

## **MODIFICATION OF AGREEMENT**

This agreement made the 28 day of February, 2019, by and between:

VTT, LLC, of 26 Quarry Road, Ithaca, New York, (hereinafter referred to as "VTT"), party of the first part

AND

CORNELL UNIVERSITY, of Ithaca, New York, (hereinafter referred to as "Cornell"), party of the second part,

WITNESSETH:

WHEREAS, VTT is the current owner of approximately 2.4 acres of real property located on NYS Route 366 and Freese Road in the Town of Dryden, Tompkins County, New York, Tax Parcel number 53.-1-3.4, as shown on Subdivision Map Showing Portion of Lands of VTT, LLC, Located on Dryden Road and Freese Road, Town of Dryden, Tompkins County, New York, dated December 10, 2018 and prepared by T.G. Miller, P.C., Lee Dresser, LLS No. 050096, attached hereto as Exhibit A (hereinafter referred to as "Freese Road Corner.") VTT acquired the Freese Road Corner from Nickolas V. Bellisario and Otis S. Phillips, who acquired it from Martin L. Ottenschot by warranty deed recorded on January 18, 2006 in the Tompkins County Clerk's Office, instrument number 484852-001; and

WHEREAS, VTT is the current owner of adjacent land located on Freese Road in the Town of Dryden, Tompkins County, New York, Tax Parcel number 53.-1-3.7, the eastern line of which property forms the western boundary of the Freese Road Corner (the "Adjacent Parcel"); and

WHEREAS, Cornell is the current owner of certain real property located on Freese Road in the Town of Dryden, Tompkins County, New York, which is adjacent to the Freese Road Corner, as shown on Exhibit A, tax parcel numbers 53.-1-9.2 and 53.-1-3.1 (hereinafter referred to as "Cornell Lands"); and

WHEREAS, the Freese Road Corner is subject to certain rights of way and restrictions set forth in an Agreement dated October 12, 1987 and recorded October 13, 1987 in the Tompkins County Clerk's Office in Liber 630 of Deeds at Page 1116, as more particularly shown on a survey entitled "MAP OF PARCEL OF LAND TO BE CONVEYED BY ELVIRA T. BOSSACK TO MARTIN L. OTTENSCHOT, Town of Dryden, ML. #61, Tompkins County, New York", dated July 27, 1987 and made by Robert S. Russler, Jr., L.S. NO. 049709-1, a copy of which map was filed in said Clerk's Office on October 19, 1987, instrument number BF022650-001 and attached hereto as Exhibit B; and

WHEREAS, VTT (as successor to Ottenschot and Bossack) and Cornell now desire to amend the Agreement as provided herein.

NOW THEREFORE, in consideration of the parties' respective covenants as recited herein, it is agreed as follows:

1. The parties agree that the right of way shall be twenty (20) feet in width, centered on the gravel drive as constructed and shall be located on the Adjacent Parcel approximately within the area shown as Proposed Gravel Drive on Exhibit A. VTT has the option to pave that portion of the right of way south of the vehicular gate described in Section 2, at its sole expense. VTT shall be solely responsible for maintenance and repair of the right of way (including snow removal) from Freese Road to the north end of the lower parking area. VTT also shall be responsible for keeping the entire right of way clear of soil or other debris resulting from erosion on its property. VTT and Cornell shall equitably share the costs of repair and maintenance of that portion of the right of way located to the north of the lower parking area, provided, however, (1) that Cornell shall be solely responsible for snow removal and regrading or other routine maintenance required due to use by Cornell farm equipment and (2) that VTT shall be solely responsible for any repairs or maintenance necessitated by the installation, maintenance or repair of water lines, sewer lines, or stormwater facilities benefitting the Freese Road Corner Lot.
2. VTT shall install a gate, allowing a minimum access width of 20 feet, made of any material of type and design that will result in restricting vehicular access across the full width of the access road within the right of way, with locking capabilities. The gate will be located near the northern terminus of the right of way, with the exact location to be mutually determined by the parties. Cornell shall approve said gate prior to installation and shall be responsible for any locks associated with Cornell's use of said gate. VTT shall be responsible for repairing any damage to the gate caused by VTT or its agents; otherwise the gate shall be maintained and repaired by Cornell.
3. VTT shall install "No Trespassing" or "Private Property" signs (to be provided by Cornell) at the gate. VTT shall also include an agricultural district disclosure notice in the Declaration of Covenants, Conditions and Restrictions for the Freese Road Corner Lot.
4. The full length and width of the right of way shall be freely accessible by Cornell (pedestrian, vehicle, and farm equipment) at all times. VTT shall not permit any portion of the ROW to be blocked by equipment, fill, debris, piled snow, or other impediments without the prior written consent of Cornell in each instance.
5. VTT shall install a vegetative screen of multiple layers of fast growing deciduous and evergreen trees within the New Buffer Zone Area, according to the planting plan shown on Exhibit C. The New Buffer Zone Area is that portion of Lot 16 that lies north of the y-shaped sidewalk intersection located approximately due west of the centerline of the upper parking area, and lying north of a line drawn from the northwest corner of Lot 8 to the northwest corner of Lot 7, all as shown on Exhibit D.

All trees installed will be a minimum of 8 feet. It is the intent that this vegetative screen will grow to block the view of Cornell Lands by an average person standing at the highest ground level point upon Freese Road Corner and deter routine access to the fields below.

6. Any dead trees in the New Buffer Zone Area will be replaced by VTT within three months or as soon as the growing season allows. For any dead tree which had been growing in the northern portions of Lots 7, 8, or 10, VTT shall replace the tree in the approximate same location if the permission of the Lot owner can be obtained without cost to VTT. Any replacement trees will be fast growing deciduous or evergreens at least eight feet tall at the time of installation.
7. VTT shall maintain the diversion ditch and stormwater retention pond shown in Exhibits B and D respectively, consistent with the vegetative screening described in Section 5, to prevent flooding or other damage to the Cornell Lands resulting from erosion or runoff.
8. VTT will install and maintain a split rail fence along the boundary line between the Freese Corner Lot and the Cornell Lands, approximately as shown on Exhibit D, which fence shall be subject to Cornell's reasonable approval, to prevent access to Cornell Lands from the VTT development.
9. VTT agrees that after the initial construction (including the construction of a storm water retention pond) and planting of the new vegetative screening as shown on Exhibit C, the New Buffer Zone Area shall not be disturbed in any way, including, without limitation, clearing or killing vegetation, disturbing soil, dumping, excavating, constructing buildings, parking lots, or any type of improvements without Cornell's prior written consent; except: a) in emergency situations when necessary to prevent damage or destruction to life or property; and b) when necessary to maintain, repair or replace an existing improvement or planting including water, sewer and storm pipelines and the storm water retention pond. VTT will take reasonable measures to limit damage to plantings in the New Buffer Zone, and will replace plantings in kind and as necessary to achieve the same degree of screening stipulated in Exhibit C within three months of removal (or as soon as the growing season allows).
10. In addition to the vegetative screen on the Freese Road Corner, VTT shall construct a vegetative screening berm along the northerly edge of the Adjacent Parcel. The berm will be of sufficient depth as to provide 1 row of evergreen or fast growing deciduous trees spaced for successful tree growth. All trees installed will be a minimum of 8 feet. Any dead trees will be replaced by VTT as provided in Section 6.
11. VTT shall complete its obligations hereunder as of the sooner of the date it receives its Certificate of Occupancy or August 30, 2019.
12. In consideration of the above, Cornell (1) releases all rights in and to the said Buffer Zone, shown on Exhibit B, as previously provided in the Agreement; and (2) releases VTT for all the obligations contained in paragraphs 5 and 6 of the Agreement. In addition, Cornell releases its right of way over the northwest corner of the Freese Road Corner as lying northerly and westerly of the center line of the "ditch" as shown on Exhibit B and as

originally granted in paragraph 3 of the Agreement. For clarity, this release of right of way in no way limits Cornell's rights in and to the 20 foot right of way described in the Agreement and Exhibits A, except to the extent that the location of that easement has been altered by this modification.

13. Cornell acknowledges that all of its rights of first refusal set forth in the Agreement have been exhausted and are of no further force or effect.

This Modification of Agreement shall run with the land and be binding on and inure to the benefit of the successors and assigns of the parties. Any continuing obligations under this Agreement shall be the obligations of the entity then owning the land in question and shall cease to be an obligation of VTT once it no longer owns such land.

IN WITNESS WHEREOF the parties have caused these presents to be signed and sealed as of the day and date first above mentioned.

Signature Pages Follow

For VTT, LLC

By: \_\_\_\_\_

Nickolas V. Bellisario, Jr., Member

\_\_\_\_\_

Ormsby Dolph, Member

STATE OF NEW YORK )

COUNTY OF TOMPKINS ) ss.:

On the \_\_\_\_ day of February, in the year 2019, before me, the undersigned, personally appeared **NICKOLAS V. BELLISARIO, JR.**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

STATE OF NEW YORK )

COUNTY OF TOMPKINS ) ss.:

On the \_\_\_\_ day of February, in the year 2019, before me, the undersigned, personally appeared **ORMSBY DOLPH**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

Additional Signature Page Follows

For CORNELL UNIVERSITY

By: \_\_\_\_\_


Jeremy Thomas  
Senior Director, Real Estate Department

STATE OF NEW YORK )

COUNTY OF TOMPKINS ) ss.:

On the 28<sup>th</sup> day of February, in the year 2019, before me, the undersigned, personally appeared **JEREMY THOMAS**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

  
Christine R. Hass

CHRISTINE R. HASS  
NOTARY PUBLIC-STATE OF NEW YORK  
NO. 01HA6026298  
QUALIFIED IN TOMPKINS COUNTY  
MY COMMISSION EXPIRES JUNE 14, 2019

EXHIBIT A

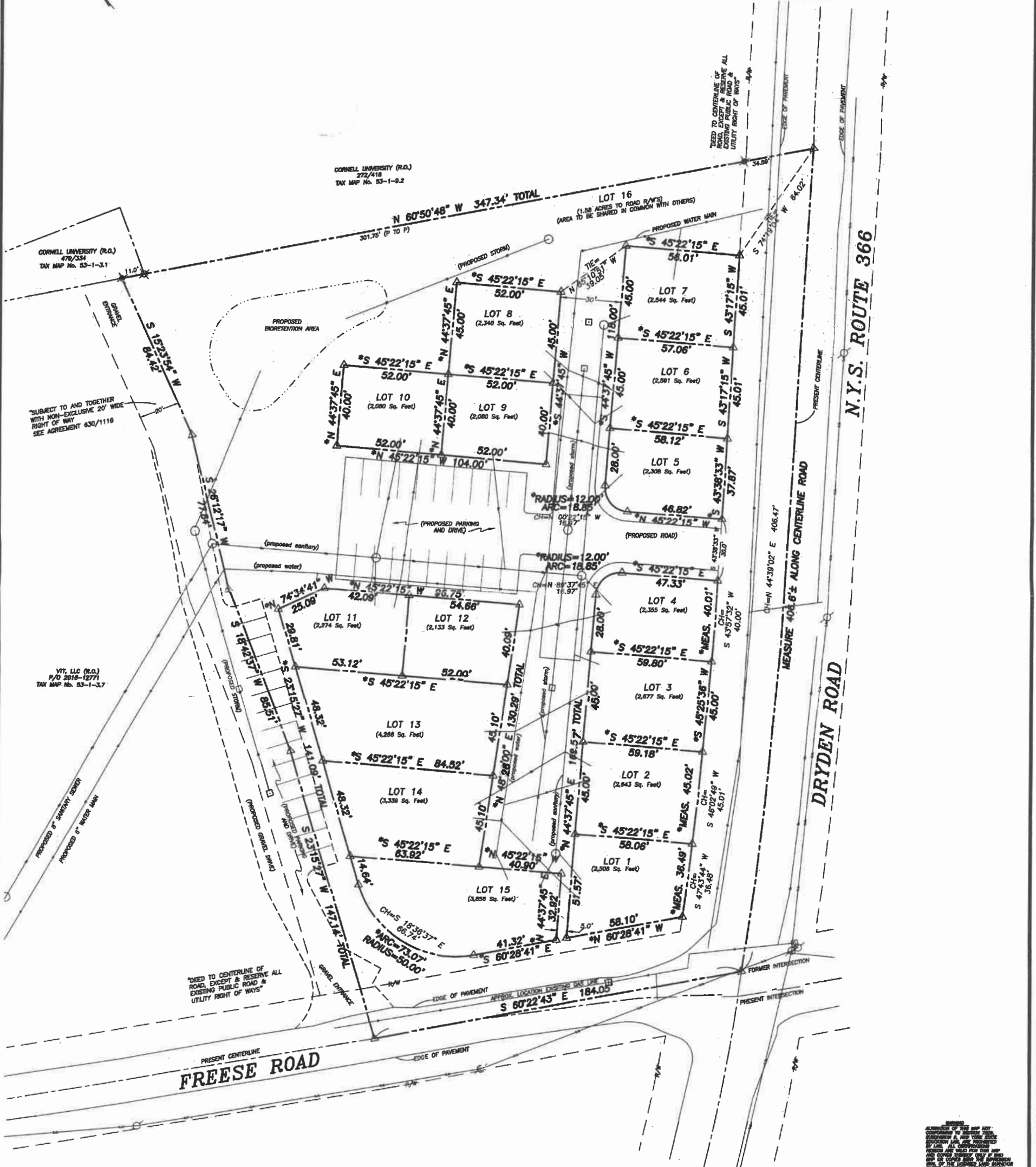
Subdivision Map Dated December 10, 2018

- LEGEND**
- △ - COMPUTED POINT
  - - PIN SET WITH CAP
  - ⊗ - IRON PIN FOUND
  - ⊕ - UTILITY POLE
  - - PROPOSED NEW DIVISION LINE

**TITLE INFORMATION**  
**VTT, LLC**  
 P/O INSTRUMENT No. 2016-12771  
 TAX MAP No 53-1-3.4

**MAP REFERENCES:**  
 1.) SURVEY MAP SHOWING LANDS OF NICKOLAS V. BELLISARIO JR. & OTIS S. PHILLIPS... DATED 3/14/2014 BY IAN SHINE.  
 2.) SURVEY MAP SHOWING LANDS OF VTT, LLC LOCATED ON DRYDEN ROAD & FRESSE ROAD... DATED 9/14/2017 BY T.G. MILLER P.C.  
 3.) TOPOGRAPHIC MAP SHOWING PORTION OF LANDS OF VTT, LLC LOCATED ON FRESSE ROAD... DATED 6/28/2018.

**NOTES:**  
 1.) THIS SURVEY MAP PREPARED WITHOUT BENEFIT OF AN ABSTRACT OF TITLE PROVIDED, SUBJECT TO ANY STATE OF FACT THAT AN UPDATED ABSTRACT OF TITLE MAY SHOW.  
 2.) ORIGINAL FIELD WORK PERFORMED ON 9/14/2017 SEE MAP REF. No. 2.  
 3.) SEE TINY TIMBER SUBDIVISION THE COTTAGES AT FALL CREEK CROSSING PROJECT # 2016006 FOR ADDITIONAL INFORMATION DATED 12/10/2018 BY STREAM COLLABORATIVE STREAM COLLABORATIVE 108 WEST STATE STREET FL. 2 ITHACA, NY 14850 PH: 807-218-8882 WWW.STREAMCOLLAB.COM



**CERTIFICATION**  
 I hereby certify to VTT, LLC that I am a licensed land surveyor, New York State License No. 050096, and that this map correctly delineates an actual survey on the ground made by me or under my direct supervision and that I found no visible encroachments either way across property lines except as shown hereon.  
 SIGNED: *Lee Dresser* DATED: 1/7/2019

**T. G. MILLER P.C.**  
 ENGINEERS AND SURVEYORS  
 203 NORTH AURORA STREET  
 ITHACA, NEW YORK 14850  
 TEL. (807)272-8477

**TITLE: SUBDIVISION MAP**  
 SHOWING PORTION ON LANDS OF  
**VTT, LLC**  
 LOCATED ON DRYDEN ROAD & FRESSE ROAD  
 TOWN OF DRYDEN, TOMPKINS COUNTY, NEW YORK  
 DATE: 12/10/2018  
 SCALE: 1"=30'

REVISED  
 1/7/2019-ADDED NOTE 3





**EXHIBIT B**

**Portion of Map of Survey Parcel of Land to be Conveyed**

**by Elvira T. Bossack to Martin L. Ottenschot**

**EXHIBIT B**

REMAINING LANDS OF BOSSACK  
196-76

NOTE:  
E OF EXISTING TRAVELED  
LANE (E OF 10' R/W).  
NEW RD IS 10' ± EAST  
OF THIS ± LANE.

PARCEL TO BE CONVEYED  
2.4 ACRES



MAP OF SURVEY  
PARCEL OF LAND  
TO BE CONVEYED  
BY  
ELVIRA T. BOSSACK  
TO  
MARTIN L. OTTENSCHOT

TOWN OF DRYDEN, NY 13824 TOMPKINS COUNTY  
NEW YORK

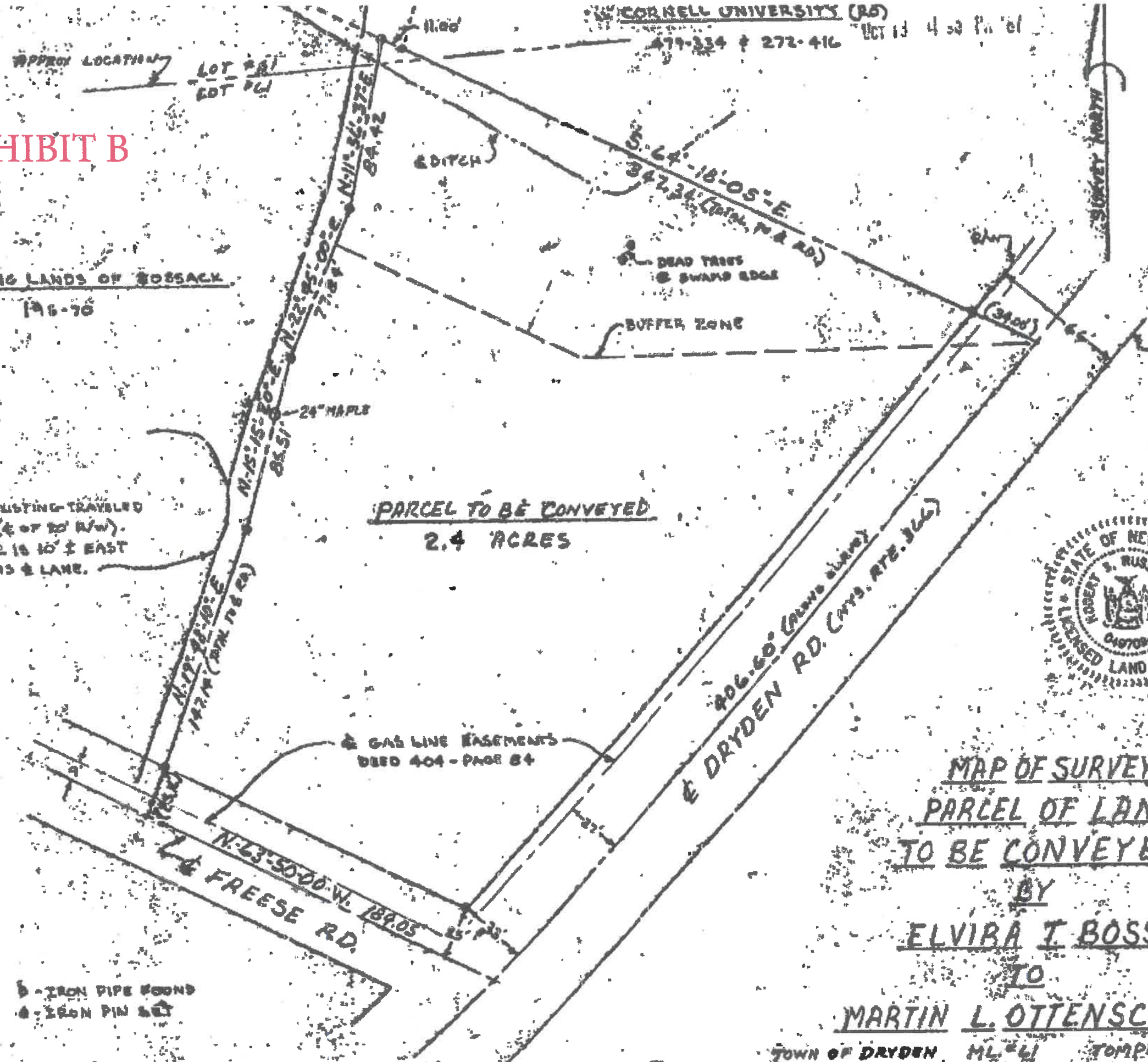


EXHIBIT C

Varna Tiny Timbers Planting Plan

Stream Collaborative, December 21, 2018

Drawing L102



**PLANTING SCHEDULE**

KEY	QTY.	BOTANICAL NAME	COMMON NAME	INSTALLED SIZE	MATURE SIZE	COMMENTS
TREE - EVERGREEN						
PSC	16	Pinus strobus	EASTERN WHITE PINE	2"	50' TALL	
TREE - ORNAMENTAL						
CS	3	Crataegus spp.	WASHINGTON HAWTHORN	#7 CONTAINER 2" CALIPER	25' TALL	THORNLESS CULTIVAR
MM	5	Magnolia macrophylla	BIGLEAF MAGNOLIA	1.5"	25' TALL	
MA	7	Malus 'Cortland'	CORTLAND APPLE	1.5"	25' TALL	
TREE - SHADE						
AR	10	Acer rubrum	RED MAPLE	2-1/2" CALIPER	40' TALL	
BP	94	Betula pendula	WEeping BIRCH	2" CALIPER	70' TALL	
PA	51	Platanus acerifolia	LONDON PLANE TREE	2" CALIPER	70' TALL	
PT	40	Populus tremula 'Erecta'	COLUMNAR SWEDISH ASPEN	8" TALL	40' TALL	
QB	9	Quercus bicolor	SWAMP WHITE OAK	2"	60' TALL	SALT TOLERANT
UP	56	Ulmus parvifolia	CHINESE ELM	2-1/2" CALIPER	40' TALL	

**GENERAL SHEET NOTES - PLANTING**

- CONSULT LANDSCAPE ARCHITECT ON SHAPE OF BED EDGE & PLACEMENT OF ALL PLANTS PRIOR TO INSTALLATION.
- ONLY NURSERY-GROWN PLANT MATERIALS SHALL BE ACCEPTABLE. ALL TREES, SHRUBS AND GROUND COVERS SHALL COMPLY WITH APPLICABLE REQUIREMENTS OF ANSI Z60.1, AMERICAN STANDARD FOR NURSERY STOCK.
- ALL PLANTING BEDS TO BE EXCAVATED TO A MINIMUM DEPTH OF TWO FEET AND REPLACED WITH AMENDED TOPSOIL CONSISTING OF 1 PART SCREENED TOPSOIL, 1 PART COMPOST AND 1 PART SAND.
- TREE PITS IN LAWN TO BE EXCAVATED TO DEPTH OF ROOT BALL PLUS SIX INCHES AND SHALL BE THREE TIMES THE WIDTH OF THE ROOT BALL.
- DECIDUOUS TREES SHALL HAVE A CALIPER OF AT LEAST 2 1/2 INCHES AT BREAST HEIGHT (DBH) AT THE TIME OF PLANTING.
- ALL TREES IN LAWN AREAS TO RECEIVE FIVE-FOOT DIAMETER MULCH RINGS.
- INSTALL 3 INCHES OF NATURAL SHREDDED BARK MULCH IN ALL PLANTING BEDS.
- NO PLANTS OR TREES SHALL BE LOCATED BENEATH BUILDING OVERHANGS.
- SUN/SHADE LAWN MIX - DEEP TILL ANY COMPACTION DUE TO CONSTRUCTION AND INSTALL 4" OF AMENDED TOPSOIL.
- WARRANTY ALL PLANT MATERIALS FOR A PERIOD OF 1-YEAR BEYOND THE DATE OF SUBSTANTIAL COMPLETION.

NOTE: PERENNIAL AND ANNUAL PLANTINGS BY INDIVIDUAL PROPERTY OWNERS.



**1 PLANTING PLAN**  
1" = 20'-0"



REVISIONS		
Δ	DESCRIPTION	DATE

Project #	2016006
Date	12/21/18
PERMIT SET	

PLANTING PLAN

**L102**  
As indicated

12/21/2018 11:47:24 AM C:\Users\Noah\Documents\2016006 - Varna Tiny Timber\_noah@streamcollab.com.rvt

EXHIBIT D

Varna Tiny Timbers Final Plat

Stream Collaborative, December 18, 2018

Drawing L101





**GENERAL SHEET NOTES - SITE LAYOUT**

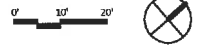
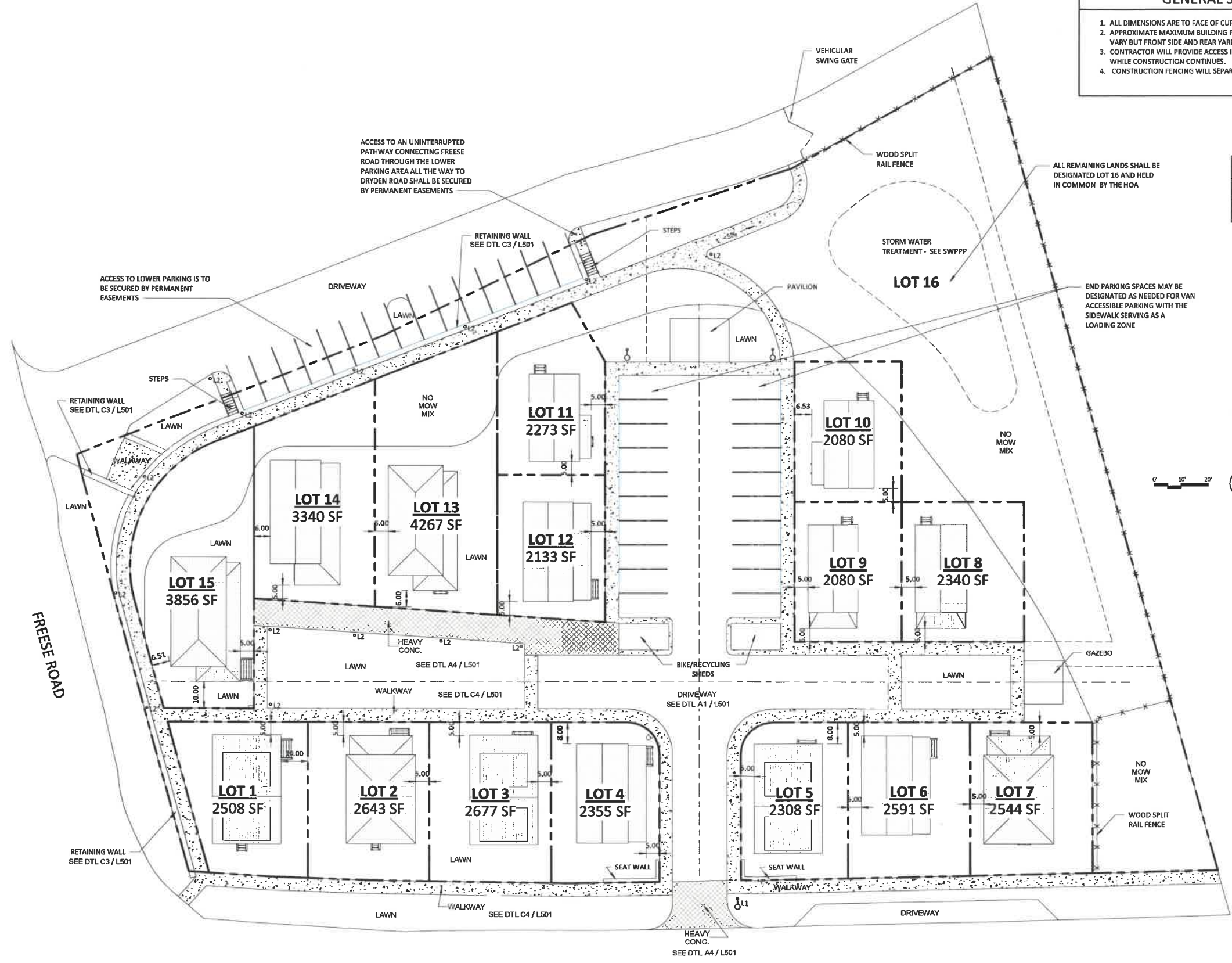
1. ALL DIMENSIONS ARE TO FACE OF CURB OR PAVEMENT UNLESS NOTED OTHERWISE.
2. APPROXIMATE MAXIMUM BUILDING PADS ARE SHOWN FOR REFERENCE ONLY. INDIVIDUAL HOME LOTS WILL VARY BUT FRONT SIDE AND REAR YARD SETBACKS WILL NOT BE LESS THAN WHAT IS SHOWN ON THIS PLAN.
3. CONTRACTOR WILL PROVIDE ACCESS INCLUDING TEMPORARY LIGHTING TO ANY HOMES THAT ARE COMPLETED WHILE CONSTRUCTION CONTINUES.
4. CONSTRUCTION FENCING WILL SEPARATE COMPLETED HOMES FROM CONSTRUCTION ACTIVITIES AT ALL TIMES.

**Lighting Fixture Schedule**

Type Mark	Description
L1	10' POST MOUNTED LIGHT FIXTURE
L2	4' POST MOUNTED PATHWAY FIXTURE



EXAMPLE OF LIGHT FIXTURE STYLE THAT WILL BE MOUNTED TO 10 FT POSTS AT THE PARKING LOT. SMALLER VERSIONS WILL BE USED FOR PATHWAY LIGHTING - EXACT FIXTURE AND LOCATIONS TO BE SELECTED BY OWNER.



DRYDEN ROAD (ROUTE 366)

FREESSE ROAD

C:\Users\Noah\Documents\2016006 - Varna Tiny Timber\_nosh@streamcolab.com.rvt

12/21/2018 11:47:10 AM

**TINY TIMBER SUBDIVISION**  
THE COTTAGES AT FALL CREEK CROSSING  
983-993 Dryden Rd, Ithaca, NY 14850

REVISIONS

Δ	DESCRIPTION	DATE
1	TOWN CONDITIONS	12/18/18

Project # 2016006  
Date 12/21/18  
PERMIT SET

SITE LAYOUT PLAN

**L101**  
As indicated