

NARRATIVE OF PROPOSAL
METUCHEN I, LLC AND METUCHEN III, LLC
BLOCK 71, LOTS 37.01 AND 37.02
APPLICATION FOR
PRELIMINARY AND FINAL MAJOR SUBDIVISION APPROVAL

A. Background

Metuchen I, LLC is the owner of Block 71, Lot 37.02 and Metuchen III, LLC, an entity wholly owned by Metuchen I, LLC, is the owner of Block 71, Lot 37.01. These two lots together comprise the Amended Oakite Site Redevelopment Area (the “Redevelopment Area”). The Redevelopment Area is located between Middlesex Avenue and Durham Avenue, and contains a total of 11.076 acres. Land use within the Redevelopment Area is governed by the provisions of the Amended Oakite Site Redevelopment Plan (the “Redevelopment Plan”).

The Redevelopment Plan delineates 5 separate parcels, designated as Parcels A through E, as shown on Exhibit D to the Redevelopment Plan. There are specific zoning and bulk requirements applicable to each of the parcels.

B. Subdivision

The purpose of this subdivision is to create separate tax lots for each of the parcels, as follows:

- Parcel A:
- comprised of 0.6 acre (26,150 square feet);
 - contains a vacant former Fulton Bank building; and
 - approved for a cannabis retail facility by resolution adopted January 4, 2024.
- Parcel B:
- comprised of 1.566 acres (68,230 square feet);
 - approved for an assisted living/memory care facility by resolution adopted January 10, 2022; and
 - no present plans for development per approval, but approval has not been formally withdrawn.
- Parcel C:
- comprised of 0.761 acre (33,159 square feet); and
 - is the site of a Starbucks that is currently under construction, which was approved by resolution adopted on September 1, 2022.

- Parcel D:
- comprised of 1.983 acres (86,355 square feet); and
 - there are currently no approvals for this parcel.
- Parcel E:
- comprised of 4.860 acres (211,690 square feet); and
 - is the site of the existing Sportsplex indoor recreational facility, approved by resolution adopted April 21, 2009, and a daycare center, approved by resolution adopted on April 7, 2022.

The proposed lots are substantially consistent with the parcel lines shown on Exhibit D to the Redevelopment Plan, and comply with lot area and dimensional requirements.

There is a stepdown transformer for solar panels mounted on the roof of Sportsplex that straddles the proposed lot line between Parcels D and E. It is nearing the end of its useful life. As a condition of approval, the Applicants propose to remove the existing transformer at the end of its useful life and replace it with a new transformer located within the proposed lot lines of Parcel E. This proposed condition will conform to the Redevelopment Plan, which does not provide setback requirements for accessory structures.

C. Easements

The following easements are existing or proposed on Parcels A through E:

Sight Triangle Easement - - County of Middlesex - - *Attached as Exhibit A.*

- on Parcel E at the corner of Middlesex Avenue and Factory Street; and
- existing and will remain unchanged by the proposed subdivision.

Parking Easements - -

1. Artis Senior Living, LLC

- 23 parking spaces on Parcel E;
- required by resolution of approval; and
- not yet established because project is on hold.

2. DASCO Solutions, LLC

- 6 parking spaces on Parcel E for employee parking; and
- to be created.

3. Sportsplex & Daycare - - *Attached as Exhibit B.*

- 31 parking spaces on existing Lot 37.01 for the benefit of Sportsplex and Daycare, currently located on existing Lot 37.02; and

- Easement will be extinguished by the proposed subdivision.

NARRATIVE OF PROPOSAL
EXHIBIT A

SIGHT TRIANGLE AGREEMENT

THIS AGREEMENT made this 13th day of April, 1983 by and between Oakite Products, Inc., OWNERS of the land hereinafter referred to as the OWNER, and

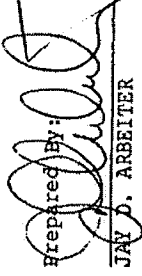
COUNTY OF MIDDLESEX, a municipal corporation of the State of New Jersey, hereinafter referred to as the COUNTY.

WHEREAS, it is in the interest of the general public and the welfare of the County of Middlesex that the lands hereinafter described shall be at all times retained as Open Space for the purpose of permitting the operations of vehicles, and pedestrians to see across said lands and to provide a clear view for oncoming vehicles or pedestrians from adjoining streets, roads or highways;

NOW, THEREFORE, in consideration of the sum of One (\$1.00) Dollar and other good and valuable consideration the Owner hereinabove referred to does hereby covenant, promise and agree and does hereby dedicate the hereinafter described lands for the purposes as follows:

- 1) There shall not be erected at anytime on said lands any building, structures or signs which may in any way interfere with the view or sight of operators of vehicles or pedestrians traversing the abutting streets, roads, or highways.

Prepared By:



JAY D. ARBEITER

However, such varieties of ground cover or shrubs having an ultimate height of from two to four feet and that may easily be cared for by the County Road Department may be planted in the area designated below.

2) The County of Middlesex, its agents, representatives or employees may, but shall have no duty to enter upon and re-enter upon said lands hereinafter described for the purpose of clearing any brush, trees, weeds or other growth upon said lands for the purpose of establishing a clear sight or view for operators of vehicles or pedestrians traversing the abutting streets, roads or highways.

3) The lands affected by this Declaration are situated in the Borough of Metuchen, County of Middlesex and more fully described as follows:

BEGINNING at the point of intersection of the centerline of Middlesex Avenue and the centerline of Factory Street.

THENCE 1. Along the centerline of Factory Street North 32 degrees 36 minutes 30 seconds West 90.00 feet to a point;

THENCE 2. North 75 degrees 43 minutes 30 seconds East 263.04 feet to a point in the centerline of Middlesex Avenue;

THENCE 3. Along the said centerline of Middlesex Avenue South 55 degrees 45 minutes 30 seconds West 250.00 feet to the point or place of BEGINNING.

Also known and designated as a portion of Lot 37 in Block 71 on the Metuchen Tax Map.

4) This Declaration shall run with the land and shall be perpetual.

IN WITNESS WHEREOF the said OWNER has hereunto caused its corporate seal to be hereto affixed and attested by its Secretary and these presents to be signed by its President the day and year first above written.

Attest:

Margaret M. Barnett
MARGARET M. BARNETT,
SECRETARY

OAKITE PRODUCTS, INC
By: Charles F. Rell
CHARLES F. RELL, PRESIDENT

COUNTY OF MIDDLESEX

By: _____

STATE OF NEW JERSEY)
COUNTY OF MIDDLESEX) ss.:

BE IT REMEMBERED, that on this 14th day of April, 1983, before me, the subscriber, _____ personally appeared MARGARET M. BARNETT who, being by me duly sworn on her oath, deposes and makes proof to my satisfaction, that she is the Secretary of the Corporation named in the within Instrument; that CHARLES F. RELL is the President of said Corporation; that the execution, as well as the making of this Instrument, has been duly authorized by a proper resolution of the Board of Directors of the said Corporation; that deponent well knows the corporate seal of said Corporation; and that the seal affixed to said Instrument is the proper corporate seal and was thereto affixed and said Instrument signed and delivered by said President as and for the voluntary act and deed of said Corporation, in presence of deponent, who thereupon subscribed her name thereto as attesting witness and that the receipt of consideration of \$1.00 is hereby acknowledged.

Sworn to and subscribed before me,
the date aforesaid.

Robert E. Herin
ROBERT E. HERIN
Notary Public, State of New Jersey
No. L 636
Qualified in Hudson County
Commission Expires Feb. 11, 1987

1461

NEW BRUNSWICK, N.J.

84 FEB 3 P 3: 02
BOOK 3334 PAGE 917

FROM: COUNTY CLERK

PLEASE RECORD & RETURN TO:

MARIE J. McWILLIAM
CLERK TO THE BOARD
BOARD OF CHOSEN FREEHOLDERS

APR 18 1984
RECEIVED

BOOK 3334 PAGE 920

NARRATIVE OF PROPOSAL
EXHIBIT B



Nancy J. Pinkin
Middlesex County Clerk
Recording Data Cover Page
Pursuant to N.J.S.A. 46:26A-5

INSTR # 2022072242
0 BK 19009 PG 1186 Pgs 1186 - 1195 (11 pgs)
RECORDED 08/11/2022 11:56:00 AM
NANCY J. PINKIN, COUNTY CLERK BD
MIDDLESEX COUNTY, NEW JERSEY
RECORDING FEES: \$125.00

Official Use Only

Date of Document August 4, 2022	Type of Document Deed
First Party Name Metuchen III, LLC	Second Party Name Metuchen I, LLC
Additional First Parties	Additional Second Parties

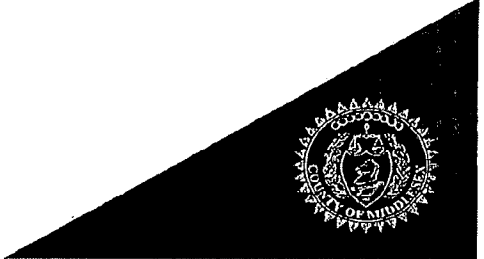
THE FOLLOWING SECTION IS REQUIRED FOR DEEDS ONLY.

Block 71	Lot 37.01, 37.02
Municipality Metuchen	Consideration 0.00
Mailing Address of Grantee 4905 Del Ray Avenue, Suite 200 Bethesda, MD 20814	

THE FOLLOWING SECTION IS FOR ORIGINAL MORTGAGE BOOKING & PAGING INFORMATION FOR ASSIGNMENTS, RELEASES, DISCHARGES & OTHER ORIGINAL MORTGAGE AGREEMENTS ONLY.

Original Book	Original Page
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MIDDLESEX COUNTY, NEW JERSEY RECORDING DATA PAGE.
This cover page is for use in Middlesex County, New Jersey only.
Please do not detach this page from the original document as it
contains important recording information and is part of the permanent record.



Prepared by:

Wilentz, Goldman & Spitzer, P.A.
90 Woodbridge Center Drive, Suite 900
P.O. Box 10
Woodbridge, New Jersey 07095
Attn: Robert Beckelman, Esq.

After recording return to:

Metuchen I, LLC
Metuchen III, LLC
4905 Del Ray Avenue, Suite 200
Bethesda, Maryland 20814
Attn: Stuart Schooler

Parcel Nos.: [Block 71, Lots 37.01 and 37.02]

PARKING EASEMENT AGREEMENT

4th THIS PARKING EASEMENT AGREEMENT (this "Agreement") is made on August, 2022 (the "Effective Date"), by and between **METUCHEN III, LLC**, a New Jersey Corporation having offices at 4905 Del Ray Avenue, Suite 200, Bethesda, Maryland 20814, and/or its assignee ("Grantor"), and **METUCHEN I, LLC**, a New Jersey Corporation having offices at 4905 Del Ray Avenue, Suite 200, Bethesda, Maryland 20814, and/or its assignee ("Grantee") (collectively referred to as "Owners").

RECITALS

A. Grantor is the fee owner of certain property commonly known 215 Durham Avenue, located on Middlesex Avenue in the Borough of Metuchen (the "Borough") and identified on the Borough Tax Map as Block 71, Lot 37.01 ("Grantor's Property"), as more particularly described on **Exhibit A** attached hereto (the "Parking Site Plan").

B. Grantee is the fee owner of certain property commonly known 215 Durham Avenue, located on Durham Avenue in the Borough and identified on the Borough Tax Map as Block 71, Lot 37.02 ("Grantee's Property"), upon which the "Sportsplex" is currently situated, as more particularly described on the Parking Site Plan.

C. On April 7, 2022, Grantor secured site plan approval from the Borough of Metuchen Planning Board (the "Board") for the development of a daycare center ("Daycare") on Lot 37.02 (the "Site Plan Approval").

D. In order to meet the parking requirements for the Sportsplex and the Daycare, Grantor proposed to make thirty-one (31) parking spaces available for the Sportsplex and Daycare uses (the "Required Spaces") on a portion of Grantor's Property, as more particularly depicted on the Parking Site Plan (the "Parking Easement Area"), until such time as Grantor's Property is

further redeveloped and a contemplated subdivision is perfected that will consolidate the Parking Easement Area with Grantee's Property.

E. It is a condition of the Site Plan Approval that Grantor provide an easement upon Grantor's Property to provide for the Required Spaces.

F. Grantor desires to grant to Grantee a perpetual easement to the Parking Easement Area for the parking of vehicles in connection with the use and operation of the Sportsplex and Daycare, subject to the terms and conditions of this Agreement.

NOW, THEREFORE, for consideration of the premises and the easements, covenants, rights and restrictions contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Owners, intending to be legally bound, hereby agree as follows.

1. **Incorporation of Recitals; Construction of Document**. The recitals contained in this Agreement are hereby incorporated herein by reference as a part of the substantive provisions of this Agreement. Capitalized terms used herein and not otherwise defined shall have the meaning ascribed to them in the Site Plan Approval.

2. **Grant of Easement**.

(a) **Parking Easement**. Grantor hereby grants to Grantee for the use of such Grantee, the tenants and occupants of each such Grantee's Property, and all of their respective officers, directors, employees, agents, contractors, customers, vendors, suppliers, visitors, invitees, licensees, successors, assigns, subtenants and concessionaires (collectively, "Invitees"), a perpetual, non-exclusive access easement over, across upon the Parking Easement Area located on the Grantor's Property solely for the parking of up to thirty-one (31) vehicles by Invitees in connection with the normal business operations of the Sportsplex and Daycare at Grantee's Property.

(b) **Maintenance Easement**. Grantor hereby grants to Grantee, for the use of Grantee and its Invitees, a perpetual, non-exclusive easement on, over, upon and across the Parking Easement Area to the extent reasonably necessary for Grantee to perform necessary maintenance and repairs.

(c) **Grantor Access to Easement**. Notwithstanding anything herein this Section 2 to the contrary, Grantor shall be solely responsible for any and all costs and fees in obtaining approvals and permits, performing work or otherwise in creating and obtaining access to the Parking Easement Area, including but not limited to paying one-hundred percent (100%) of any necessary repairs or replacements to the Parking Easement Area. Grantee shall cooperate with Grantor in connection with any repairs, maintenance, approvals and permits.

(d) Grantee shall use commercially reasonable efforts to prevent the exercise of the rights hereunder by such Grantee and its Invitees from unreasonably interfering with the use, occupancy and enjoyment of any of the Grantor's Property.

(e) Grantee and its Invitees shall use the Parking Easement Area in a safe, clean and sanitary manner and shall not use the Parking Easement Area in any manner that rises to the level of a nuisance to Grantor, any of its respective Invitees or the public, including, without limitation, that arises out of offensive, objectionable or unusual noise, odors, fumes, dust, smoke, vibrations, or pollution, or that increases the risk of fire, explosion or other casualty, or that results in unusual or objectionable unsightliness.

(f) Except as otherwise expressly set forth in this Agreement, Grantor shall not (and no Grantor shall permit any of its Invitees to) (i) block, impede or interfere with any ingress or egress points to, or access to or use of, any portion of the Parking Easement Area at any time, except for reasonable, temporary closings for emergencies or maintenance, repair and/or replacement work or as may be reasonably necessary (provided that Grantor shall use commercially reasonable efforts to coordinate any such temporary closings with the Grantee in advance so as to limit interference with the Grantee's rights hereunder) or (ii) construct any buildings or improvements within the Parking Easement Area other than landscaping and/or hardscaping to the extent the same does not unreasonably or materially interfere with the rights of the Grantee hereunder and other than those improvements as shown on the Site Plan approved pursuant to the Site Plan Approval. Notwithstanding the foregoing, Grantee acknowledges and agrees that any Grantor may from time to time develop, redevelop and/or construct one or more buildings and/or other improvements on portions of Grantor's Property outside of the Parking Easement Area, and such development, redevelopment and/or construction shall not be restricted by this Agreement to the extent the same occurs outside of the Parking Easement Area and does not block, impede or interfere with any ingress or egress points to, or access to or use of, any portion of the Parking Easement Area.

3. **Term.** The term of this Easement shall commence on the date on which this Agreement is executed by both Owners and shall continue in perpetuity until (a) Grantor or Grantee secure and perfect an approved subdivision from the Board consolidating the Parking Easement Area with Grantee's Property, which shall continue to provide for the Required Spaces, at which time this Easement Agreement shall terminate and be of no further force and effect, provided that the termination shall be authorized by resolution of the Board, whether included in a resolution approving of a subdivision or otherwise, and shall be removed of record by appropriate written instrument of the Owners, acknowledged by the Board or (b) through other Board approvals or actions the Board determines that the Parking Easement Area is no longer required.

4. **Mutual Indemnification.** Each Owner hereby agrees to indemnify, defend protect and hold harmless the other Owners and their respective Invitees, from and against any and all injuries, damages, liabilities, losses, claims, causes of action, costs, fees and expenses, including, without limitation, court costs and reasonable attorneys' fees (collectively, "Claims") incurred by the indemnified Owner or any of its Invitees and resulting from or arising out of (a) the use of the Parking Easement Area or other exercise of rights hereunder by the indemnifying Owner or any of its Invitees, (b) any breach of this Agreement by the indemnifying Owner or any of its Invitees or (c) the negligence or willful misconduct of the indemnifying Owner or any of its Invitees in connection with the exercise of the rights granted under this Agreement, except to the extent such Claims arise out of the negligence or willful misconduct of the indemnified Owner or any of its Invitees, and further provided that damages sought and/or obtained in connection with any such

Claims shall exclude consequential, exemplary, speculative, indirect, incidental and punitive damages.

5. **Event of Default.** If an Owner shall fail to perform or observe any covenant or condition contained in this Agreement (the "Defaulting Owner"), the aggrieved Owner (the "Aggrieved Owner") shall give the Defaulting Owner at least thirty (30) days written notice of such default (except in the event of an emergency condition as provided below). If such default shall not have been cured within said period of thirty (30) days after the delivery of notice of such default (or if such default is not reasonably susceptible of being cured within said period of thirty (30) days, and the Defaulting Owner shall have not in good faith commenced curing such default within said thirty (30) day period and shall not thereafter prosecute curing such default with diligence and continuity to completion), then the Aggrieved Owner may (a) cure such default by the payment of money or the performance of some other reasonable action for the account of and at the reasonable expense of the Defaulting Owner (provided, however that in the event the default shall constitute an emergency condition as the Aggrieved Owner shall reasonably determine, the Aggrieved Owner, acting in good faith, shall have the right to cure such default upon such advance notice as is reasonably practicable under the circumstances or, if necessary, without advance notice, so long as notice is given as soon as possible thereafter), whereupon the Defaulting Owner shall reimburse the Aggrieved Owner for any amounts reasonably properly incurred by the Aggrieved Owner within thirty (30) days after the Aggrieved Owner's written demand therefor, together with reasonable back-up documentation, or (b) institute legal proceedings for full and adequate relief from the consequences of such default. The Defaulting Owner hereby grants to the Aggrieved Owner a non-exclusive right of entry and non-exclusive easements across and under any and all parts of the Defaulting Owner's Property for all purposes reasonably necessary to enable the Aggrieved Owner (acting directly or through its Invitees), to perform any of the terms, provisions, covenants or conditions of this Agreement which the Defaulting Owner shall have failed to perform, after notice and time to cure, as aforesaid, but no notice and time to cure need be given in the event of any emergency as reasonably determined by the Aggrieved Owner.

6. **Non-Dedication.** Nothing contained in this Agreement shall be deemed to be a gift or dedication of any portion of the Grantor's Property or Grantee's Property to the general public or for any public use or purpose whatsoever, it being the intention of the Owners and their successors and assigns that nothing in this Agreement, expressed or implied, shall confer upon any person, other than the Owners and their successors and assigns, any rights or remedies under or by reason of this Agreement.

7. **Modification.** This Agreement shall be recorded by Owners among the land records of Middlesex County, New Jersey and may only be amended, modified, or terminated at any time by an agreement in writing, executed and acknowledged by the Owners and the Board.

8. **Notices.** Any notice, report or demand required, permitted or desired to be given under this Agreement shall be in writing and shall be deemed to have been sufficiently given or served for all purposes if it is delivered (i) personally (ii) by overnight courier prepaid by the sender, (iii) mailed by registered or certified mail, return receipt requested, postage prepaid, to the parties at the addresses shown below or at such other address as the respective parties may from time to time designate by like notice or (iv) electronic mail with proof of receipt. Each such notice shall be effective upon being so delivered. Rejection or refusal to accept delivery or an inability to

deliver because of change of address of which no notice was given shall all be deemed to be receipt of the notice or statement sent and the date of the rejection, refusal or inability to deliver shall be deemed to be the date notice was given.

Such addresses shall be as follows:

If to Metuchen III, LLC:

METUCHEN III, LLC
Attn: Stuart Schooler
4905 Del Ray Avenue, Suite 200
Bethesda, Maryland 20814
Email: stuart.schooler@themavengroup.us

With a copy to:

Robert Beckelman, Esq.
Wilentz, Goldman & Spitzer, PA
90 Woodbridge Center Drive, Suite 900
P.O. Box 10
Woodbridge, New Jersey 07095
Email: rbeckelman@wilentz.com

If to Metuchen I, LLC:

METUCHEN I, LLC
Attn: Stuart Schooler
4905 Del Ray Avenue, Suite 200
Bethesda, Maryland 20814
Email: stuart.schooler@themavengroup.us

With a copy to:

Robert Beckelman, Esq.
Wilentz, Goldman & Spitzer, P.A.
90 Woodbridge Center Drive, Suite 900
P.O. Box 10
Woodbridge, New Jersey 07095
Email: rbeckelman@wilentz.com

9. **Miscellaneous.**

(a) If any provision of this Agreement, or portion thereof, or the application thereof to any person or circumstances, shall, to any extent be held invalid, inoperative or unenforceable, the remainder of this Agreement, or the application of such provision or portion thereof to any other persons or circumstances, shall not be affected thereby. It shall not be deemed that any such invalid

provision affects the consideration for this Agreement and each provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

(b) This Agreement is created under and is to be governed, construed, and enforced in accordance with the laws of the State of New Jersey, without regard to its conflict of laws principles.

(c) The Article headings in this Agreement are for convenience only, shall in no way define or limit the scope or content of this Agreement, and shall not be considered in any construction or interpretation of this Agreement or any part hereof.

(d) Nothing in this Agreement shall be construed to make the Owners partners or joint venturers or render an Owner liable for the debts or obligations of the other Owner.

(e) The provisions of this Agreement run with the land for the term hereof and shall inure to the benefit of, and be binding upon and enforceable against, each Owner and its respective heirs, personal representatives, administrators, successors and assigns.

(f) This Agreement may be executed in multiple counterparts, each of which shall be regarded as an original, and all of which together shall constitute one and the same instrument.

(g) No delay or omission of either Owner in the exercise of any right accruing upon any default of the other Owner shall impair such right or be construed to be a waiver thereof, and every such right may be exercised at any time during the continuance of such default. A waiver by either Owner of a breach of, or a default in, any of the terms and conditions of this Agreement by the other Owner shall not be construed to be a waiver of any subsequent breach of or default in the same or any other provision of this Agreement. Except as otherwise specifically provided in this Agreement, (a) no remedy provided in this Agreement shall be exclusive but each shall be cumulative with all other remedies provided in this Agreement and (b) all remedies at law or in equity shall be available, including, without limitation, specific performance and injunctive relief.

(h) In the event either Owner or any other party shall be delayed or hindered in or prevented from the performance of any act required to be performed by such party by reason of an event beyond the reasonable control of such Owner, including, but not limited to, Acts of God, failure of power, riots, insurrections, strikes, governmental restrictions, embargoes and adverse weather conditions preventing the performance of work, then the time for performance of such act shall be extended for a period equivalent to the period of such delay.

[SIGNATURE PAGES FOLLOW]

METUCHEN I, LLC
a New Jersey limited liability company

By: *Stuart Schooler*
Name: Stuart Schooler
Title: Managing Member

Acknowledgment

STATE OF MARYLAND :
 :
 : ss.
COUNTY OF PRINCE GEORGES :

On the 4th day of August 2022, before me, the subscriber, a Notary Public in and for the State and County aforesaid, personally appeared Stuart Schooler, who acknowledged himself/herself to be the Managing Member of METUCHEN I, LLC, a New Jersey corporation, and that such officer, being authorized to do so, executed the foregoing instrument for the purposes therein contained by signing the name of said entity as such officer of said entity.

WITNESS my hand and seal the day and year aforesaid.

[NOTARIAL SEAL]

Tonja L. Scott
Notary Public

My Commission Expires: 1/7/2025

TONJA L. SCOTT
Notary Public - Maryland
Prince George's County
My Commission Expires
01/07/2025

EXHIBIT A
Parking Site Plan Depicting Properties and Parking Easement Area

#13173091.2

