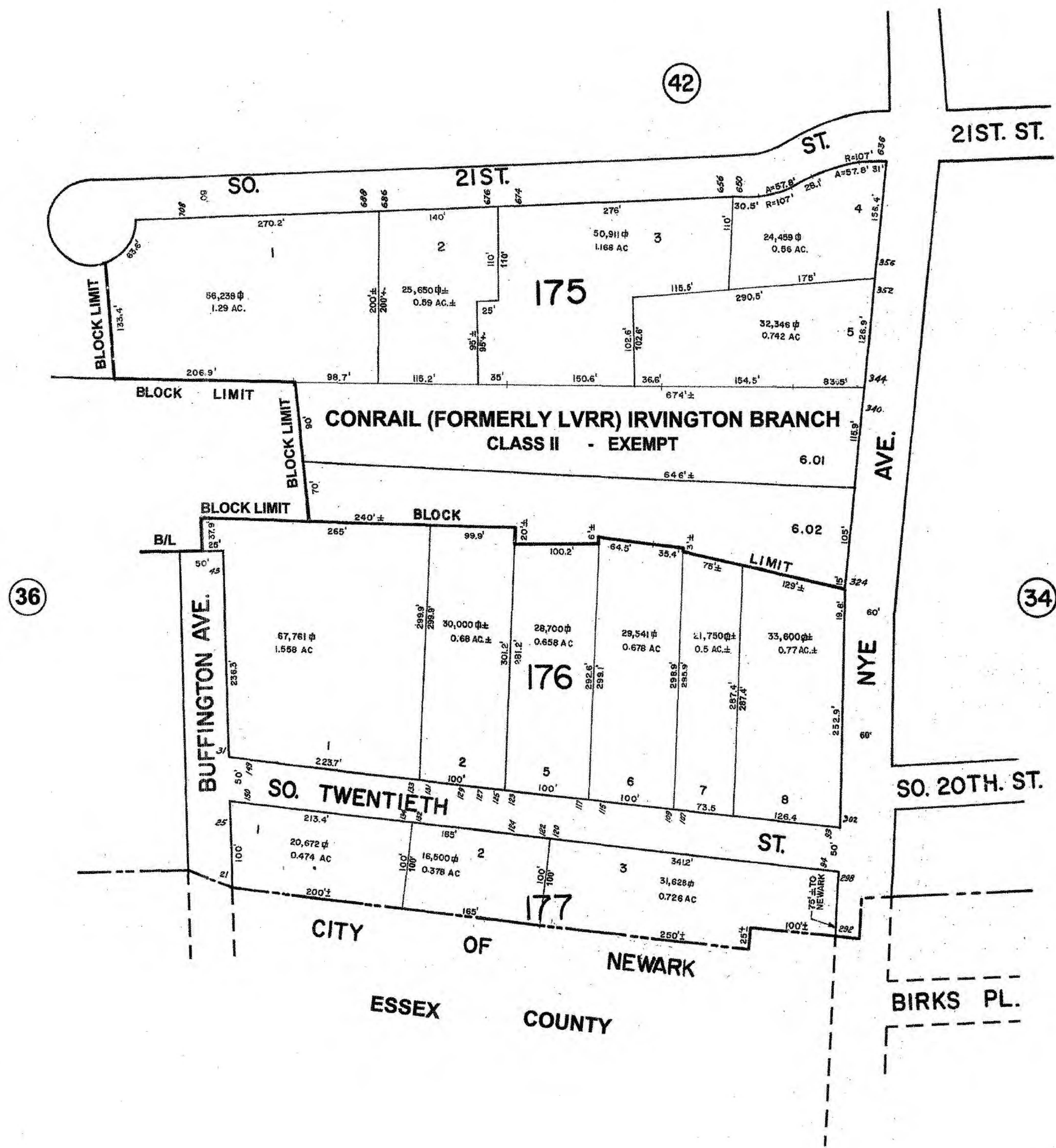
Michael Lanza 9/17/13
MICHAEL T. LANZAFAMA, N.J.L.S. #90084

THIS SHEET IS A SCANNED COPY OF THE TAX MAP PREPARED BY APPRAISAL SURVEYS, INC. IN SEPTEMBER, 1997. THE ORIGINAL APPROVED MAP IS ON FILE IN THE ASSESSORS OFFICE.

NEW JERSEY DEPARTMENT OF THE TREASURY
DIVISION OF TAXATION
PROPERTY ADMINISTRATION TAX MAP SECTION
APPROVED AS A TAX MAP PURSUANT TO THE
AUTHORITY OF N.J.S.A. 54:4-15 & N.J.S.A. 54:50-1
FOR THE DIRECTOR, DIVISION OF TAXATION
John Miller
John Miller, Chief Valuation and Mapping, L.P.
DATE: SEP 11 2013 SERIAL NO. 11025

TAX MAP
TOWNSHIP OF IRVINGTON
ESSEX COUNTY, NEW JERSEY
SCALE 1" = 500' DATE 1/31/2013
CASEY & KELLER, INC.
MICHAEL LANZAFAMA, PLS
258 MAIN ST. MILLBURN, NJ 07041
TO SHOW CONDITIONS AS OF JANUARY 31, 2013

REVISIONS		
DATE	NAME	NO.



NEW JERSEY DEPARTMENT OF THE TREASURY
DIVISION OF TAXATION
PROPERTY ADMINISTRATION TAX MAP SECTION
APPROVED AS A TAX MAP PURSUANT TO THE
AUTHORITY OF N.J.S.A. 54:1-15 & N.J.S.A. 54:20-1
FOR THE DIRECTOR, DIVISION OF TAXATION

Sue Davison CTA Supervising Field Rep
Sue Davison, CTA Supervising Field Rep

DATE: **SEP 11 2013** SERIAL NO. **1025**

TAX MAP
TOWNSHIP OF IRVINGTON
ESSEX COUNTY, NEW JERSEY
SCALE 1" = 80' DATE 1/31/2013
CASEY & KELLER, INC.
MICHAEL LANZAFAMA, PLS
258 MAIN ST. MILLBURN, NJ 07041
TO SHOW CONDITIONS AS OF JANUARY 31, 2013

THIS SHEET IS A SCANNED COPY OF THE TAX MAP PREPARED
BY APPRAISAL SURVEYS INC. SEPTEMBER 1987. THE ORIGINAL
APPROVED MAP IS ON FILE IN THE ASSESSORS OFFICE.

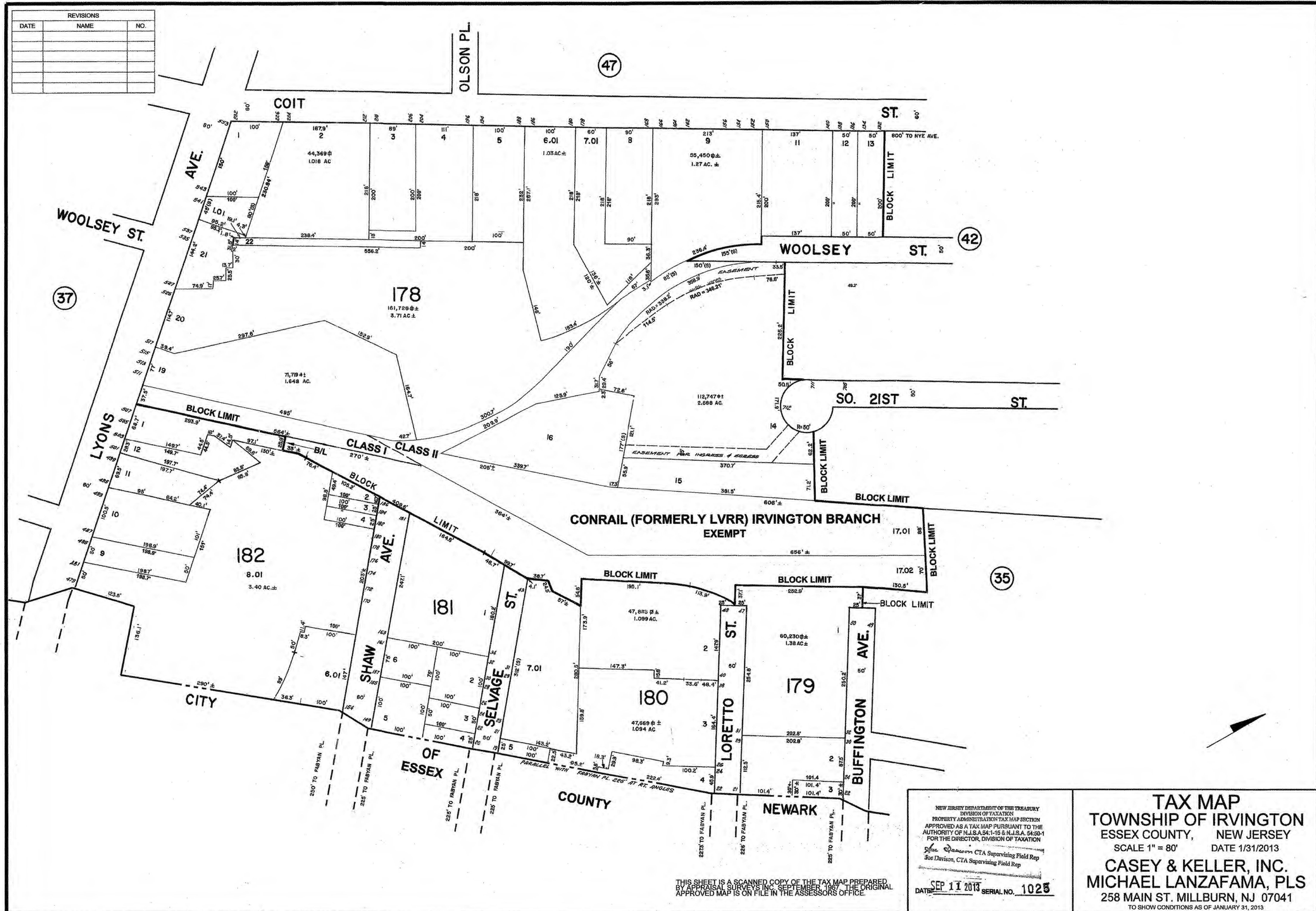


EXHIBIT C

Survey with Google Earth Overlay

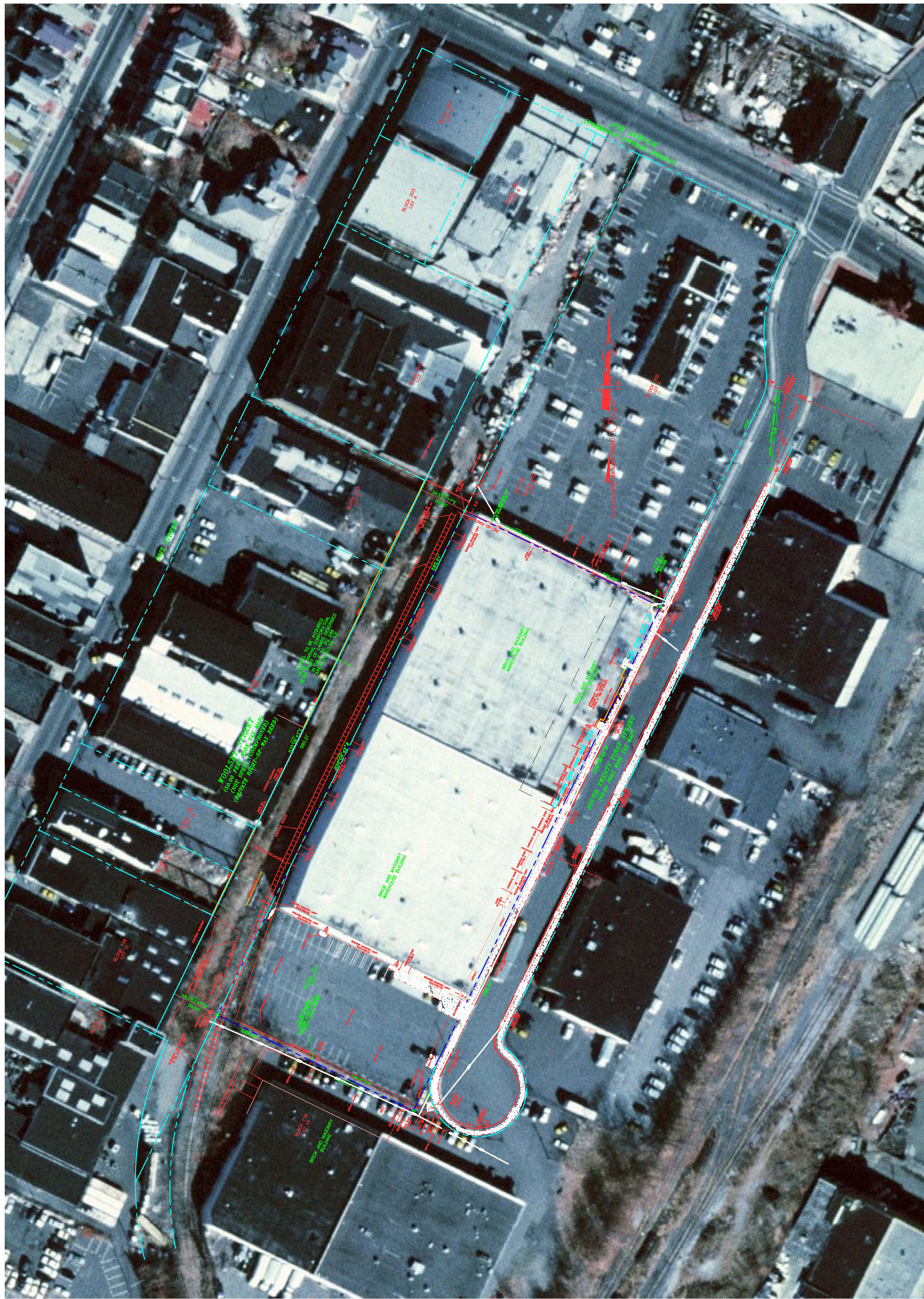


EXHIBIT D

Photographs of Subject Property

and Subject Right of Way



This gate marks the border between the paved right of way that we are looking to acquire and the unpaved right of way area which is outside of our interest









EXHIBIT E

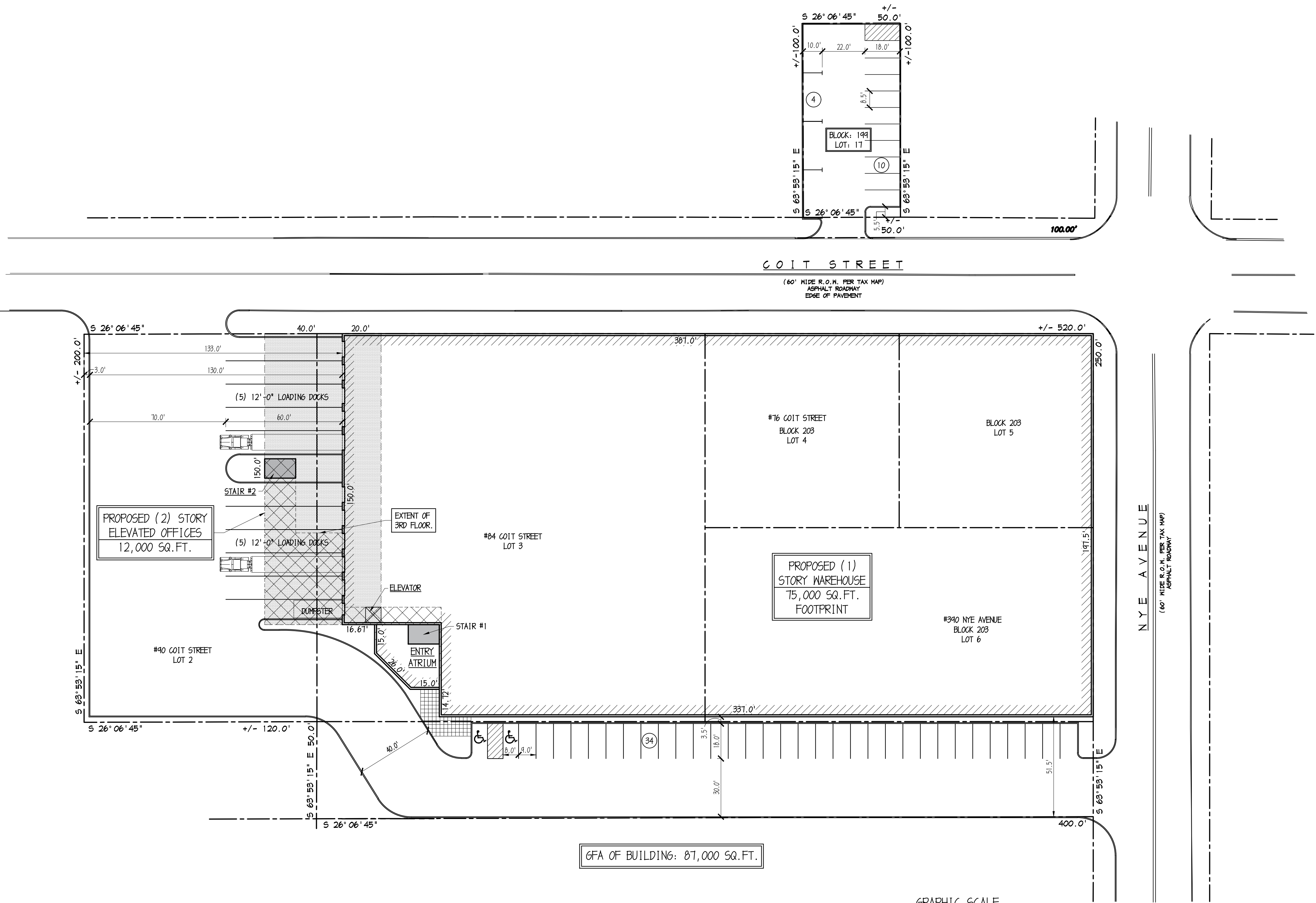
Preliminary Site Plan



EXISTING ELEVATION



PROPOSED ELEVATION



SITE DATA TABLE		
ZONE - REDEVELOPMENT PLAN		
DATA	PERMITTED/REQUIRED	PROPOSED
MINIMUM LOT AREA	1 ACRE (43,560 SQ. FT.)	2.45 ACRES OR 128,761 SQ. FT.
MAXIMUM FLOOR AREA RATIO	0.50	0.61
WIDTH OF LOT	MIN. 150'-0"	200.0'
MAXIMUM IMPERVIOUS COVERAGE	75% 60,000 SQ. FT.	97% 125,453 SQ. FT.
FRONT YARD	MIN. 25'-0"	0.0'
REAR YARD	MIN. 50'-0"	NOT APPLICABLE
SIDE YARD (ONE/BOTH)	MIN. 25.0'/60.0'	51.5'/104.5'
MAXIMUM STORIES	MAX. 2 STORIES	(3) STORIES
BUILDING HEIGHT	MAX. 35'-0"	50'-0"

PARKING CALCULATION

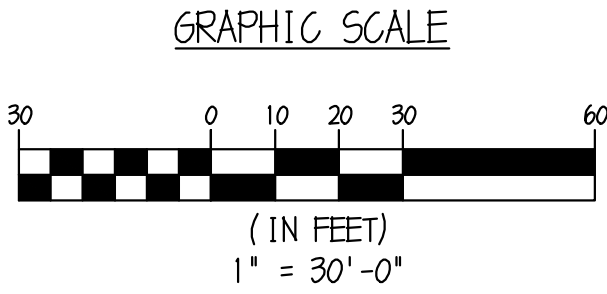
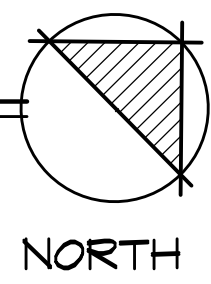
OFFICES - 1 PARKING SPACE FOR EVERY 400 SQ. FT.
12,000 SQ. FT. / 400 SQ. FT. = 30 PARKING SPACES
WAREHOUSE (NOT LISTED IN ORDINANCE) - 1 PARKING SPACE FOR EVERY 5,000 SQ. FT. +/-
75,000 SQ. FT. / 5,000 SQ. FT. = 15 PARKING SPACES
TOTAL PARKING REQUIRED = 45 PARKING SPACES
TOTAL PARKING PROVIDED = 48 PARKING SPACES

LEGEND

- AREA OF SECOND FLOOR.
- AREA OF SECOND & THIRD FLOOR.

ILLUSTRATIVE SITE LAYOUT

SCALE: 1" = 30.0'

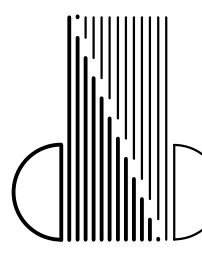


02 MARCH 2023
ISSUES & REVISIONS

FOR REVIEW

PROPOSED REDEVELOPMENT PLAN FOR:
UNIPRO

BLOCK 199, LOT 17
BLOCK 203, LOTS 2, 3, 4, 5 & 6
COIT STREET AND NYE AVENUE
TOWNSHIP OF IRVINGTON, NEW JERSEY



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DRAWING NUMBER
SK-SP-100