

CITY OF CAMBRIDGE

BOARD OF ZONING APPEAL

831 Massachusetts Avenue, Cambridge MA 02139

617-349-6100

2021 JAN 27 AM 11: 47

OFFICE OF THE CITY CLERK CAMBRIDGE, MASSACHUSETTS

BZA Application Form

BZA Number: 103314

General	Info	orma	tion
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The undersigned hereby petitions	the Board of Zoning	Appeal for the following:
Special Permit: X	Variance: X	Appeal:
PETITIONER: FRANK P. FIORE MARCH 13, 2017 C/O JESSE D. S		TEE OF THE MOBIL NOMINEE TRUST U/D/T DATED
PETITIONER'S ADDRESS: REG	NANTE STERIO LLP	P - 401 EDGEWATER PL, STE 630, WAKEFIELD, 01880
LOCATION OF PROPERTY: 261	5 Massachusetts Av	<u>ve , Cambridge, MA</u>
TYPE OF OCCUPANCY: GAS S	<u>TATION</u>	ZONING DISTRICT: Residence B Zone
REASON FOR PETITION:		
/New Structure/ /Petition for M.	G.L. c. 40A, § 6 Findir	ng/
DESCRIPTION OF PETITIONER	'S PROPOSAL:	
		NT ACCESSORY STRUCTURES (CANOPIES) OVER THE TENSION, OR ALTERATION TO THE PRE-EXISTING,

NONCONFORMING USE (GAS STATION) OR BUILDING/STRUCTURES IS PROPOSED.

CONSTRUCTION OF 2 DIMENSIONALLY-COMPLIANT ACCESSORY STRUCTURES (CANOPIES) OVER THE EXISTING FUEL PUMP ISLANDS. NO CHANGE, EXTENSION, OR ALTERATION TO THE PRE-EXISTING, NONCONFORMING USE (GAS STATION) OR BUILDING/STRUCTURES IS PROPOSED.

SECTIONS OF ZONING ORDINANCE CITED:

Article: 8.000 Section: 8.22 (Special Permit, Nonconforming Use). Article: 8.000 Section: 8.22.3 (Variance, Nonconforming Use). Article: 4.000 Section: 4.21.k (Height, Accessory Structures).

> Original Signature(s):

> > (Petitioner (s) / Owner)

(Print Name)

1/20/2021

Address:

Tel. No.

781-710-1248

E-Mail Address:

JSCHOMER@REGNANTE.COM

BZA APPLICATION FORM - OWNERSHIP INFORMATION

To be completed by OWNER, signed before a notary and returned to The Secretary of the Board of Zoning Appeals.

I/WeF	RANK P. FIORENTINO, CPA, TRUSTEE OF THE MOBIL NOMINEE TRUST u/d/t DATED MARCH 13, 2017
	(OWNER)
Address:	607 NORTH AVENUE, SUITE 16, WAKEFIELD, MA 01880
	the subject of this zoning application.
	ord title of this property is in the name of FIORENTINO, CPA, TRUSTEE OF THE MOBIL NOMINEE TRUST u/d/t DATED MARCH 13, 2017
County F	at to a deed of duly recorded in the date $\frac{8/8/2017}{}$, Middlesex South Registry of Deeds at Book $\frac{69737}{}$, Page $\frac{577}{}$; or
Middlese Book	Page
Writter	SIGNATURE BY LAND OWNER OR AUTHORIZED TRUSTEE, OFFICER OR AGENT a evidence of Agent's standing to represent petitioner may be requested.
	ealth of Massachusetts, County of Middle Sex
The above this 2	ye-name Frank P. Flowentino personally appeared before me, 5 of November, 2020, and made oath that the above statement is true.
My commi	Assion expires 12-4-2020 (Notary MARK J. SIMEOLA NOTARY PUBLIC COMMONWEALTH OF MASSACHUSETTS My Comm. Expires Dec. 4, 2020

• If ownership is not shown in recorded deed, e.g. if by court order, recent deed, or inheritance, please include documentation.

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SUPPORTING STATEMENT FOR A VARIANCE

EACH OF THE FOLLOWING REQUIREMENTS FOR A VARIANCE MUST BE ESTABLISHED AND SET FORTH IN COMPLETE DETAIL BY THE APPLICANT IN ACCORDANCE WITH MGL 40A, SECTION 10.

A) A literal enforcement of the provisions of this Ordinance would involve a substantial hardship, financial or otherwise, to the petitioner or appellant for the following reasons:

CONSTRUCTION OF CANOPIES IS NECESSARY TO SHIELD FUEL PUMPS FROM WEATHER DUE TO COMPUTER EQUIPMENT WHICH IS PRESENT IN ALL MODERN FUEL PUMPS.

The hardship is owing to the following circumstances relating to the soil conditions, shape or topography of such land or structures and especially affecting such land or structures by not affecting generally the zoning district in which it is located for the following reasons:

PROPERTY IS A PRE-EXISTING, NONCONFORMING GAS STATION THAT WAS BUILT WITH UNCOVERED FUEL ISLANDS PRIOR TO THE AREA BEING ZONED FOR RESIDENTIAL USE. THE EXISTING UNCOVERED FUEL PUMPING ISLANDS NOW REQUIRE CANOPIES TO PROTECT SENSITIVE COMPUTER EQUIPMENT WHICH IS PRESENT IN ALL MODERN FUEL PUMPS.

C) DESIRABLE RELIEF MAY BE GRANTED WITHOUT EITHER:

1) Desirable relief may be granted without substantial detriment to the public good for the following reasons:

THE PROPOSED CANOPIES WILL COMPLY WITH ALL DIMENSIONAL REQUIREMENTS, INCREASE SAFETY, AND WILL ENABLE THE SITE TO BE MODERNIZED. CANOPIES WILL PROVIDE ADDITIONAL LIGHT SCREENING FOR NEIGHBORS.

2) Desirable relief may be granted without nullifying or substantially derogating from the intent or purpose of this Ordinance for the following reasons:

THE PROPOSED CONDITION OF THE PROPERTY WILL BE SUBSTANTIALLY LESS DETRIMENTAL TO THE NEIGHBORHOOD THAN THE EXISTING CONDITION OF THE PROPERTY, WHICH IS PRESENTLY VISUALLY UNAPPEALING, WITH UNSHIELDED LIGHT IMPACTS. THE PROPOSED CANOPIES WILL PROMOTE SAFETY AND REDUCE VISUAL IMPACTS.

*If you have any questions as to whether you can establish all of the applicable legal requirements, you should consult with an attorney.

BZA Application Form

SUPPORTING STATEMENT FOR A SPECIAL PERMIT

Please describe in complete detail how you meet each of the following criteria referring to the property and proposed changes or uses which are requested in your application. Attach sheets with additional information for special permits which have additional criteria, e.g.; fast food permits, comprehensive permits, etc., which must be met.

Granting the Special Permit requested for <u>2615 Massachusetts Ave</u>, <u>Cambridge</u>, <u>MA</u> (location) would not be a detriment to the public interest because:

- A) Requirements of the Ordinance can or will be met for the following reasons:
 - THE PROPOSED CONDITION OF THE PROPERTY WILL BE LESS DETRIMENTAL THAN ITS EXISTING CONDITION BASED ON INCREASED SAFETY, IMPROVED VISUAL APPEAL, REDUCED LIGHT IMPACTS.
- B) Traffic generated or patterns of access or egress would not cause congestion hazard, or substantial change in established neighborhood character for the following reasons:
 - NO CHANGE TO THE PRE-EXISTING NONCONFORMING USE IS PROPOSED, SO NO CHANGE IN TRAFFIC WILL OCCUR.
- The continued operation of or the development of adjacent uses as permitted in the Zoning Ordinance would not be adversely affected by the nature of the proposed use for the following reasons:
 - THE PROPOSED CANOPIES WITH IMPROVE THE VISUAL APPEAL OF THE SITE AND REDUCE LIGHT IMPACTS OF THE EXISTING COMMERCIAL GAS STATION ON ADJACENT PROPERTIES.
- Nuisance or hazard would not be created to the detriment of the health, safety, and/or welfare of the occupant of the proposed use or the citizens of the City for the following reasons:
 - THE PROPOSED CANOPIES WOULD IMPROVE HEALTH, SAFETY, AND WELFARE CONDITIONS BY PROVIDING IMPROVED SHIELDING FROM WEATHER, PROTECTION OF SENSITIVE COMPUTERIZED FUEL PUMP EQUIPMENT, AND IMPROVED FIRE SAFETY.
- For other reasons, the proposed use would not impair the integrity of the district or adjoining district or otherwise derogate from the intent or purpose of this ordinance for the following reasons:
 - THE PROPOSED CONDITION OF THE PROPERTY WILL BE LESS DETRIMENTAL THAN ITS EXISTING CONDITION BASED ON INCREASED SAFETY, IMPROVED VISUAL APPEAL, REDUCED LIGHT IMPACTS.

^{*}If you have any questions as to whether you can establish all of the applicable legal requirements, you should consult with an attorney.

BZA Application Form

DIMENSIONAL INFORMATION

Requested

Applicant: FRANK P. FIORENTINO, CPA, TRUSTEE OF THE MOBIL NOMINEE TRUST U/D/T DATED

MARCH 13, 2017

REGNANTE STERIO LLP - 401 EDGEWATER

Existina

N/A

N/A

23

N/A

N/A

Location: **PL, STE 630**

Phone: 781-710-1248

OPEN SPACE TO LOT AREA:

NO. OF DWELLING

NO. OF PARKING

NO. OF LOADING

ON SAME LOT

UNITS:

SPACES:

AREAS: DISTANCE TO NEAREST BLDG. Present Use/Occupancy: **GAS STATION**

Ordinance

Requested Use/Occupancy:

Residence B Zone Zone:

N/A

N/A

N/A

N/A

N/A

NO CHANGE

Conditions Conditions Requirements TOTAL GROSS **NO CHANGE** 2020 N/A (max.) **FLOOR AREA:** LOT AREA: 21222 NO CHANGE 5000 (min.) **RATIO OF GROSS FLOOR AREA TO** 0.095 **NO CHANGE** 0.5 LOT AREA: 2 **LOT AREA OF EACH DWELLING** N/A N/A N/A <u>UNIT</u> SIZE OF LOT: **WIDTH** >200 **NO CHANGE** 50 N/A **DEPTH** N/A N/A 15 **SETBACKS IN FEET: FRONT** 15 15 REAR 38.7 38.7 25 **LEFT** 15 15 15 SIDE **RIGHT** 7.9 7.9 7.5 SIDE 35 (15 FOR ACC. SIZE OF BUILDING: HEIGHT 14.2 15 STRUCTURES) **WIDTH** 57.7 57.7 N/A RATIO OF USABLE N/A

Describe where applicable, other occupancies on the same lot, the size of adjacent buildings on same lot, and type of construction proposed, e.g; wood frame, concrete, brick, steel, etc.

1. SEE CAMBRIDGE ZONING ORDINANCE ARTICLE 5.000, SECTION 5.30 (DISTRICT OF DIMENSIONAL REGULATIONS).

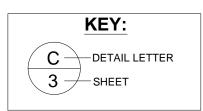
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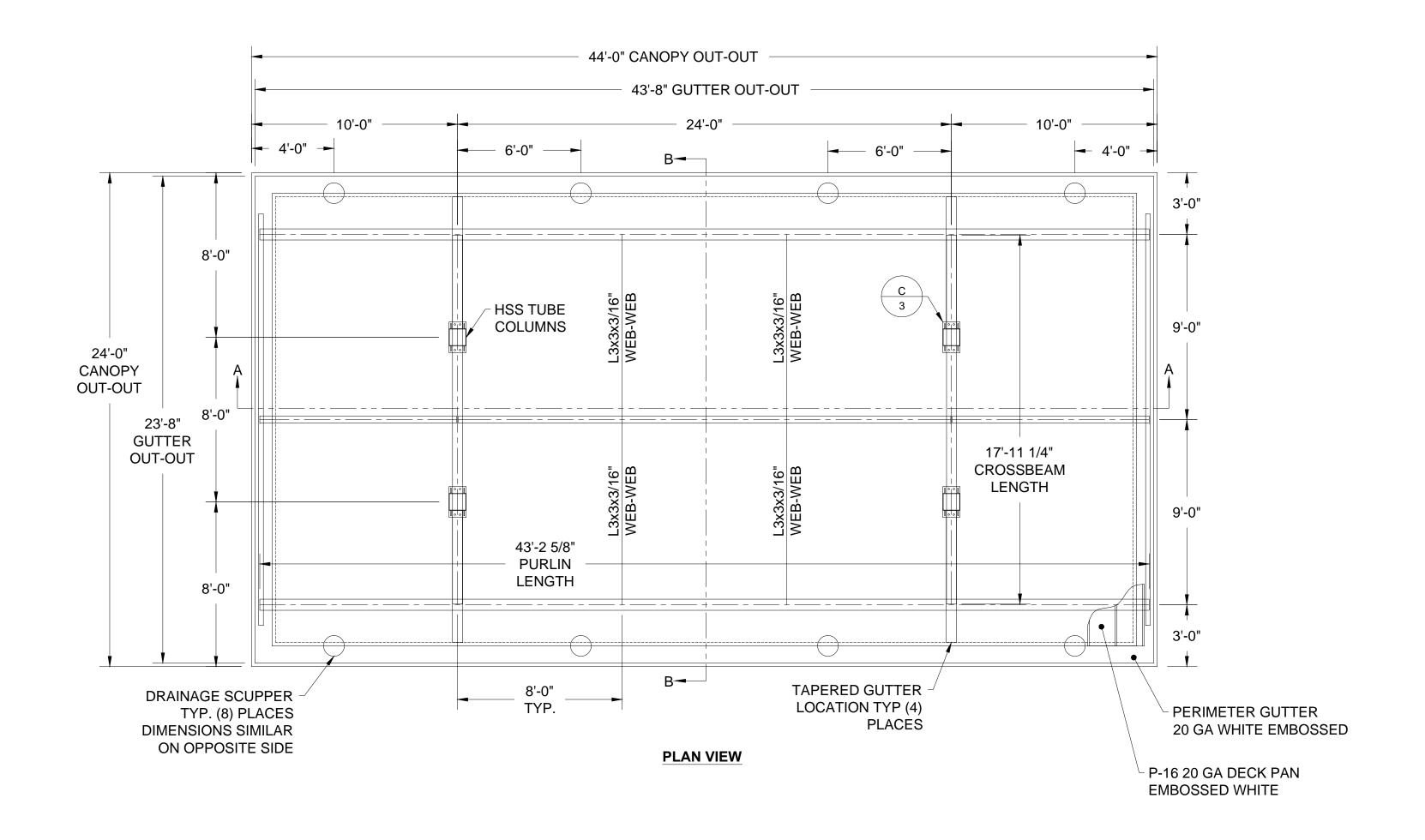
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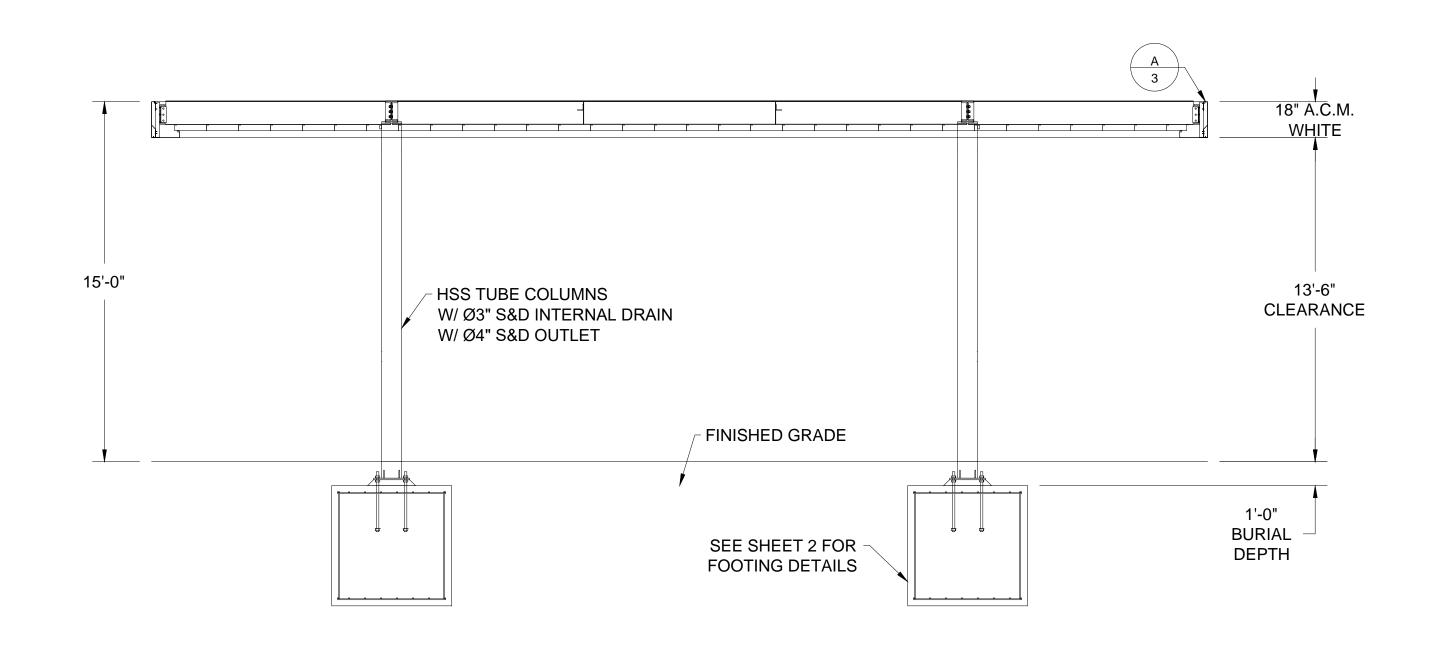
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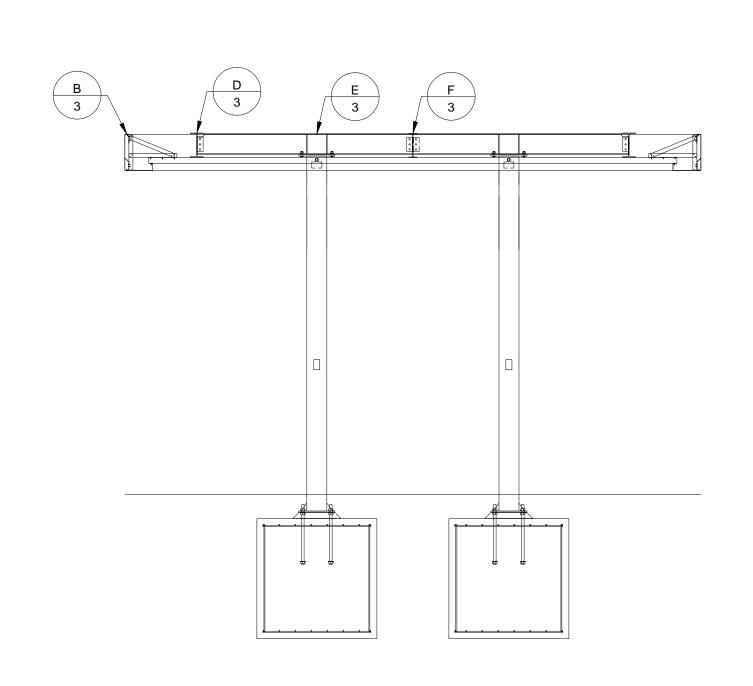
- 2. TOTAL GROSS FLOOR AREA (INCLUDING BASEMENT 7'-0" IN HEIGHT AND ATTIC AREAS GREATER THAN 5') DIVIDED BY LOT AREA.
- 3. OPEN SPACE SHALL NOT INCLUDE PARKING AREAS, WALKWAYS OR DRIVEWAYS AND SHALL HAVE A MINIMUM **DIMENSION OF 15'.**







SECTION A-A



SECTION B-B

AUSTIN MOHAWK engineered building systems

AUSTIN MOHAWK & CO., LLC. 2175 BEECHGROVE PLACE UTICA, NY 13501 PHONE: 315.793.3000 TOLL FREE: 1.800.765.3110 FAX: 315.793.9370 WEBSITE: www.austinmohawk.com E-MAIL: info@austinmohawk.com

PRELIMINARY DRAWING NOT FOR CONSTRUCTION

JOB# -

QUOTE # Q0190803 DRAWING # 19-056

24'-0" X 44'-0" X 4 COLUMN CANOPY

CUSTOMER:

WILDCO

LOCATION: CAMBRIDGE, MA

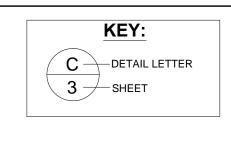
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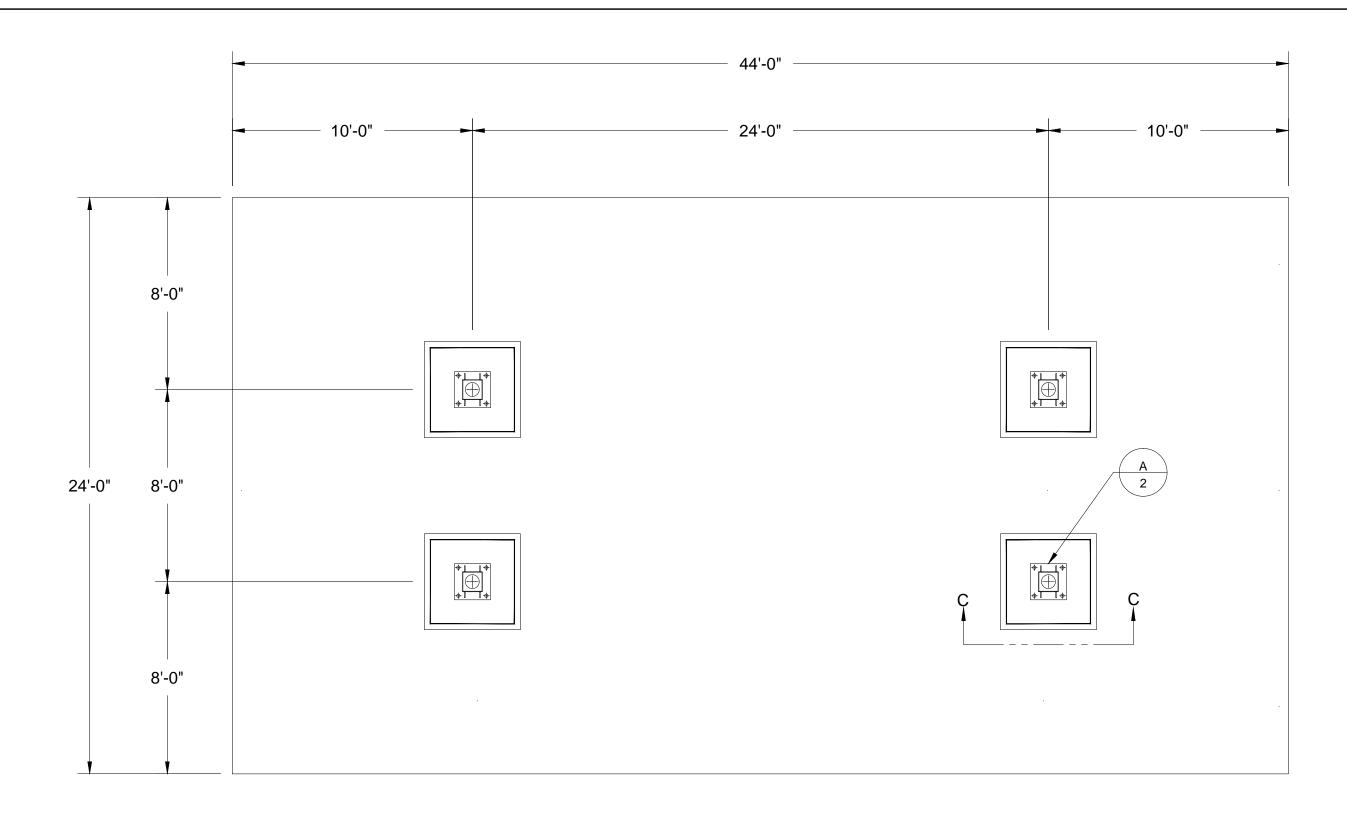
N.T.S. DRAWN BY: AJM

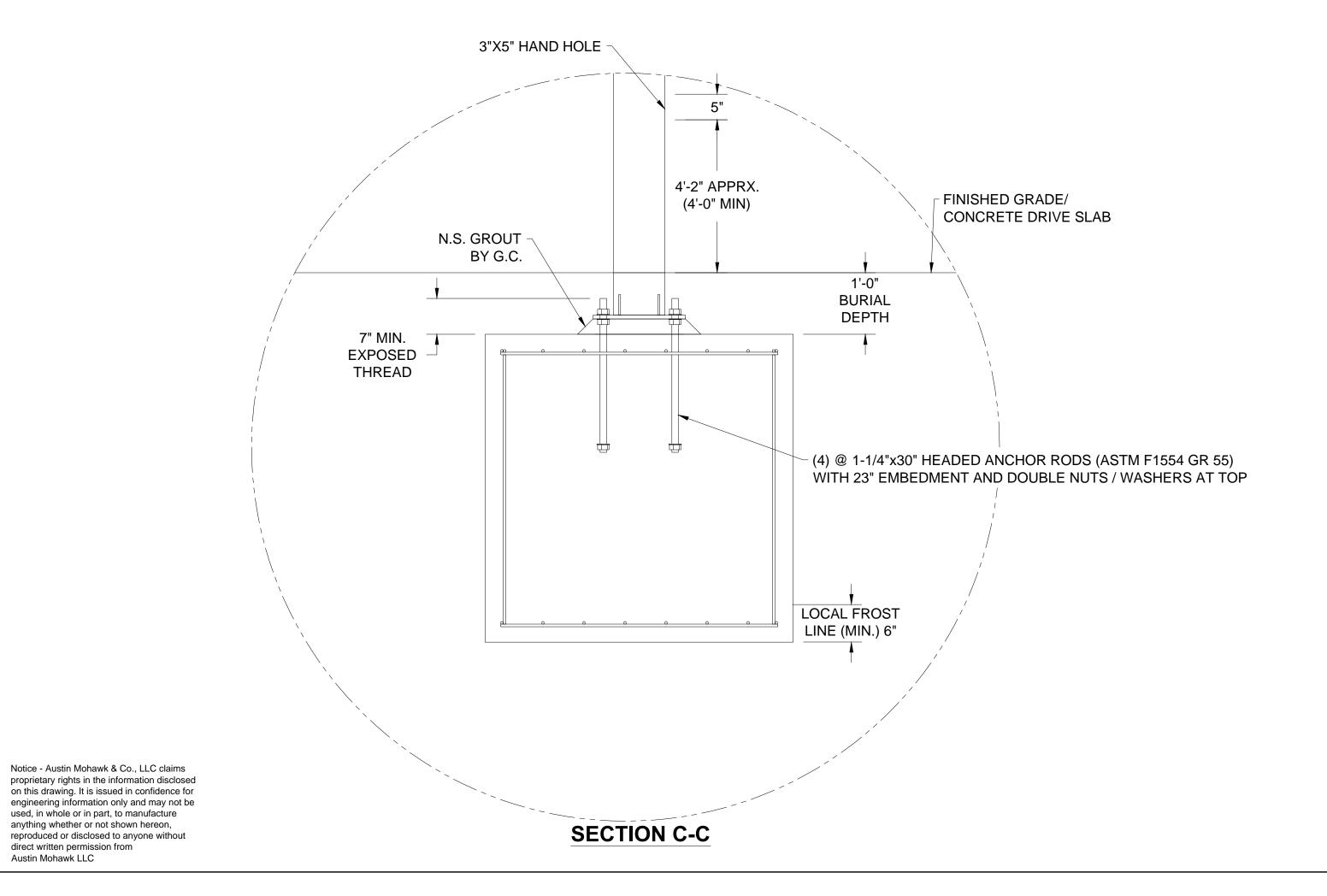
DATE: 11.11.19

SHEET: 1 OF 3

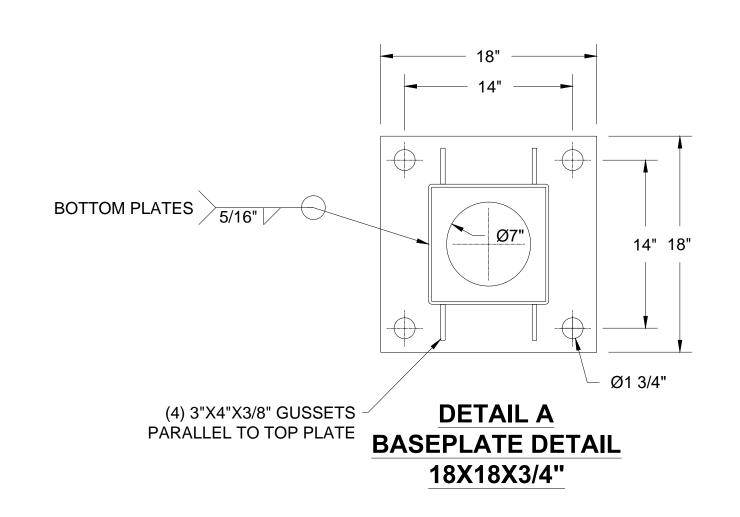
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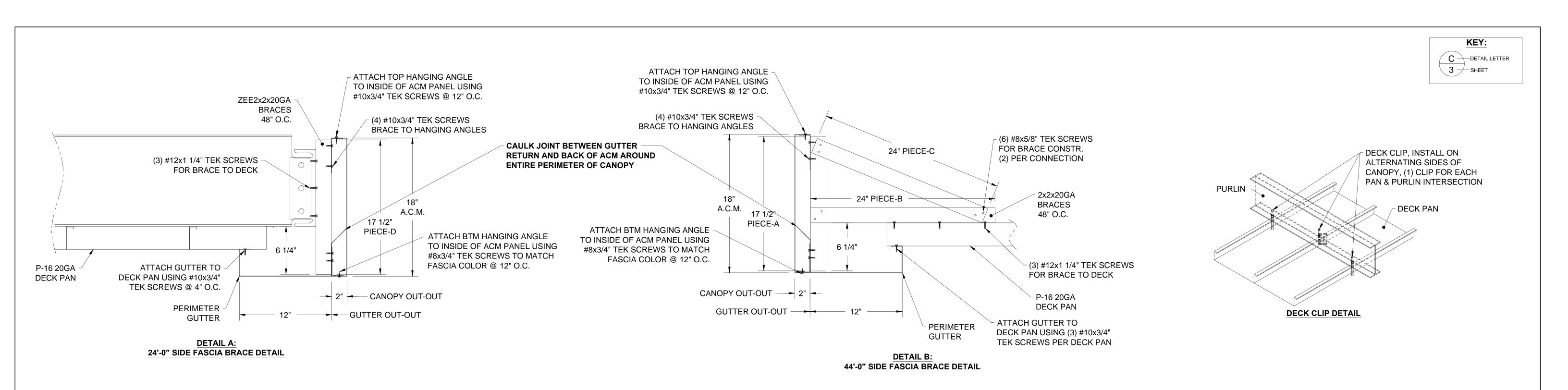
WILDCO

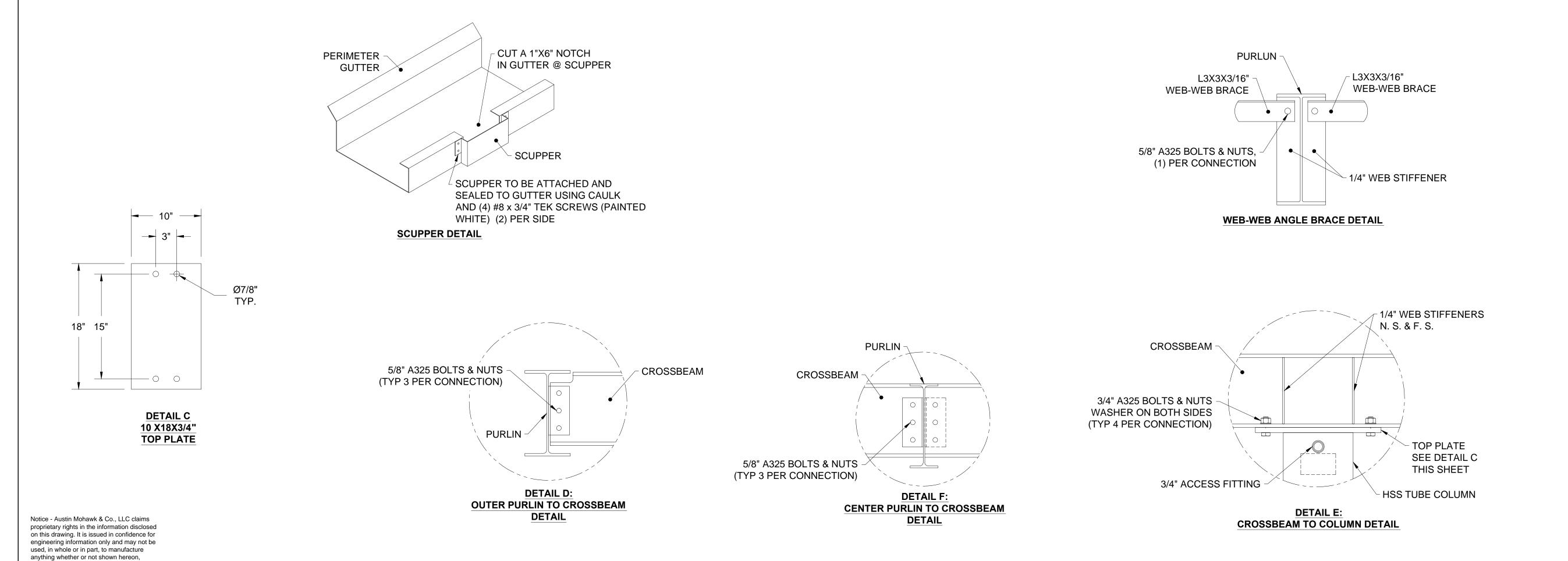
LOCATION: CAMBRIDGE, MA

SCALE:

N.T.S. DRAWN BY: AJM

DATE: 11.11.19 | SHEET: 2 OF 3





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QUOTE # Q0190803	DRAWING # 19-056
24'-0" X 44'-0" X 4	COLUMN CANOPY
CUSTOMER:	

	WIL	OCO
LOCATION:	CAMB	RIDGE, MA
CCALE.	NTC	

SCALE: N.T.S. DRAWN BY: AJM
DATE: 11.11.19 SHEET: 3 OF 3

GENERAL NOTES:

- 1. BASIS OF BEARINGS: MASSACHUSETTS COORDINATE SYSTEM-NAD83
- 2. TOTAL LAND AREA = 21,222 Sq. Ft. 0.487 Acres
- 3. CITY OF CAMBRIDGE ASSESSORS I.D.: MAP 186 LOT 96 SITE ADDRESS: 2615 MASSACHUSETTS AVENUE, CAMBRIDGE, MA (MIDDLESEX COUNTY) CURRENT OWNER OF RECORD: CHAMPLAIN OIL COMPANY, INC. DEED REFERENCE: BOOK 1606, PAGE 891
- 4. NO EVIDENCE WAS OBSERVED OF CEMETERIES, GRAVESITES OR BURIAL GROUNDS, LOCATED ON THE SUBJECT PREMISES. NO OBSERVABLE EVIDENCE OF SITE USED AS A SOLID WASTE DUMP, SUMP OR
- 5. TABLE A (ITEM 16): THERE IS NO OBSERVED EVIDENCE OF CURRENT EARTH MOVING WORK, BUILDING CONSTRUCTION OR BUILDING ADDITIONS.
- 6. TABLE A (ITEM 17): THERE ARE NO PROPOSED CHANGES IN STREET RIGHT OF WAY LINES, ACCORDING TO THE CITY OF CAMBRIDGE. THERE IS NO OBSERVED EVIDENCE OF RECENT STREET OR SIDEWALK
- 7. PROPERTY HAS DIRECT ACCESS TO MASSACHUSETTS AVENUE AND ALWIFE BROOK PARKWAY, A PUBLIC WAY THROUGH ACCESS POINTS AS NOTED.
- 8. THIS PLAN IS THE RESULT OF AN ON-THE-GROUND SURVEY PERFORMED BY ODONE SURVEY & MAPPING ON APRIL 21, 2020.
- 9. UTILITY NOTE: OBSERVED EVIDENCE OF UTILITIES HAS BEEN SHOWN PURSUANT TO SECTION 5 PARAGRAPH E (IV) OF THE ALTA/NSPS MINIMUM STANDARD DETAIL REQUIREMENTS. THE SURVEYOR MAKES NO GUARANTEE THAT THE UNDERGROUND UTILITIES SHOWN COMPRISE ALL SUCH UTILITIES IN THE AREA, EITHER IN SERVICE OR ABANDONED.

SCHEDULE B-TITLE EXCEPTION NOTES

THE SURVEY WAS PREPARED WITHOUT THE BENEFIT OF AN UP TO DATE TITLE REPORT AND IS SUBJECT TO THE FACTS THEREOF.

SIGNIFICANT OBSERVATIONS

WOOD FENCE EXTENDS OVER NORTHERLY PROPERTY LINE OF SURVEYED PROPERTY BY 4' FOR A LENGTH OF 55' AS SHOWN.

B BITUMINOUS CONCRETE PAVING EXTEND OVER PROPERTY LINE ON TO LANDS OF PARKWAY CONDOMINIUM BY 2.5 FOR A LENGTH OF 36' AS

ZONING INFORMATION:

LISTED BELOW ARE SETBACK, HEIGHT, AND FLOOR SPACE AREA RESTRICTIONS AS DISCLOSED BY APPLICABLE ZONING OR BUILDING CODES (AS REQUIRED UNDER TABLE A 6(a)(b) OF THE ALTA

ZONING CLASSIFICATION: RESIDENCE B (RB) DISTRICT. INFORMATION PROVIDED FROM CITY OF CAMBRIDGE ZONING CODE POINT OF CONTACT: LIZ PADEN SENIOR PLANNER, CITY OF CAMBRIDGE 617-349-4647

SITE REQUIREMENTS	REQUIRED	MEASURED
MINIMUM LOT AREA	5,000 SQ. FT.	21,222
MINIMUM LOT FRONTAGE	50 FT.	296.60'
MAX. BUILDING COVERAGE	40%	10%
MINIMUM SETBACKS: FRONT SIDE REAR	15 FT. 7.5 FT. 25 FT.	71.8 FT. 7.9 FT. 38.7 FT.
MAXIMUM BUILDING HEIGHT	35 FT.	14.2 FT.

PARKING REQUIREMENT: NONE

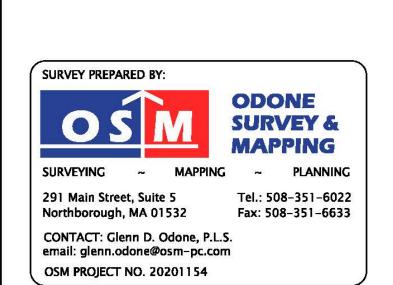
ZONING INFORMATION PROVIDED MKASSOCIATES, INC.

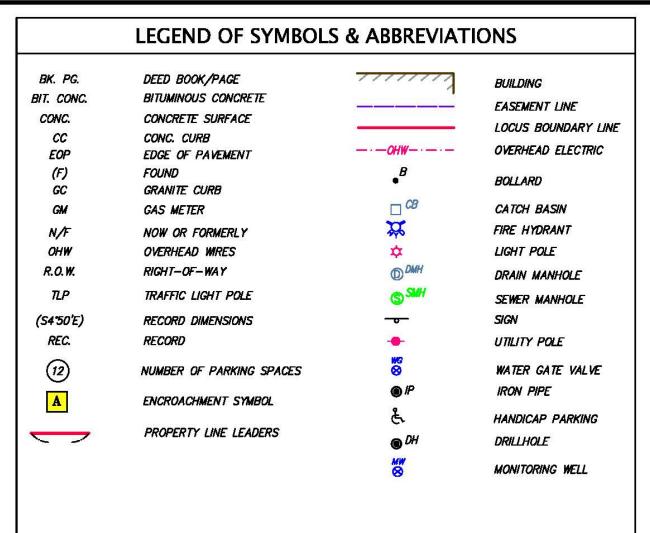
PARKING TABULATION: TOTAL REGULAR SPACES: 0

TOTAL HANDICAPPED SPACES: 1 TOTAL PARKING SPACES: 1

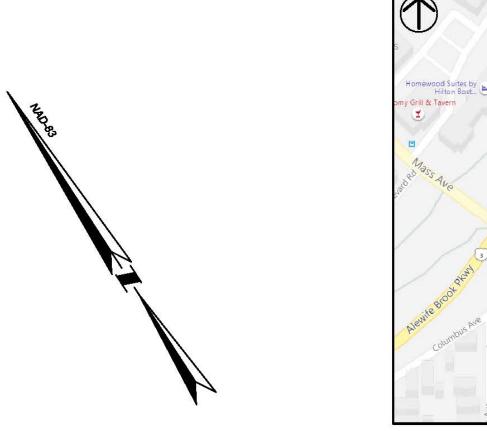
FLOOD NOTE:

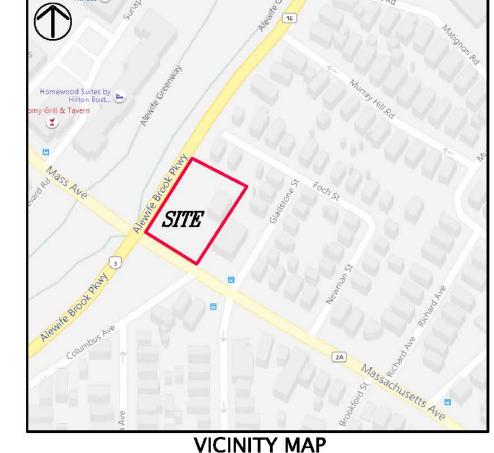
BY GRAPHIC PLOTTING ONLY, THIS PROPERTY IS IN ZONE X OF THE FLOOD INSURANCE RATE MAP, COMMUNITY PANEL NO.25017C0419E, WHICH BEARS AN EFFECTIVE DATE OF 06/04/2010 AND IS NOT IN A SPECIAL FLOOD HAZARD AREA. NO FIELD SURVEYING WAS PERFORMED TO DETERMINE THIS ZONE AND AN ELEVATION CERTIFICATE MAY BE NEEDED TO VERIFY THIS DETERMINATION OR APPLY FOR A VARIANCE FROM THE FEDERAL EMERGENCY MANAGEMENT AGENCY.





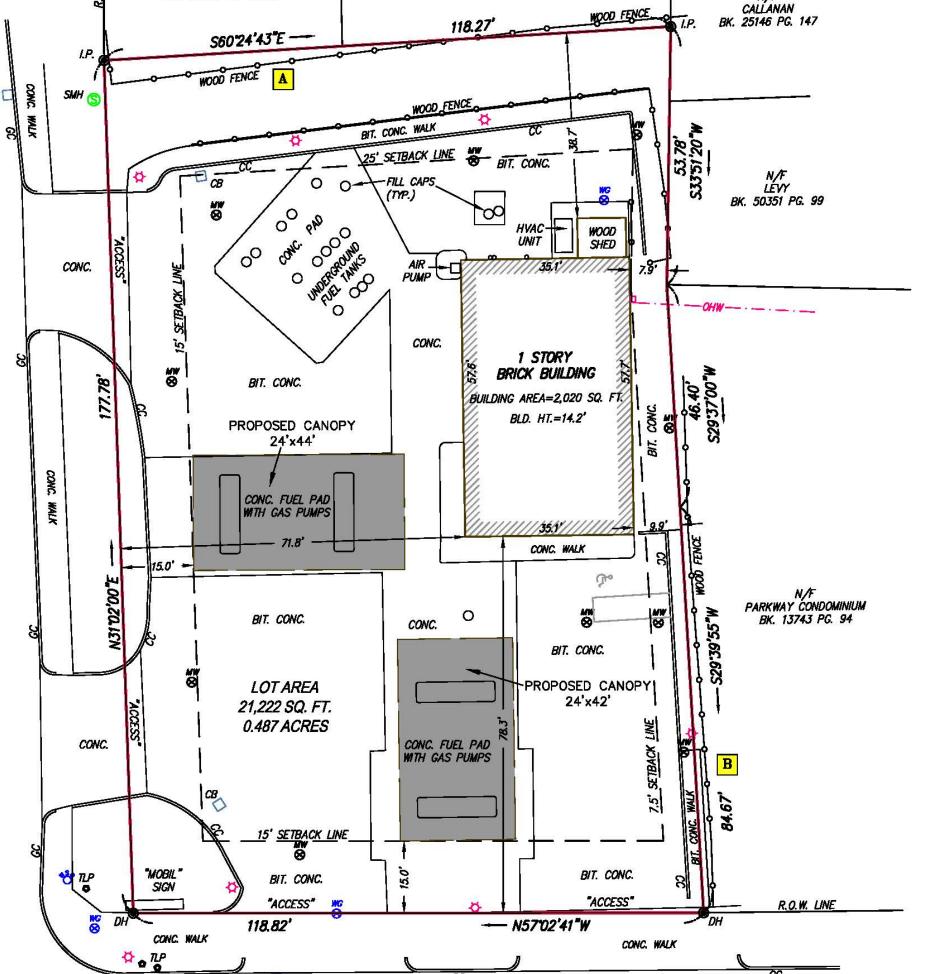
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-NOT TO SCALE-

GEDAMINSKT REVOCABLE TRUST BK. 48468 PG. 297 CHARLAP & DRUMMOND BK. 47879 PG. 55477 S60'24'43"E ---



AVENUE (PUBLIC - VARIABLE WIDTH) (RTE 3 & RTE 2A)

PAVEMENT WIDTH=VARIABLE **MASSACHUSETTS**

Surveyor's Drawing No.: Surveyor's Site Ref: 20201254 Checked by: GDO Drawn by: GDO GRAPHIC SCALE: | INCH = 20 FEET

RECORD DESCRIPTION

TITLE DESCRIPTION - NOT PROVIDED

ALTA/NSPS LAND TITLE SURVEY

EXXONMOBIL

2615 MASSACHUSETTS AVENUE CAMBRIDGE, MA

SURVEYOR'S CERTIFICATION

TO: COMMTANK AND MKASSOCIATES, INC.

THIS IS TO CERTIFY THAT THIS MAP OR PLAT AND THE SURVEY ON WHICH IT IS BASED WERE MADE IN ACCORDANCE WITH THE 2016 MINIMUM STANDARD DETAIL REQUIREMENTS FOR ALTA/NSPS LAND TITLE SURVEYS, JOINTLY ESTABLISHED AND ADOPTED BY ALTA AND NSPS, AND INCLUDES ITEMS 1, 2, 3, 4, 6(a), 6(b), 7(a), 7(b)(1), 7(c), 8, 9, 13, 14, 16, 17 AND 20 OF TABLE A THEREOF. THE FIELD WORK WAS COMPLETED ON APRIL 21, 2020.

GLENN D. ODONE JR.

REGISTERED LAND SURVEYOR NO. 45068 COMMONWEALTH OF MASSACHUSETTS

DATE OF SURVEY: APRIL 30, 2020 DATE OF LAST REVISION: MAY 1, 2020

PROJECT NAME: EXXONMOBIL ADDRESS: 2615 MASSACHUSETTS AVENUE PROJECT No.: 6741-20-1845:057R

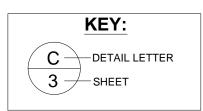
A National Land Services Group

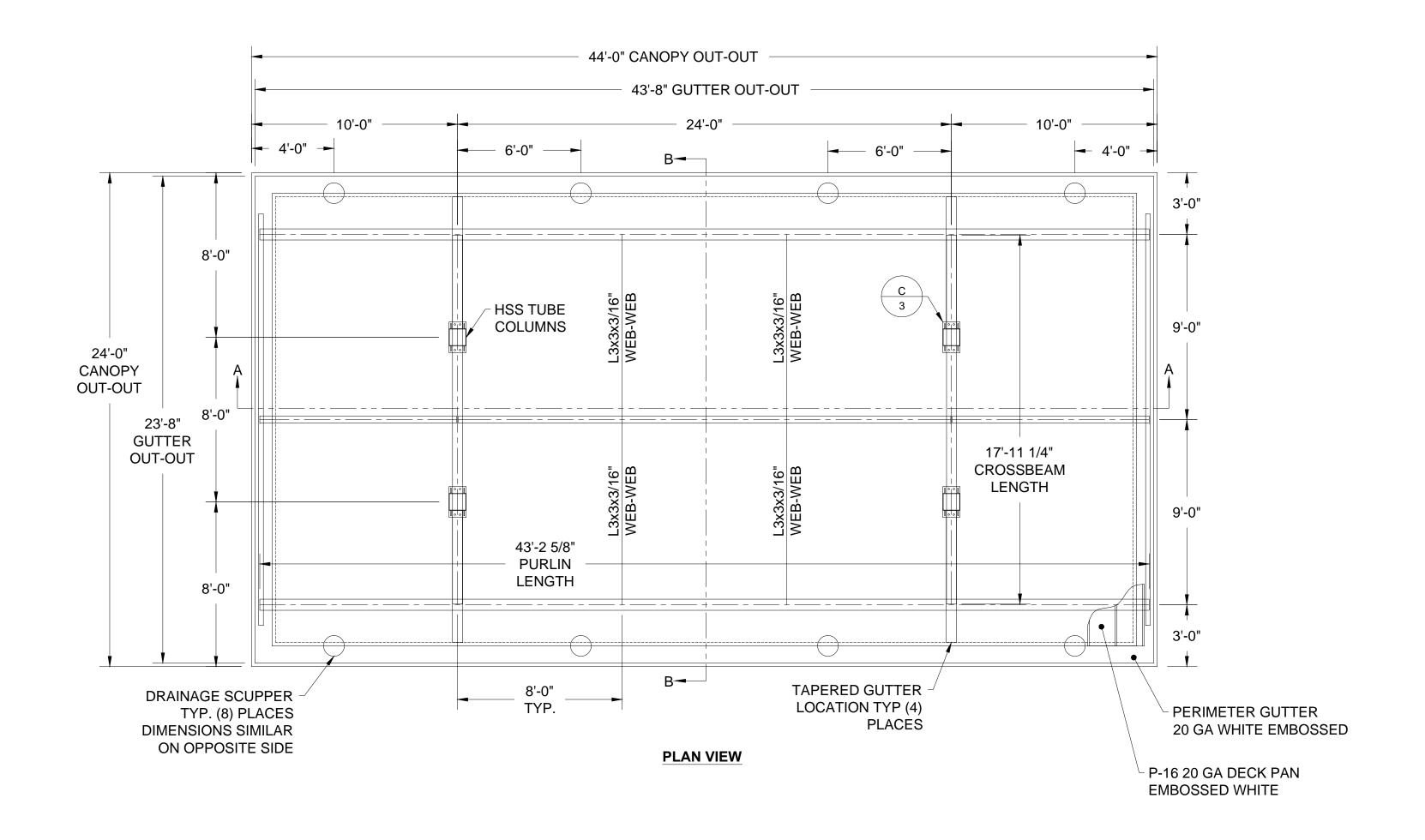
For Inquiries Concerning This Survey Contact MKA National Coordinators of Land Survey Services

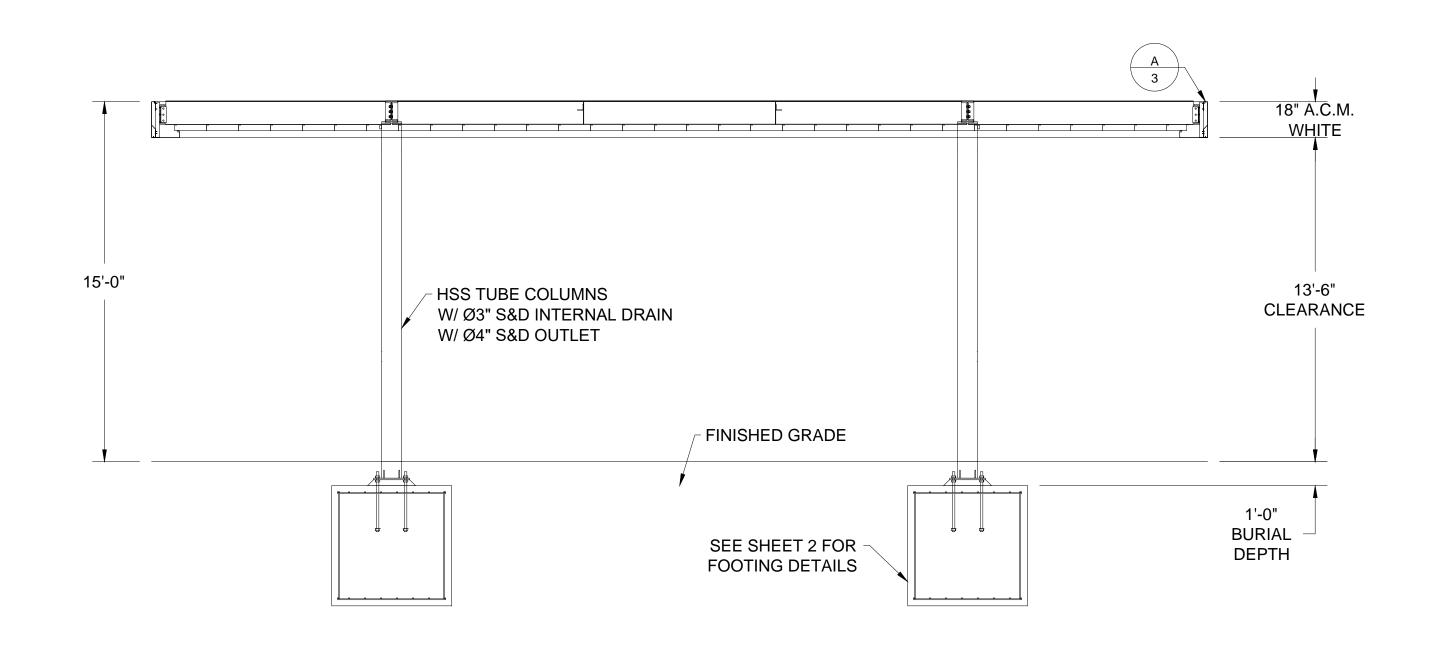
6593 Commerce Court — Warrenton, Virginia 20187 Phone: (540) 428-3550 Fax: (540) 428-3560 Email: comments@mkassociates.com www. mkassociates.com

CITY: CAMBRIDGE STATE: MASSACHUSETTS

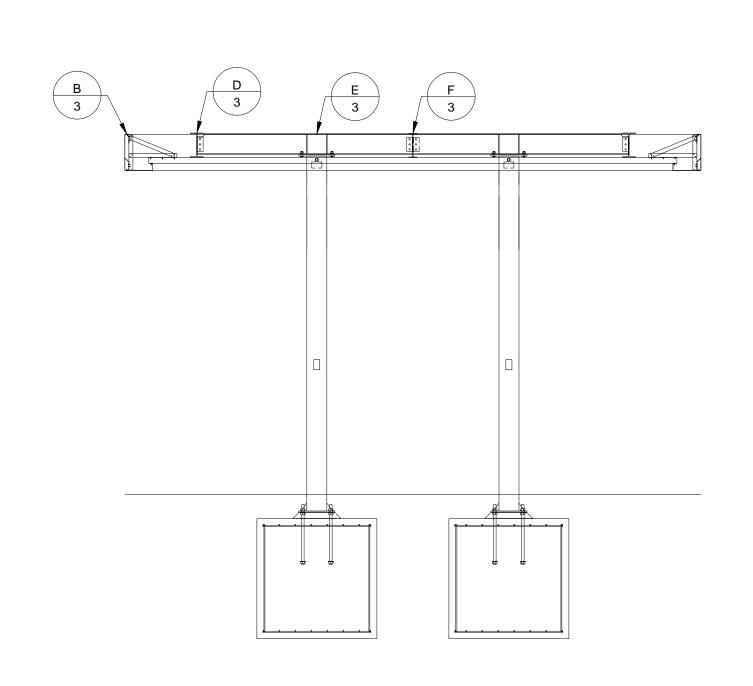
SHEET 1 OF 1







SECTION A-A



SECTION B-B

AUSTIN MOHAWK engineered building systems

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QUOTE # Q0190803 DRAWING # 19-056

24'-0" X 44'-0" X 4 COLUMN CANOPY

CUSTOMER:

WILDCO

LOCATION: CAMBRIDGE, MA

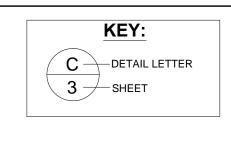
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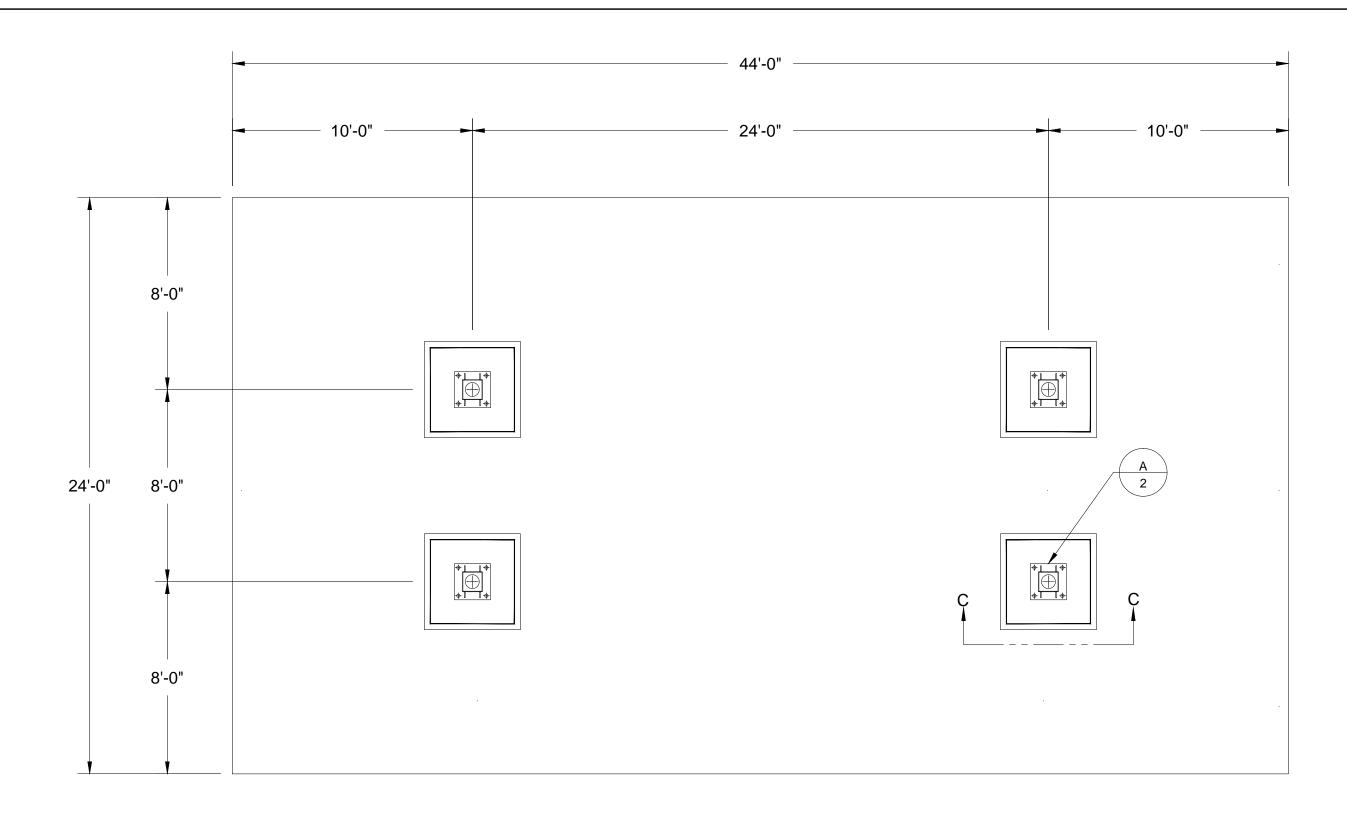
N.T.S. DRAWN BY: AJM

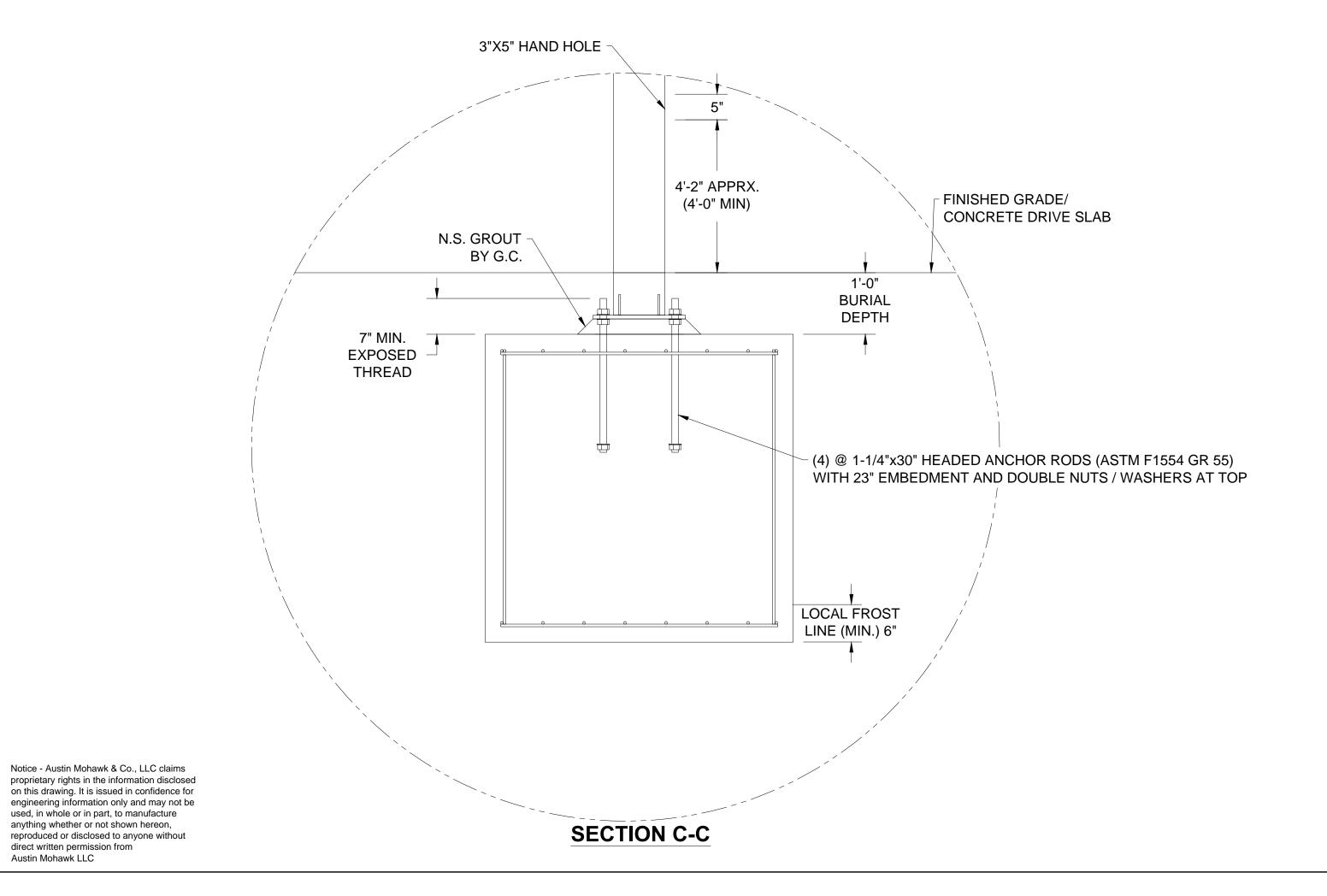
DATE: 11.11.19

SHEET: 1 OF 3

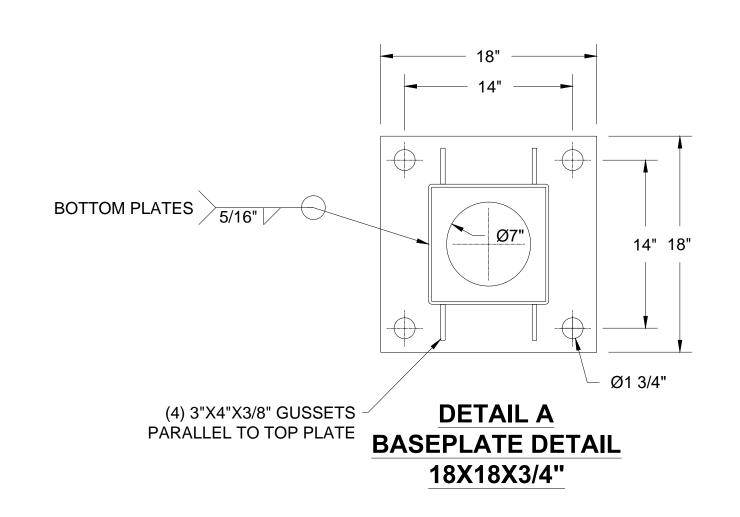
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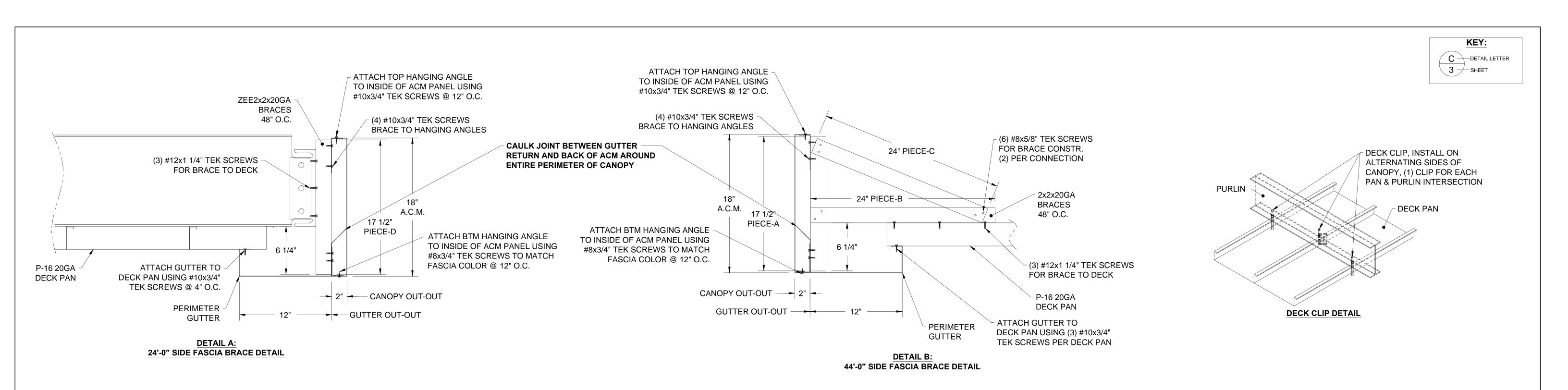
WILDCO

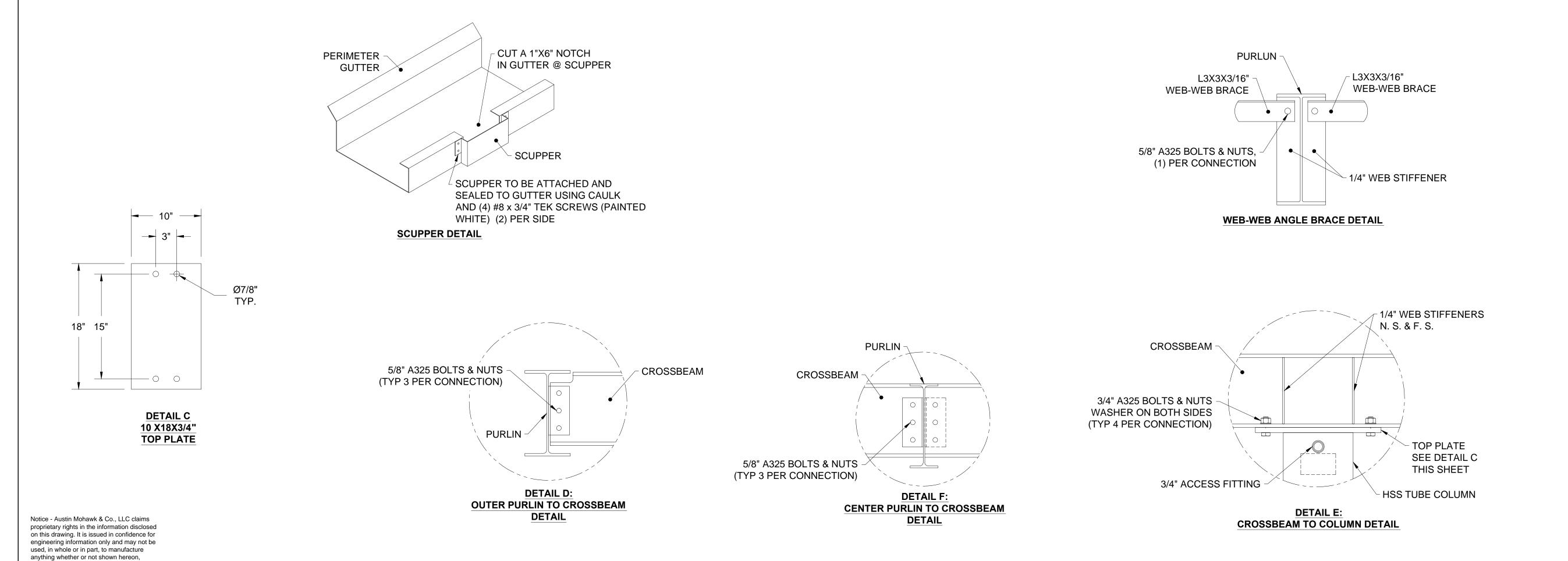
LOCATION: CAMBRIDGE, MA

SCALE:

N.T.S. DRAWN BY: AJM

DATE: 11.11.19 | SHEET: 2 OF 3





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JOB# -	
QUOTE # Q0190803	DRAWING # 19-056
24'-0" X 44'-0" X 4	COLUMN CANOPY
CUSTOMER:	

	WIL	OCO
LOCATION:	CAMB	RIDGE, MA
CCALE.	NTC	

SCALE: N.T.S. DRAWN BY: AJM
DATE: 11.11.19 SHEET: 3 OF 3

2615 Mars Ave

2615 Mass Ave 25 Alewife Brook Pkwy 185-23 22 Alewife Brook Pkwy 23 Alewife Brook Pkwy 185-24 21 Alewife Brook Pkwy20 Alewife Brook Pkwy 185-25 185-26 186-2 29 Foch St 186-3 185-27 186-90 Alewife Brook Reservation along Parkway 186-4 25 Foch St 27 Foch St 28 Foch St 23 Foch St 186-5 26 Foch St Foch St 21 Foch St 186-50 186-6 186-94 17 Foch S 186-35 10 Gladstone St Gladstone S 8 Gladstone St 186-20 Massachusetts Ave Gladstone/St 186-96 186-92 186-31 2615 Massachusetts Av 3 Gladstone S ROAD 3 186-30 2595 Massachusetts Ave **TGladstone St** 186-29 187-59Alewife Brook Reservation along Parkway 0 186-24 186-28 Columbus Ave 2585 Massachusetts Ave 186-27 2579 Massachusetts Ave 2575 Massachusetts Ave 2600 Massachusetts Ave 2592 Massachusetts Ave Alewife Brook Reservation 188-113 186-25 188-112 e 10 Columbus Ave8 Columbus Ave 188-134 3 Magoun St 188-69 188-133 2572 Massachusetts Ave 12 Columbus Ave using page 188-39 Was a larger with the same of the same and the sa 2578 Massachusetts Ave 3 Madison Ave 2568 Massachusetts Ave 7 Madison Ave 189-88 188-70 188-66 189-90 189-3 11 Madison Ave 189-4 188-71 15 Magoun St 188-65 188-139 189-5 188-41 17 Madison Ave 188-64 188-72 20 Magoun St189-29

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186-99 NAPAKUN, SUVITYA & APILAJ NAPAKUN 12 DEER RUN RD. LINCOLN, MA 01773

186-99 CASCAP REALTY, INC. 231 SOMERVILLE AVE SOMERVILLE, MA 02143 REGNANTE STERIO LLP
C/O JESSE SCHOMER
401 EDGEWATER PLACE – SUITE 630
WAKEFIELD, MA 01880

186-99 MADDALONI, MARIA E. 2595 MASS AVE. UNIT#18 CAMBRIDGE, MA 02140 186-36 CALLANAN, CHARLES & SUSAN CALLANAN 8 GLADSTONE ST CAMBRIDGE, MA 02140 186-90 /187-59/188-113 MASSACHUSETTS COMMONWEALTH OF STATE HOUSE BOSTON, MA 02133

186-99 CADOTTE, RICHARD E. 2591-2597 MASS. AVE., #1 CAMBRIDGE, MA 02140 186-99 RICE, ZACHARY L. & TERESA M. PILLARS 2595 MASSACHUSETTS AVE., #3 CAMBRIDGE, MA 02140 186-99 DE PAULO, VALDETE & DALBAS DUCLOS 2591-2597 MASS. AVE. CAMBRIDGE, MA 02140

186-99 CAMBRIDGE AFFORDABLE HOUSING CORPORATION 675 MASS. AVE., 2ND FLR CAMBRIDGE, MA 02139-3306 186-92 LEVY, SARA B. 4 GLADSTONE ST CAMBRIDGE, MA 02140 186-94 MAHONEY, KELLYANNE 26 FOCH ST CAMBRIDGE, MA 02139

186-96 FIORENTINO, FRANK F. CPA TRUSTEE, THE MOBIL NOM TRUST 607 NORTH AVE., SUITE 16 WAKEFIELD, MA 01880 186-99 BUCHNESS, PAUL PO BOX 522 WEST SIMSBURY, CT 06092 186-99 BUCKLEY, PATRICIA A. 2595 MASS AVE. UNIT#12 CAMBRIDGE, MA 02140-1636

188-69 HARRIS, GREGORY A 2592 MASSACHUSETTS AVE #2 CAMBRIDGE, MA 02140 188-69 JOSHI, HANSA PINAKIN, TRUSTEE THE MASSACHUSETTS AVE 2015 REALTY TRUST 2592 MASSACHUSETTS AVE., #3 CAMBRIDGE, MA 02140 188-112 TSALAH, MOSHE 2594 MASS AVE CAMBRIDGE, MA 02139

186-35 MILI, OLGA, A LIFE ESTATE 10 GLADSTONE ST CAMBRIDGE, MA 02140-1005 186-99 FRIMLEY PROPERTIES, LLC 73 WOODLAND ROAD LONGMEADOW, MA 01106 186-99 CARROLL, THOMAS J & SHEILA M. KENNEDY 132 ROBINS RD ARLINGTON, MA 02476

186-99 ROULEAU, DENIS 2595 MASS AVE - UNIT 13 CAMBRIDGE, MA 02140-1636 186-99 JAIN SACHIN H, TRS THE SACHIN H JAIN NOMINEE REALTY, TR 2595 MASSACHUSETTS AVE UNIT 10 CAMBRIDGE, MA 02140 186-99
GARIMELLA, PARAMESWAR P. & NIRMALA V.
TRTEES OF GARIMELLA FAMILY 2017 REVOC
INTER VIVOS TRT
11 BROOKFORD ST
CAMBRIDGE, MA 02140

186-99 ZHAO, LING 80 HAWTHORN RD BRAINTREE, MA 02184 186-50 BENZAN, JAVIER 28 FOCH ST., UNIT #1 CAMBRIDGE, MA 02140 188-69 JOSHI, JAMIE 2592 MASSACHUSETTS AVE UNIT 1 CAMBRIDGE, MA 02140

186-99 MILEWSKI, STEVEN C., TRUSTEE THE 2595 MASSACHUSETTS AVE UNIT 11 REALTY TR 35 ELM PLACE WHITMAN, MA 02382 186-99 MIDDLETON, AMY B. TR. OF THE AMENDED ABM TRUST 14428 ROYAL ST GEORGE ATHENS, AL 35613 186-50 BENZAN, JAVIER L. 28 FOCH ST UNIT 1 CAMBRIDGE, MA 02140

Description of Relief Requested

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The property that is the subject of this application is located at 2615 Massachusetts Avenue, at the corner of Massachusetts Avenue and Alewife Brook Parkway, in the Residence B zoning district. It is currently developed with a pre-existing nonconforming gas and service station, which has existed at the site for at least 60 years and is proposed to remain in its current form without any change to the use or building.

The applicant requests a finding pursuant to Section 6 of Chapter 40A of the Massachusetts General Laws authorizing the construction of two accessory canopy structures over the existing fuel pump islands on the basis of a finding that such construction would not constitute a change, extension, or alteration of the pre-existing, nonconforming use. In the alternative, if the Board determines that such construction would constitute a change, extension, or alteration of the pre-existing, nonconforming use, the applicant requests a finding that the proposed canopies would be not substantially more detrimental to the neighborhood than the existing condition of the site in accordance with M.G.L. c. 40A, § 6 and/or Sections 8.22 and/or 8.22.3 of the Cambridge Zoning Ordinance.

As shown on the attached plans and section views, the proposed canopies have been designed to comply with all dimensional requirements of Section 4.21 of the Cambridge Zoning Ordinance, namely: the canopies "shall not exceed fifteen (15) feet in height above the ground level" and "shall not be located nearer than ten (10) feet to the principal building or nearer than five (5) feet to any side or rear lot line or nearer to the front lot line than the minimum setback in the zoning district." The proposed canopies have been designed with as minimal a footprint as possible, so as to respect all applicable height and setback requirements. The canopies are open on all four sides and are supported only by four 7"-diameter columns, so it will not obstruct views through the site. With respect to height, it should be noted that the 15' height of the proposed canopies is significantly shorter than is customary for such installations, but the applicant has proposed this lesser height as an accommodation to neighbors. Additionally, the canopies have been designed with a slimline cover with a height of only 18", which further reduces the appearance of mass. No signage is proposed to be mounted to the canopies.

The purpose of the proposed canopies is to provide shielding from weather for motorists fueling their vehicles, and weather protection to the fuel pumps themselves, which today feature modern computerized equipment, for which protection from weather is absolutely necessary. The proposed canopies will also provide greater fire protection and added shielding for nearby residential properties from light pollution, which currently emanates from the site via unshielded lighting fixtures mounted to the existing fuel pump islands. In contrast to these existing unshielded "up lights", the proposed canopy lights would light downward from above, resulting in greater protection of residential neighbors.

In the case of *Powers v. Bldg. Inspector of Barnstable*, 363 Mass. 648, 653 (1973), the SJC articulated a three-pronged test for determining whether a proposed development relating to a pre-existing, nonconforming use would rise to the level of a change, extension, or alteration of such use:

- (1) Whether the use reflects the nature and purpose of the use prevailing when the zoning by-law took effect.
- (2) Whether there is a difference in the quality or character, as well as the degree, of use.
- (3) Whether the current use is 'different in kind in its effect on the neighborhood."

Here, the proposed construction of two accessory canopy structures complying with all dimensional requirements of the Zoning Ordinance satisfies all three of these tests.

First, the proposed canopies would have no effect whatsoever on the nature and purpose of the use of the site, which would remain entirely unchanged. The site, including all existing buildings and structures would continue to be used for their present purpose. The proposed canopies would merely modernize the site, which currently lacks any form of weather protection for customers and electronic equipment, nor any shielding of the existing commercial lighting.

Second, the proposed canopies would not cause any difference in the quality, character, or degree of the existing use. As noted, the use of the site would remain completely unchanged.

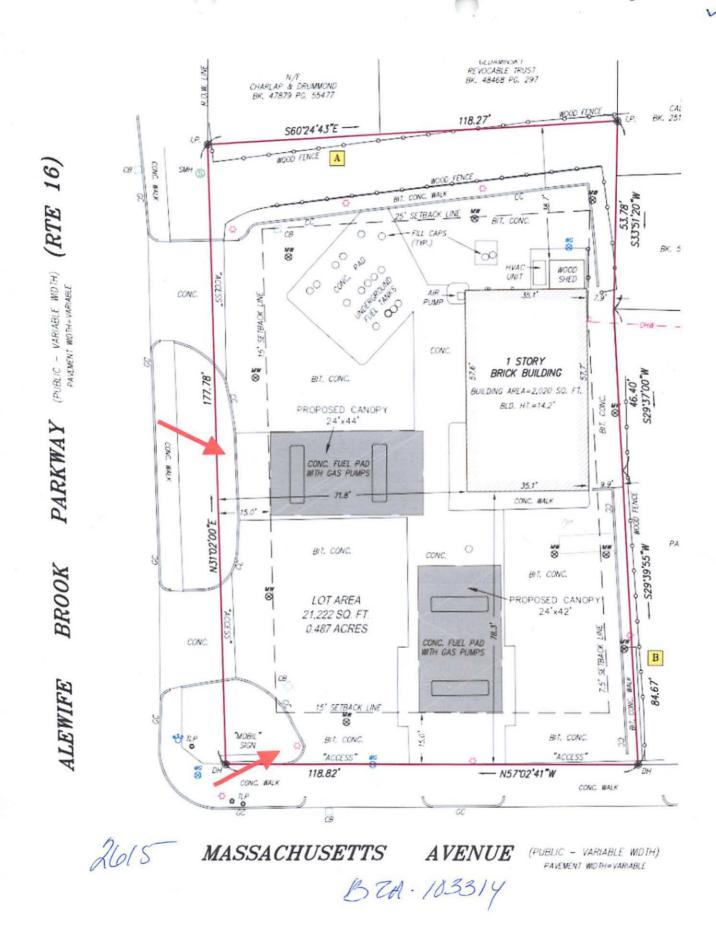
Third, the use of the site with the proposed canopies would not be in any way different in kind in its effect on the neighborhood as compared to the existing use, which, as noted, would be completely unchanged. Indeed, the proposal would have an ameliorative effect on the neighborhood insofar as it meets all dimensional requirements and results in improved lighting conditions.

It is well-settled law that modifications to pre-existing, nonconforming uses intended to ensure that such use is "improved and made more efficient," are permitted as of right as long as the modifications are "ordinarily and reasonably adapted to the original use and do not constitute a change in the original nature and purpose of the undertaking." *Derby Ref. Co. v. City of Chelsea*, 407 Mass. 703, 714 (1990). In that case, the court held not only that the conversion of a gasoline storage facility to an asphalt storage facility did not constitute a change of use, but also that site upgrades (enabling the asphalt to be heated) were also permissible, particularly where, as here, there was evidence that neighborhood impacts would be ameliorated.

Similarly here, the proposed canopies are ordinarily and reasonably adapted to the existing use insofar as they have been minimized in size to accommodate only the existing fuel pumps, and there has been no proposal to expand the use of the site, such as by adding additional fuel pumps. Quite simply, advances in fuel pump technology have resulted in a need to provide weather protection to the sensitive computerized equipment that is now in use. These protections were not needed at the time when the unprotected fuel islands were originally constructed. The proposed canopies also provide ancillary benefits insofar as they protect customers from weather, provide added fire protection, and create better light protection for neighbors.

The proposed canopies – far from being a detriment to the neighborhood – would represent a vast improvement over the existing condition of the site by modernizing its appearance and providing additional screening of visual impacts for adjacent residential properties, while also improving safety conditions.

The applicant therefore requests a finding from the Board that the construction of the proposed accessory canopies would not constitute a change, extension, or alteration of the pre-existing, nonconforming gas station use, and on that basis authorizing the issuance of building permits for such work without need for further zoning relief. In the alternative, if the Board determines that such construction would constitute a change, extension, or alteration, the applicant requests a special permit and/or variance under Sections 8.22 and/or 8.22.3 of the Cambridge Zoning Ordinance on the basis that such construction would be not substantially more detrimental to the neighborhood than the existing condition of the site.





City of Cambridge

MASSACHUSETTS

BOARD OF ZONING APPEAL

831 Mass Avenue, Cambridge, MA. (617) 349-6100

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POSTING NOTICE - PICK UP SHEET

The undersigned picked up the notice board for the Board of Zoning Appeals Hearing.

Name: Ason Sarres (Print)	Date: 2/5/2021
Address: 3615 Man Are	•
Case No. 67A-103314	
Hearing Date: $\frac{3}{3}$	

Thank you, Bza Members