

Village of **Croton-on-Hudson**



Engineering Department  
Stanley H. Kellerhouse Municipal Building  
One Van Wyck Street  
Croton-on-Hudson, NY 10520-2501  
Tel: 914-271-4783, Fax: 914-271-3790

**Planning Board**  
**and**  
**Village Board**  
**Application**

Rev 3/23

**Note: Prior to submitting this application, contact Planning Board Secretary at 914 271-4783**

Application Date: \_\_\_\_\_ Application #: \_\_\_\_\_  
(for Village Use Only)

**Property Information:**

Section: 79.17 Block: 2 Lot: 2  
Property Location (street address): 440 South Riverside Ave  
Zoning District: C-2 Commercial Lot: yes no Vacant Lot: yes no

**Applicant Information:** Owner Contractor Lessee Other: \_\_\_\_\_

Last Name: Dolan First Name: Rose  
Company: Shop Rite Supermarket, Inc  
Address: 176 N. Main Street  
City: Florida State: NY Zip Code 12589  
Office #: 845-651-4411 Cell # \_\_\_\_\_ E Mail Address: \_\_\_\_\_

**Property Owner:** Same As Above

Last Name: \_\_\_\_\_ First Name: \_\_\_\_\_  
Company: Croton Enterprises LLC, c/o Juster Development Newmark  
Address: 120 White Plains Road, Suite 110  
City: Tarrytown State: NY Zip Code 10591  
Office #: 914-524-7700 698-1608 Cell #: \_\_\_\_\_  
E-Mail Address: \_\_\_\_\_

**Application Type:** (Please check those that apply)

- |   |  |  |
|---|--|--|
| <input type="checkbox"/> Site Plan*                     | <input type="checkbox"/> Amended Site Plan*                                | <input type="checkbox"/> Minor Site Plan           |
| <input type="checkbox"/> Change of Use                  | <input type="checkbox"/> Amended Site Plan Extension                       | <input type="checkbox"/> Minor Site Plan Extension |
| <input type="checkbox"/> Building Envelope Modification |  |  |
| <input type="checkbox"/> Wetlands Permit *              | <input type="checkbox"/> Village Board Special Permit *                    |  |
| <input type="checkbox"/> Steep Slope Permit *           | <input checked="" type="checkbox"/> Village Board Special Permit Renewal * |  |
| <input type="checkbox"/> Excavation & Fill Permit       |  |  |
| <input type="checkbox"/> Preliminary Subdivision        |  |  |
| <input type="checkbox"/> Final Subdivision              |  |  |

*\*note: Public Hearing required for these permits*

NOTE: The Planning Board also reviews applications (e.g., special permits, zoning amendments, etc.) that have been referred to them by the Village Board for a recommendation. No public hearing before the Planning Board is required for referral applications.

Per §230-57, the submission should also include the following documentation:

A. A description of the proposed use, with reference to the appropriate use and regulations of this chapter, including any supplementary regulations applying thereto.

B. A cost-benefit analysis or similar study to review the estimated municipal costs, services and prospective revenues which would be generated by the proposed use.

C. Evidence that the proposed use is consistent with the goals of the Village Master Plan.

D. A traffic and circulation study projecting the effects of the proposed use of the existing and probable future traffic and access in the vicinity of the proposed use.

E. Copies of environmental assessments or permit applications and supporting materials which may be required to meet New York State or federal regulations.

F. A stormwater pollution prevention plan (SWPPP) consistent with the requirements of Chapter 196, Article I, Stormwater Management and Erosion and Sediment Control, shall be required for any special permit approval that qualifies as or authorizes a land development activity as defined in Chapter 196, Article I. The SWPPP shall meet the performance and design criteria and standards in Chapter 196, Article I. The approved special permit shall be consistent with the provisions of Chapter 196, Article I.

**INSTRUCTIONS:** Please submit eight (8) paper copies (Nine copies if a special permit from the Village Board is also required) of supporting materials to the Planning Board Secretary and one (1) pdf file of all application materials to [engineering@crotononhudson-ny.gov](mailto:engineering@crotononhudson-ny.gov)

I, certify that the above information is accurate, and I am the property owner or authorized by the owner to file this application on their behalf and that I will indemnify and hold the Village harmless against any damage or injury that may be caused by or arise out of any entry onto the property in connection with the processing of the application, during construction or performance of the work or within one year after the completion of the work.

Applicant certifies that he is authorized by the Owner of subject premises to conduct the project described above.

Luca Justice  
Applicant's Name (please print)

[Signature]  
Signature of Applicant or Agent

12/11/23  
Date

**FOR VILLAGE USE ONLY:**

Fee: \_\_\_\_\_ Paid on: \_\_\_\_\_ Rec'd by: \_\_\_\_\_

TAXES PAID: \_\_\_\_\_ LEASE AGREEMENT (If applicable) \_\_\_\_\_

HEARD BY THE VILLAGE BOARD ON: \_\_\_\_\_ (date) HEARD BY THE PLANNING BOARD ON: \_\_\_\_\_ (date)

PUBLIC HEARING HELD ON: \_\_\_\_\_ (date) PUBLIC HEARING HELD ON: \_\_\_\_\_ (date)

APPROVED: \_\_\_\_\_ DENIED: \_\_\_\_\_ APPROVED: \_\_\_\_\_ DENIED: \_\_\_\_\_

December 19, 2023

**Via Federal Express**

Board of Trustees of the  
Village of Croton-on-Hudson  
Attn: Pauline DiSanto  
Village Clerk of the  
Village of Croton-on-Hudson  
1 Van Wyck Street  
Croton-on-Hudson, NY 10520

Planning Board  
Village of Croton-on-Hudson  
Attn: Karen Stapleton  
Planning Board Secretary  
Village of Croton-on-Hudson  
1 Van Wyck Street  
Croton-on-Hudson, NY 10520

**Re: ShopRite Supermarkets Inc.  
Renewal of Special Permit**

Dear Members of the Village and Planning Boards,

This office represents ShopRite Supermarkets Inc. (the "Applicant") with respect to its application to renew its Special Permit Use ("Special Permit") to allow it to continue to operate a Retail Store (Supermarket) at 460 South Riverside Avenue, as identified on the Tax Assessment map of the Village of Croton-on-Hudson as Section 79.17, Block 2, Lot 2 (the "Subject Property").

Enclosed herewith please find the Applicant's December 11, 2023 application for renewal of its current Special and its Check No. 2031 dated December 12, 2023 in the amount of \$1500.00, the fee required to accompany the Special Permit renewal application.

**History of the Special Permit Use on the Premises**

The Applicant has operated a supermarket at the location, within a C-2 (General Commercial) zone, pursuant to a Special Permit which was originally issued in 1977, amended in 1985, and most recently amended and renewed in 2016.

A Special Permit to operate a supermarket on the Subject Property was originally granted by Resolution of the Village Board on September 22, 1977, which Special Permit expired on May 24, 1980. A copy of the 1977 Special Permit approval is attached as **Exhibit A**. The expired Special Permit was reinstated and expanded by Resolution of the Village Board dated May 20, 1985, which Permit, by its own terms, ran for a period of five (5) years, expiring on May 20, 1990. A copy of the 1985 Special Permit approval is attached as **Exhibit B**. Since the expiration

of the Special Permit on May 20, 1990, the ShopRite space has received all required Certificates of Occupancy for any additional work performed on the Subject Property, none of which Certificates of Occupancy identified the need for the reinstatement or modification of the Special Permit. Copies of the post-1990 Certificates of Occupancy are attached as **Exhibit C**.

Most recently, on November 20, 2014, the Applicant applied for both a renewal and modification of the Special Permit to permit both the continued operation of the supermarket and the addition of gross floor area. A copy of our firm's letter dated November 20, 2014 on behalf of the Applicant is attached as **Exhibit D**. On April 4, 2016 the Village Board of Trustees voted to approve the Applicant's request for modification and renewal of the Special Permit and the then-Planning Board subsequently voted to approve a Resolution approving the Applicant's Amended Site Plan application. Copies of the Village Board of Trustees Resolution of April 4, 2016 and the subsequent Planning Board Resolution are attached as **Exhibits E and F** respectively.

The Applicant is not proposing to either expand or renovate the Subject Property or seek any amendment to the Special Permit other than to respectfully request that the Board of Trustees issue a resolution renewing the 2016 Special Permit and, in renewing and reissuing the Special Permit, issue it as a permanent Special Permit with no expiration date.

**The Applicant has complied with, and will continue to comply with both the requirements to obtain and to renew a Special Permit under Chapter 230, Article X of the Croton-on-Hudson Zoning Code**

The Applicant submits that it has since 2016 complied with, and will continue to comply with, both the goals and objectives applicable to an original application to obtain a Special Permit and to the conditions applicable to an application to renew a Special Permit and should be reissued a new, permanent, Special Permit.

First, Section 230-57 provides that to obtain a Special Permit, an application shall be made to the Village Board of Trustees including:

**A. A description of the proposed use, with reference to the appropriate use and regulations of this chapter, including any supplementary regulations applying thereto.**

The Applicant proposes to continue its existing use of the Subject Property as a supermarket, as it has operated at the premises since 1977. This use is permitted in General Commercial C-2 Districts pursuant to Section 230-17(A)(1) which provides that retail stores are permitted by special permit of the Village Board of Trustees.

The Applicant is also subject to and in compliance with those supplementary regulations set forth at Section 230-43 which sets forth the method of determining the height of nonresidential

buildings and Section 230-44 which governs the use of signs of commercial property. The Applicant is not proposing to make any changes to the current height of the building or the signs currently in place.

**B. A cost-benefit analysis or similar study to review the estimated municipal costs, services and prospective revenues which would be generated by the proposed use.**

It is respectfully submitted that the continued operation of the supermarket in its current fashion will not create any significant new burdens on municipal costs and prospective revenues. The formal re-issuance will merely confirm the status quo within an already existing and operational shopping center.

**C. Evidence that the proposed use is consistent with the goals of the Village Master Plan.**

The Village's Master Plan is currently embodied in the Village of Croton-on-Hudson Comprehensive Plan, adopted on July 10, 2017 ("2017 Comprehensive Plan").

The 2017 Comprehensive Plan identifies the ShopRite Shopping Center within the "South Riverside/Harmon Shopping Area." P. 97 of the 2017 Comprehensive Plan. The continued operation of the ShopRite Shopping Center supermarket conforms with what the 2017 Comprehensive Plan describes as the South Riverside/Harmon Shopping Area's "retail potential." The South Riverside/Harmon Shopping Area is accessible to pedestrians, acts as the gateway from the Croton-Harmon Railroad Station, and is also used by Ossining residents to the south. The 2017 Comprehensive Plan even acknowledges the work permitted under the previous Special Permit modification and re-issuance, stating that "The Shop-Rite store is undergoing a major expansion which will be completed in 2017."

Thus, re-issuance of the Special Permit would be consistent with the description of the South Riverside/Harmon Shopping Area as described in the 2017 Comprehensive Plan.

**D. A traffic and circulation study projecting the effects of the proposed use of the existing and probable future traffic and access in the vicinity of the proposed use.**

The current application for re-issuance of the Special Permit to continue to operate the supermarket in the ShopRite Shopping Center on South Riverside Avenue would not impact current or future traffic and access in the vicinity of the supermarket because no additions or changes to the current use are proposed. And the Applicant will continue to be compliance with the parking requirements set forth at Section 230-51 of the Village Code.

**E. Copies of environmental assessments or permit applications and supporting materials which may be required to meet New York State or federal regulations.**

Though a Short Form EAF and Coastal Assessment Form were submitted with the Applicant's application for a re-issuance of the Special Permit in 2014, the Applicant proposes that those forms are not necessary in support of the current application because it is not requesting to modify or increase the current use of the subject property.

**F. A stormwater pollution prevention plan (SWPPP) consistent with the requirements of Chapter 196, Article I, Stormwater Management and Erosion and Sediment Control, shall be required for any special permit approval that qualifies as or authorizes a land development activity as defined in Chapter 196, Article I. The SWPPP shall meet the performance and design criteria and standards in Chapter 196, Article I. The approved special permit shall be consistent with the provisions of Chapter 196, Article I.**

As stated above, although a SWPPP was submitted with the Applicant's application for a re-issuance of the Special Permit in 2014, the Applicant proposes that submission of a new SWPPP is not necessary in support of the current application because it is not requesting to modify or increase the current use of the subject property.

The Applicant further submits that the Village Board of Trustees should grant renewal of the Special Permit pursuant to Section 230-56 of the Croton-on-Hudson Zoning Code. Section 230-56 provides that the grant of a special permit may be conditioned on periodic renewal, "which renewal may be granted only following upon public notice and hearing. Such renewal shall be withheld or granted subject to terms and conditions additional to or different from those in the original grant only upon a determination that:

**A. The factors which justified the original grant no longer exist or have changed sufficiently to require additional or different terms and conditions; or**

**B. The terms and conditions of the original special permit have not been or are not being complied with, wholly or in part. A notice of violation pursuant to § 230-173 shall be prima facie evidence of lack of conformity with such terms and conditions.**

With respect to **Subsection A**, the factors which justified the grant of the original Special Permit in 1977 and the re-issuance and modification of the Special Permit more recently in 2016, have not changed sufficiently so as to require any additional terms or conditions. As stated above, the area the supermarket is located in is, and remains, a commercial, retail area and the Applicant provides a valuable resource for both pedestrians and surrounding residents.

# Hollis Laidlaw & Simon

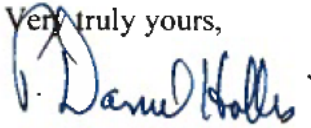
Further, with respect to **Subsection B**, the Applicant has been compliance with the terms and conditions of the Special Permit and no notices of violation pursuant to Section 230-173 have been issued.

Classification of a particular use as a special permit use is tantamount to a legislative finding that the permitted use is in harmony with the general zoning plan and will not adversely affect the neighborhood. *Twin Cnty. Recycling Corp. v. Yevoli*, 90 N.Y.2d 1000, 1002, 688 N.E.2d 501, 502 (1997). In granting a special permit, the permitting authority permit must “clearly state the conditions it require[s] petitioners to adhere to in connection with the approval.” *Anderson v. Town of Clarence & Town Bd. of Clarence*, 294 A.D.2d 837, 838, 740 N.Y.S.2d 907, 908 (4<sup>th</sup> Dep’t 2002). And a determination to deny an application to obtain or to renew a special use permit may not be based on generalized community objections. *Metro Enviro Transfer, LLC v. Vill. of Croton-on-Hudson*, 5 N.Y.3d 236, 241, 833 N.E.2d 1210, 1212 (2005). Accordingly, here, where the applicant has not violated the conditions of the 2016 Special Permit, this Board should grant its current application to renew the Special Permit to continue operating the supermarket. *See Twin County. Recycling Corp. v. Yevoli*, 90 N.Y.2d 1000, 1002, 688 N.E.2d 501, 502 (1997) (annulling the determination to deny an application to renew a special permit upon finding that the application was denied not because it failed to meet the applicable criteria but because of generalized community pressure).

Finally, the Applicant also respectfully observes that Section 230-56 states that the grant of a special permit “*may* be conditioned on period renewal” and not that it *must* be conditioned on periodic renewal and therefore requests that the reissued Special Permit not be conditioned upon renewal and instead be issued permanently given the Applicant’s long history and continued compliance with Croton-on-Hudson Zoning Code.

I respectfully request that this matter be scheduled on the Village Board’s agenda of January 10<sup>th</sup>, 2024 for a referral to the Planning Board for its inclusion on the Planning Board’s agenda of January 16<sup>th</sup> for the purpose of the Planning Board’s consideration of a recommendation of approval of this application back to the Village Board.

Thank you for your consideration of this matter. If you have any questions or concerns regarding the enclosed, please contact the undersigned at (914) 666-5600, ext. 312, or via email at [pdhollis@hollislaidlaw.com](mailto:pdhollis@hollislaidlaw.com).

Very truly yours,  
  
P. Daniel Hollis, III

Enclosures

# **Exhibit A**



SEP. 12 1977

T/T Auto Parts, Inc.	A.1640.42 Garage	8.53	
" " " "	A.1440.47 Eng.	70.27	
" " " "	A.3120.47 Police	82.95	
" " " "	A.5650.47 Parking	17.73	
" " " "	A.8160.47 Refuse	14.03	193.51
" " " "	F.8340.47 Water	28.29	* 28.29
	Total General		135,002.93
	Water; Fo'd		* 5403.35
Ed & Ethel Green	F.2140 Refund	\$26.66	
Kerin P. Acassidy	F.8310.11 Water	150.00	
Linda J. Raccosta	F.8310.11 "	75.00	
Lisa M. Schiavi	F.8310.11 Water	85.00	
Sally Ann Giordano	F.8310.11 "	85.00	
Kelleher Appliance Serv.	F.8310.2 Water	252.70	
O & G Associates, Inc.	F.8310.2 Water	60.75	
N.Y. Telephone Co.	F.8310.45 Water	139.42	
Beacon Restaurant Supply Inc.	F.8320.42 Water	65.10	
Rex Industrial Paint Works	F.8320.47 Water	125.13	
Joseph G. Pollard Co., Inc.	F.8320.2 Water	591.00	
Bob-s Army & Navy Store	F.8340.42 Water	18.45	
Cole & Son Hardware Inc.	F.8340.42 Water	73.85	
Garfield Wolan Elec. Corp.	F.8340.42 Water	13.54	
Bob & Ott's Inc.	F.8340.47 Water	297.85	
Daniel L. Jerman Co.	F.8340.42 Water	223.16	
National Plumbing Supply	F.8340.42 Water	44.81	
Joseph G. Pollard Co., Inc.	F.8340.42 Water	1215.83	
Croton Hardware Inc.	F.8340.42 Water	107.03	
	Total Water		19053.63
Charles R. Velzy Associates, Inc.	Water System Mapping Cap.	\$1912.07	
Cahill Paving Corp.	Rprs. Grand St. FireHouse Cap.	\$9804.00	
			11,716.67

MAYOR ANNOUNCEMENT--BIG V SHOP RITE:

Mayor Price announced a change in the agenda, to first take up the decision of the Board of Trustees on the application of Shop Rite to build on the Starlight property. He stated that all the members of the Board are aware of the implications and this has been reviewed and re-reviewed.

Trustee Bogardus stated that it would be easy for him as an ex-Planning Board member to vote against Shop Rite, but he thought it was time the Village should be on a positive concern for its senior citizens and taxes. Trustee Bogardus offered the following resolution:

Where as, the Board of Trustees of the Village of Croton-on-Hudson, New York having held a public hearing on Saturday, July 16, 1977 to consider the application on behalf of Big V Supermarkets, Inc. for the granting of a special permit to conduct retail sales at the property designated on the village tax maps as Section 2, Block '98, Lots 1-E and Part of 1-G-1 in accordance with provisions of Section 3.14.4 of the Zoning Ordinance.

Now, therefore, be it resolved that the Board of Trustees of the Village of Croton-on-Hudson, New York hereby approves said application subject to the following conditions:

SEP. 12 1977

- ~~THIS~~ ~~AND ONLY PUBLIC~~
1. That roadway providing the main ingress and egress from the site shall be relocated approximately 150' further south to the location as set forth on the approved Woolco development site plans dated, July 31, 1973 all in accordance with the recommendations of the New York State Department of Transportation.
  2. There shall only be a single free standing sign which may be used to identify the shopping center, and which shall encompass any further development on the remainder of the site, The intent being that if and when the remainder of the site is developed there shall be only one free standing sign for the entire 13 + AC Parcel. The size, height, and location of such sign shall be as approved by the Village of Croton Planning Board, and be in accordance with the zoning ordinance.
  3. In as much as no part of the site covered by the site development plan can be usefully set aside for park or recreation purposes, the Board of Trustees has determined that the applicants shall pay to the Village of Croton-on-Hudson prior to the issuance of a building permit a sum in the amount of \$ \_\_\_\_\_ in lieu of the park or recreation land.
  4. Under paragraph 8 of the planning board's resolution of May 24, 1977 concerning solid waste disposal, the Board of Trustees directs as a condition of approval that all solid waste at the site be collected in a sealed solid waste compactor container ~~OR~~ CONTAINERS.
  5. The Board of Trustees directs that the planned lighting for the site be reviewed and more detailed specification on the parking lot lights as to height, location, size, and intensity be <sup>PROMULGATED</sup> by the Croton planning board before final approval.
  6. The Board of Trustees re-a-firms, and adopts as a condition for approval of this special permit the conditions as set forth in the Village of Croton-on-Hudson planning board's resolution of site plan approval dated May 24, 1977.
  7. Approval of this special permit shall run for a period of three years from the effective date of the Croton planning board's site plan approval dated, May 24, 1977, and on the expiration of said three year period shall be deemed automatically revoked.

SEP. 12 1977

Trustee Bencivenga seconded the motion and the vote was as follows:

AYES: Trustees Bogardus, Bencivenga and Hoffman.  
NAYS: Trustee Gabrielsen

Mayor Price stated "the primary reasons for approval were: new tax ratable coming at a time when we need new tax ratables badly; a long term trend that the village seems to have developed is that of saying "no" to all comers so maybe it's time to stop saying no, even if we do feel that the land in question could have been put to better use. And perhaps more than anything else, the Mayor declared, we have our share of families who, for a variety of reasons, are living on a tight budget or a fixed income and a fast turnover, highly competitive store will benefit that portion of Croton's residents, so perhaps it is time for us to realize that we are not just a village made up of many different kinds of people, coming from all walks of life, with substantial reserves of talent; but perhaps it's time to realize that the makeup of our population also cuts across all economic boundaries, and that the existence of Shoprite here will be a reflection of the needs of some portion of our residents."

Mayor Price continued, stating that for those people who worked for the denial of the permit, be assured that your arguments were not rejected. They were considered quite carefully, and for the most part were considered valid. The arguments for granting the permit carried more weight with this Board. "Working with this Board is an experience. It is truly an outstanding group; to hear me say this surprises some of them, because in the last two months, discussions have at times been acrimonious. On individual issues, we are seldom in complete agreement and on one issue, we are in total agreement, that is, that we are doing the best job we can to make Croton a better place to live."

There was a discussion of the conditions involved with the developing of the property called for in the resolution.

It was regularly moved by Trustee Bogardus, seconded by Trustee Hoffman and unanimously carried that the matter of the Shoprite development be remanded to the Planning Board for consideration, particularly with respect to the Village Board's resolution requiring additional rests and rulings on the part of the Planning Board.

PUBLIC HEARING ON LOCAL LAW PROVIDING FOR CONTROL OF USE OF UNLICENSED MOTOR VEHICLES:

Village Manager Cameron announced that the proposed local law public hearing notice had been published in the local newspaper on September 1, 1977 and copies of the proposed law had been circularized to the Board members.

Trustee Hoffman summarized the local law's provisions of the control of the use of unlicensed motor vehicles noting this does not include "mopeds", garden tractors, and lawn mowers.

Mr. W. Fanelli stated he took exception to one part of the law which applies to using a vehicle on one's own property. He felt this was too limiting for another law. Trustee Hoffman stated this does not prohibit anyone from operating a vehicle on his own property. It only has a restriction as to the noise or annoyance to neighbors.

## **Exhibit B**

Whereas, an application for a special permit, dated April 1, 1985, was filed pursuant to Section 3.14.3 of the Village Zoning Law by Big-V Shoprite Supermarkets, Inc. to reinstate a special permit granted by the Village Board on September 12, 1977, and to permit expansion of the existing retail sales area in a C-2 district at property designated on the Village tax maps as Section 2, Block 98, Lots 1E and 1-G-1, and

Whereas, a public hearing on said application was held by the Board of Trustees on May 20, 1985,

Now, Therefore, Be It Resolved that the Village Board of the Village of Croton on Hudson, NY, hereby approves the said application and grants the special permit subject to all of the following conditions:

1. There shall be only one free-standing sign to identify the shopping center, which sign shall encompass the entire 7.897 acre site. The size, height, and location of such sign shall be as approved by the Village of Croton Planning Board and shall be in accordance with applicable zoning regulations.
2. Access to the site shall be limited to the existing roadway constructed pursuant to site plan approval granted May 24, 1977.
3. The proposed building additions shall be limited to 13,680 sq. ft. with elevations, facades, and finishes to match that of existing construction.
4. All revisions to the previously approved site plan, including but not limited to, site lighting, handicapped parking, landscaping and drainage shall be subject to review and approval by the Village of Croton on Hudson Planning Board.
5. Roof-mounted utilities shall be limited to an overall height of 65" measured from roof surface. All such utilities are to be enclosed in appropriate material so as to be hidden from view.
6. All applicable conditions as set forth in Planning Board resolution granting site plan approval, dated May 24, 1977 and not herein enumerated, and, further, subject to any additional conditions the Village of Croton on Hudson Planning Board may impose in approving amended site plans.
7. That approval of this Special Permit shall run for a period not to exceed five years, said five-year period commencing on May 20, 1985; upon the expiration of this five-year period, said Special Permit shall be deemed automatically revoked.

Big-V draft (Planning Bd)

5/20/85

PUBLIC HEARING

Shoprite application to reinstate a Special Permit granted September 12, 1977.

Village Manager Herbek - Legal notice dated May 10, 1985 published in Patent Trader. Mr. Herbek read comments from the Planning Board, Westchester County and Village Engineer Tully with regard to this application and their request to permit expansion of the retail sales area.

John Gochman, Esq. and Mr. Ed Silver, Plan Engineer were present and Mr. Gochman presented Shoprite's application to the Board and audience. He commented that the additional 10,680 sq. ft. would generate an additional 20 jobs for the area and that the company's salary at Croton is over one million dollars. The Village, Town and County taxes are approximately \$32,475.00. The additional assessment would generate \$5,458.00 in taxes for the Village. The original plaza was built under a program that gave a business tax abatement and this program expires in 1989. Therefore, the tax base for the Village would go up. This would be a final expansion.

PUBLIC HEARING OPENED FOR APPROVAL OF SPECIAL PERMIT

Claudia Smart commented that there were too many trees included on the plans.

John Gochman, Esq. said that this is something that can be worked out.

Mayor Bogardus advised that there would be a public hearing on the site plan approval and requested that Claudia Smart attend.

Claudia Smart and Stephanie Bourdon spoke in favor of this application.

Mayor Bogardus asked if they intended to pay the full amount of the taxes and not look for any abatements.

Village Manager Herbek commented that there is an application currently pending on this matter.

John Gochman, Esq. stated he would find out what Shoprite's position is and set up a meeting with the Village.

PUBLIC HEARING CLOSED

Trustee Pohlmann moved that the following resolution be approved, seconded by Trustee Giglio. All voted in favor.

REGULAR MEETING OF THE CROTON-ON-HUDSON BOARD OF TRUSTEES HELD MONDAY, APRIL 15, 1985  
IN THE MUNICIPAL BUILDING, VAN WYCK STREET, CROTON-ON-HUDSON, N. Y.

Present: Mayor Bogardus  
Trustee Pohlmann  
Trustee Giglio  
Trustee Divney  
Trustee Beller  
Village Manager Herbek  
Village Attorney Waldman  
Village Treasurer Campbell

Meeting called to order at 8:00 p.m.

MINUTES

The minutes of the April 1, 1985 meeting were approved on a motion by Trustee Pohlmann, seconded by Trustee Giglio. This was subject to additions and corrections. All voted in favor.

VOUCHERS

General	\$33,271.23
Water Fund	2,393.41
Cap Accounts	1,619.09
Fed. Rev. Sharing	9.45

The vouchers were approved, subject to review by the auditing committee, on a motion by Trustee Giglio, seconded by Trustee Divney. All voted in favor.

CORRESPONDENCE

Letter from John J. Gochman, representing Shoprite Plaza

submitting an application for reinstatement of special permit granted to Big-V Shoprite Supermarkets, Inc. Also enclosed was preliminary site development plan, description of the proposed use, copy of environmental assessment form and check payable to the Village of Croton for \$50.00, for the filing fee.

Village Manager Herbek advised that copies of this letter have been forwarded to the Planning Board and the Village Engineer.

Trustee Beller moved that this be referred to the Planning Board for their recommendations. This was seconded by Trustee Pohlmann. All voted in favor.

Letter from Westchester Developmental Disabilities Services Office

advising that they are working to establish community residential programs for disabled people in New York State. They would like to meet with a committee from the Village for suggested sites. They advised that they would be contacting us in the near future

Trustee Beller suggested that we acknowledge receipt of this letter.

March 18, 1985

CORRESPONDENCE (continued)

Letter from Barbara Goldberg, President of Croton Council On The Arts, Inc.

asking if the Croton Council On the Arts might become involved in early planning discussions of the River Club project in the event the developers are successful with their plans to build.

Mayor Bogardus - this letter should be kept with the River Club file and if the project gets started, consider it at that time.

Trustee Pohlmann - A copy of this should also be sent to the Planning Board at the appropriate time.

Trustee Fiorito - This would have been another area where we could have looked for funds for the community center, outside of this building.

Letter from Paul Feiner, Westchester County Board of Legislators

Advising that he has proposed that the county adopt legislation which would give municipal officials six months advance notice of bus route cutbacks, prior to eliminating or cutting the route. He also has proposed that the county create a 17 member transportation marketing advisory council that would be responsible for monitoring county efforts to promote bus routes and suggesting ways to advertise the benefits of mass transit to potential riders. He asked our support on this proposal .

Trustee Pohlmann - suggested a memo be sent to Bob Hazard advising him that we would be concerned if there is any cut back in services and asking that he keep us apprised of any changes.

Trustee Giglio - an inquiry should be made as to whether or not there is an advisory board that does have control, or can act as a sounding board for the people in the Village to contact.

Trustee Fiorito - we could have looked for a little help when we lost the service to the Croton North Station, and we did try to get the county to come in with an additional loop around the Village. If we had an advisory council it would have been helpful to us.

Letter from John J. Gochman, representing Big V Supermarkets

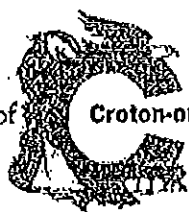
requesting a reinstatement of the special permit issued to the Big V in May, 1977, and asking that it be extended to include the proposed additions which are set forth in the amended site plan submitted to the planning board.

Village Manager Herbek - we need a more detailed application, fulfilling all of the requirements of the zoning law, together with a check for \$50.00.

Mayor Bogardus - Mr. Gochman should be notified as to what is required.



# **Exhibit C**

 <p>Village of <b>Croton-on-Hudson</b></p> <p>Building Department  Stanley H. Kellerhouse Municipal Building  One Van Wyck Street  Croton-on-Hudson, NY 10520-2501  Tel: 914-271-4783, Fax: 914-271-3790</p>	<p><b>Certificate of</b></p> <p><b>Occupancy</b></p> <p><b># 20070030</b></p> <p><b>DATE ISSUED: 01/29/07</b></p>
---	---

Application No.: 20070043	Application Date: 01/25/07
Bldg. Permit No.: 5131	Bldg. Permit Date: 10/20/04
Location: 440460 SO RIVERSIDE AVE	
Parcel number: 079.17-002-002.000	Subdivision: _____ Lot # _____

THIS CERTIFIES that the improvement located at premises indicated above, conforms substantially to the approved plans and specifications heretofore filed in this office with application for building permit dated as indicated above, pursuant to which Building Permit was issued, and conforms to all of the requirements of applicable provisions of the law.

The improvement and use for which this certificate is issued:

Description of improvement: BP #5131 OF 10/20/04 TO REPLACE 2 EXISTING PROPANE UST'S	(See Plan)
Building use: Commerolal	

This certificate of occupancy is issued subject to any Special Permits or Variances issued.

Special Permit: NONE	Date Issued: _____
Variance: NONE	Date Issued: _____

This certificate is issued to:

Owner: CROTON ENTERPRISES, LLC	
303 SO BROADWAY, STE 450 , TARRYTOWN, NY 10591	

with the following conditions:

1. This certificate of occupancy may be revoked if it has been determined that fraud and/or deceit were used to hide defects in the work or non-compliance with applicable codes, rules and regulations, or that the certificate of occupancy was issued in error.
2. This certificate does not in any way relieve the owners, or any other person or persons in possession or control of the premises, building or any part thereof, from obtaining such other permits or licenses as may be prescribed by any codes, rules and regulations for the uses or purposes for which the building or premises is designed or intended; nor from complying with any lawful order issued with the object of maintaining the premises or building in a safe or lawful condition.
3. No change or re-arrangement in the structural parts of the building, or in the exit facilities, shall be made and no enlargement, whether by extending on any side or by increasing in height shall be made, nor shall the building be moved from one location to another, until a permit to accomplish such change has been obtained from the Building Inspector.
4. Any change in the nature of use of any parcel of property or extension or change in the present area of use or change in the access from the parcel of property to a street or streets for which a change of use or access permit is required under Section 86-9H of the Village Code or the continuance of any such change of use or access effected after May 18, 1964, shall require a new certificate of occupancy.

Joseph Sperber, Assistant Building Inspector

Permit Fee: \$ 50.00  
Fees Received: \$ 50.00

FORM NO. 6

Application No. 3 Permit No. 4914 <sup>NYC</sup> **5239**

Building Department  
VILLAGE OF CROTON-ON-HUDSON, N.Y.  
Van Wyck St. Tel. 271-4783  
County of Westchester

Location 440 So. Riverside Ave.  
Section 79.17 Block 2 Lot 2

**CERTIFICATE OF OCCUPANCY**

No. 5239 Date July 23, 2003

THIS CERTIFIES that the building located at premises indicated above, conforms substantially to the approved plans and specifications heretofore filed in this office with Application for Building Permit dated 1/24/03, pursuant to which Building Permit was issued, and conforms to all of the requirements of the applicable provisions of the law. The occupancy for which this certificate is issued is \_\_\_\_\_

Interior alterations  
(SHOP RITE SUPERMARKET) 11/20/13  
This certificate is issued to Croton Enterprises LLC  
(owner, leasee or tenant)  
of the aforesaid building.

*Joseph Scorsone*  
Village Engineer  
*ASST. BUILDING INSPECTOR*

(The Certificate of Occupancy will be issued only after affidavits or other competent evidence is submitted to the Building Inspector, that the completion of the construction is in compliance with the State Building Construction Code and with other laws, ordinances or regulations affecting the premises, and in conformity with the approved plans and specifications. A final electrical, plumbing, heating or sanitation certificate or other evidence of compliance may be required before the issuance of the Certificate of Occupancy.)

This certificate does not in any way relieve the owners, or any other person or persons in possession or control of the premises, building or any part thereof, from obtaining such other permits or licenses as may be prescribed by law for the uses or purposes for which the building or premises is designed or intended; nor from complying with any lawful order issued with the object of maintaining the premises or building in a safe or lawful condition.

No change or re-arrangement in the structural parts of the building, or in the exit facilities, shall be made and no enlargement, whether by extending on any side or by increasing in height shall be made, nor shall the building be moved from one location to another, until a permit to accomplish such change has been obtained from the Building Inspector.

This certificate supercedes each and every previously issued certificate of occupancy for these premises or this building or any part thereof and each and every such previously issued certificate shall be null and void; and this certificate in turn becomes null and void upon the issuance of a new lawful certificate.



Building Department  
**VILLAGE OF CROTON-ON-HUDSON**  
 1 Van Wyck Street  
 Croton-on-Hudson, NY 10520  
 County of Westchester  
 914-271-4783 Tel  
 914-271-3790 Fax

Application No.: 98 Application Date 9/17/04  
 Bldg. Permit No.: 513210/21/04 Bldg. Permit Date 10/21/04

Location 440-460 South Riverside Ave.

Section: 79.17 Block 2 Lot 2

## Certificate of Occupancy #5501

DATE ISSUED 10/21/04

THIS CERTIFIES that the improvement located at premises indicated above, conforms substantially to the approved plans and specifications heretofore filed in this office with application for building permit dated as indicated above, pursuant to which Building Permit was issued, and conforms to all of the requirements of applicable provisions of the law.

The improvement for which this certificate is issued:

Interior alterations, partition, ceiling & replacement of existing door (SHOP RITE SUPERMARKET)  
 11/20/15 AC

This certificate is issued to:

Croton Enterprises LLC

(owner, lessee or tenant)

*JOSEPH SPICER*

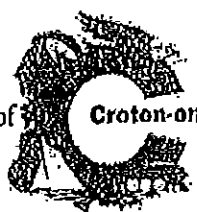
Village Engineer

*ASSIS BRAD PHELPS*

The Certificate of Occupancy will be issued only after affidavits or other competent evidence is submitted to the Building Inspector, that the completion of the construction is in compliance with the State Building Construction Code and with other laws, ordinances or regulations affecting the premises, and in conformity with the approved plans and specifications. A final electrical, plumbing, heating or sanitation certificate or evidence of compliance may be required before the issuance of the Certificate of Occupancy.

This certificate does not in any way relieve the owners, or any other person or persons in possession or control of the premises, building or any part thereof, from obtaining such other permits or licenses as may be prescribed by law for the uses or purposes for which the building or premises is designed or intended; nor from complying with any lawful order issued with the object of maintaining the premises or building in a safe or lawful condition.

No change or re-arrangement in the structural parts of the building, or in the exit facilities, shall be made and no enlargement, whether by extending on any side or by increasing in height shall be made, nor shall the building be moved from one location to another, until a permit to accomplish such change has been obtained from the Building Inspector.

 <p><b>Village of Croton-on-Hudson</b></p> <p>Building Department  Stanley H. Kellerhouse Municipal Building  One Van Wyck Street  Croton-on-Hudson, NY 10520-2501  Tel: 914-271-4783, Fax: 914-271-4790</p>	<p><b>Certificate of</b></p> <p><b>Occupancy</b></p> <p><b># 20120018</b></p> <p><b>DATE ISSUED: 04/12/2012</b></p>
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Application No.: 20070239	Application Date: 05/25/2007
Bldg. Permit No.: 20070054	Bldg. Permit Date: 07/12/2007
Location: 440-460 SOUTH RIVERSIDE AVENUE	
Parcel number: 079.17-002-002.00	Subdivision: _____ Lot.# _____

THIS CERTIFIES that the improvement located at premises indicated above, conforms substantially to the approved plans and specifications heretofore filed in this office with application for building permit dated as indicated above, pursuant to which Building Permit was issued, and conforms to all of the requirements of applicable provisions of the law.

The improvement and use for which this certificate is issued:

Description of improvement: INTERIOR RENOVATIONS SHOP RITE SUPERMARKET
Building use: SHOPPING CENTER

This certificate of occupancy is issued subject to any Special Permits or Variances issued.

Special Permit: NONE	Date Issued:
Variance: NONE	Date Issued:

This certificate is issued to:

Owner: CROTON ENTERPRISES LLC
120 WHITE PLAINS ROAD, SUITE 110, TARRYTOWN, NY 10591

with the following conditions:

1. This certificate of occupancy may be revoked if it has been determined that fraud and/or deceit were used to hide defects in the work or non-compliance with applicable codes, rules and regulations, or that the certificate of occupancy was issued in error.
2. This certificate does not in any way relieve the owners, or any other person or persons in possession or control of the premises, building or any part thereof, from obtaining such other permits or licenses as may be prescribed by any codes, rules and regulations for the uses or purposes for which the building or premises is designed or intended; nor from complying with any lawful order issued with the object of maintaining the premises or building in a safe or lawful condition.
3. No change or re-arrangement in the structural parts of the building, or in the exit facilities, shall be made and no enlargement, whether by extending on any side or by increasing in height shall be made, nor shall the building be moved from one location to another, until a permit to accomplish such change has been obtained from the Building Inspector.
4. Any change in the nature of use of any parcel of property or extension or change in the present area of use or change in the access from the parcel of property to a street or streets for which a change of use or access permit is required under Section 86-9H of the Village Code or the continuance of any such change of use or access effected after May 18, 1964, shall require a new certificate of occupancy.

Joseph Sperber, Assistant Building Inspector

Permit Fee: \$100.00  
Fee Received: \$100.00

Village of **Croton-on-Hudson**



Building Department  
Stanley H. Kellerhouse Municipal Building  
One Van Wyck Street  
Croton-on-Hudson, NY 10520-2501  
Tel: 914-271-4783, Fax: 914-271-3790

## Certificate of Occupancy

# **20120019**

**DATE ISSUED: 04/12/2012**

Application No.: 20070269 Application Date: 06/12/2007

Bldg. Permit No.: 20070051 Bldg. Permit Date: 06/29/2007

Location: 440-460 SOUTH RIVERSIDE AVENUE

Parcel number: 079.17-002-002.000 Subdivision: Lot #

THIS CERTIFIES that the improvement located at premises indicated above, conforms substantially to the approved plans and specifications heretofore filed in this office with application for building permit dated as indicated above, pursuant to which Building Permit was issued, and conforms to all of the requirements of applicable provisions of the law.

The improvement and use for which this certificate is issued:

Description of improvement: ~~MODIFY EXISTING STOREFRONT ENTRANCE DOORS(S) AND~~  
~~VESTIBULE AT THE SHOPRITE STORE~~ 11/16/13 JL  
Building use: SHOPPING CENTER

This certificate of occupancy is issued subject to any Special Permits or Variances issued.

Special Permit: NONE

Date Issued:

Variance: NONE

Date Issued:

This certificate is issued to:

Owner: CROTON ENTERPRISES LLC  
120 WHITE PLAINS ROAD, SUITE 110, TARRYTOWN, NY 10591

with the following conditions:

1. This certificate of occupancy may be revoked if it has been determined that fraud and/or deceit were used to hide defects in the work or non-compliance with applicable codes, rules and regulations; or that the certificate of occupancy was issued in error.
2. This certificate does not in any way relieve the owners, or any other person or persons in possession or control of the premises, building or any part thereof, from obtaining such other permits or licenses as may be prescribed by any codes, rules and regulations for the uses or purposes for which the building or premises is designed or intended; nor from complying with any lawful order issued with the object of maintaining the premises or building in a safe or lawful condition.
3. No change or re-arrangement in the structural parts of the building, or in the exit facilities, shall be made and no enlargement, whether by extending on any side or by increasing in height shall be made, nor shall the building be moved from one location to another, until a permit to accomplish such change has been obtained from the Building Inspector.
4. Any change in the nature of use of any parcel of property or extension or change in the present area of use or change in the access from the parcel of property to a street or streets for which a change of use or access permit is required under Section 86-9H of the Village Code or the continuance of any such change of use or access effected after May 18, 1964, shall require a new certificate of occupancy.

  
Joseph Sperber, Assistant Building Inspector

Permit Fee: \$100.00  
Fee Received: \$100.00

FORM No. 6 (1/06)

## **Exhibit D**

# SHAMBERG MARWELL HOLLIS ANDREYCAK & LAIDLAW, P.C.

ATTORNEYS AT LAW

55 SMITH AVENUE  
MOUNT KISCO, NEW YORK 10549  
(914) 666 - 5600

November 20, 2014

Board of Trustees of the  
Village of Croton-on-Hudson  
c/o Pauline DiSanto  
Village Clerk of the  
Village of Croton-on-Hudson  
Stanley H. Kellerhouse Municipal Building  
1 Van Wyck Street  
Croton-on-Hudson, NY 10520

Re: **Special Permit Use- Amendment for Site Development Plan  
(Croton-on-Hudson Village Code § Chapter 230, Article X.  
Special Permit Uses)**

ShopRite Supermarkets Inc.  
460 South Riverside Avenue  
Section 79.17, Block 2, Lot 2

Dear Members of the Board:

On behalf of the applicant ShopRite Supermarkets, Inc. ("ShopRite") we submit this application for a re-issuance and modification of a Special Permit Use in order to permit the continued operation of a Retail Store (supermarket) including the addition of approximately 20,844 sf. of new gross floor area at the above referenced location.

ShopRite currently operates a supermarket at the location, within a C-2 (General Commercial) zone, pursuant to a Special Permit Use which was originally issued in 1977 and amended in 1985.

## **History of the Special Permit Use on the Premises**

A Special Permit Use to operate a supermarket at the site was originally granted by Resolution of the Village Board on September 22, 1977, which Permit expired on May 24, 1980. *See*, 1977 Special Permit Use approval, attached. The expired Special Permit Use was reinstated and expanded by Resolution of the Village Board dated May 20, 1985, which Permit, by its own terms, ran for a period of five (5) years, expiring on May 20, 1990. *See*, 1985 Special Permit Use approval, attached. Since the expiration of the Special Permit Use on May 20, 1990, the ShopRite space has received five (5) Certificates of Occupancy for additional work performed on the ShopRite space on the premises, none of which Certificates of Occupancy identified the need for the reinstatement or



November 20, 2014

Page 2

modification of the Special Permit Use. *See*, post-1990 Certificates of Occupancy<sup>1</sup>, attached.

### **Proposed Expansion**

As shown on the accompanying plans, ShopRite is proposing to renovate the existing retail space and to expand and add approximately 20,844 sf. of additional floor area to the existing supermarket retail area. The proposed expansion will consist of an additional 5,992 sf. to be constructed along the rear of the building, an additional 9,967 sf. to be constructed along the left hand side of the building, an additional 3,421 sf. mezzanine area along the front, left hand side of the building and the construction of a 1,464 sf. vestibule along the front, right hand side of the building. The existing retail space will be upgraded and updated with new décor and the relocation and expansion of some departments, the alteration and widening of the aisles and the addition of new department and aisle signage. The cumulative effect of this expansion and renovation will be a beautiful, fresh and natural environment for our customers in the existing supermarket space.

### **Renovations to existing retail space**

As stated above, creation of an additional 20,844 sf. of additional floor area allows for the renovation and expansion of the existing supermarket, in the following ways:

#### **Produce Department**

We are planning to expand the Produce Department to provide the widest possible variety of healthy and affordable fruits and vegetables in addition to widening the department aisle. This will enhance the shopping experience by providing more space for customers to browse and take their time in making selections.

#### **Deli Department**

With more consumers turning to the grocery store for convenient meals and the fresh values, our Deli Department will be increasing our “meal solution segment”, to include a fresh Hot Foods Line.

#### **Fish Department**

The new Fish Department will be offering a vast array of fresh and frozen selection of Seafood, including an increased variety of marinades, sauces, seasonings, herbs and other ingredients that complete a meal with seafood as the centerpiece.

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<sup>1</sup> Certificate of Occupancy dated July 23, 2003 (for interior alterations);  
Certificate of Occupancy dated October 21, 2004 (for interior alterations, partition, ceiling & replacement of existing door);  
Certificate of Occupancy dated January 29, 2007 (to replace 2 existing propone UST's);  
Certificate of Occupancy dated April 12, 2012 (for interior renovations ShopRite Supermarket);  
Certificate of Occupancy dated April 12, 2012 (to modify existing storefront entrance doors and Vestibule at the ShopRite store).

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Page 3

Bakery Department

ShopRite will be improving the variety of offerings in our Bakery Department and selling an expanded line of fresh delicious baked goods while providing the same ShopRite value.

Meat Department

The Meat Department is being expanded to provide more variety packaging and selection. This will include a larger section of frozen meats.

Grocery

The perishable departments are proposed to be expanded which allows for our grocery aisles to offer additional product and variety including more economical bulk packaging.

**General Requirements- Village of Croton-on-Hudson Code, Article X of Chapter 230**

The procedure regulating the re-issuance and modification of a Special Permit is set forth in the Village Code (§ 230-55 *et seq.*) and requires an applicant to initially identify and document six (6) items (A through F):

**A. A description of the proposed use, with reference to the appropriate use and regulations of this chapter, including any supplementary regulations applying thereto.**

The Applicant proposes to continue and expand its existing use as a retail store (supermarket) as it has operated at the premises since 1977. As per Village Code § 230-17(A)(1) any use permitted in a Commercial C-1 District, is permitted within a C-2 district (as set forth in § 230-16A), except that for any properties *not* within the Harmon/South Riverside area of the Gateway Overlay District, a “retail store” is permitted only by special permit of the Village Board of Trustees. As set forth above, the expansion of the ground floor area of the supermarket is for the purpose of improving the store layout and customer access to the merchandise being offered for sale and to improve the customer experience while shopping at ShopRite.

The Applicant is also subject to and in compliance with those supplementary regulations set forth at § 230-43 which sets forth the method of measuring the height of nonresidential buildings and § 230-44 which governs the use of Signs on commercial property.

The proposed expansion will not implicate §230-43 because the height of the building will remain in conformance with the maximum height permitted (maximum permitted, two (2) stories; one (1) story proposed).

The Applicant is proposing to add new signage on the front, left-hand side of the building over the proposed mezzanine area. This proposed signage will be a ShopRite logo, consistent with the logo located over the vestibule/entrance-way on the front, right-hand side of the building.

**B. A cost-benefit analysis or similar study to review the estimated municipal costs, services and prospective revenues which would be generated by the proposed use.**

It is respectfully submitted that the expansion of the ground floor area of the retail space will not create any significant new burdens on municipal costs, services and prospected revenues. As set forth above, the formal re-issuance of the expired Special Permit will merely confirm the status quo, which the operation of a retail supermarket within an already existing and operational shopping center tract. Moreover, to the degree that the proposed expansion which will add approximately 20,844 sf. of gross floor area, the purpose of the expansion is to improve the customer service and the range and quality of items offered to customers, which is not expected to add municipal costs, burden services or to directly generate significant prospective revenues for the Village.

**C. Evidence that the proposed use is consistent with the goals of the Village's Master Plan.**

The Village's "Master Plan" is currently embodied in the Village of Croton-On-Hudson 2003 Comprehensive Plan adopted on January 21, 2003 ("2003 Comprehensive Plan").

The 2003 Comprehensive Plan identifies the ShopRite supermarket as part of the existing "ShopRite Shopping Center" within what the Comprehensive Plan describes as the Riverside/Harmon Shopping Area. *See*, 2003 Comprehensive Plan, pp. 66-67. The continued operation of the ShopRite retail store (supermarket) use is consistent with the goals of the 2003 Comprehensive Plan, which states that "the location of the Harmon/South Riverside shopping area enhances its retail potential: it is accessible to pedestrians from the surrounding neighborhoods and is a gateway to Croton from the Croton-Harmon Railroad Station via Croton Point Avenue."

The proposed application for the re-issuance and amendment of a Special Permit Use in order to continue the operation of a retail store (supermarket) at the 460 South Riverside Avenue location is furthermore consistent with the 2003 Comprehensive Plan's recommendations that "no new rezonings occur that would permit commercial development outside of those areas currently zoned for commercial development" and that if "rezoning to commercial done in the future, the scale and massing of the existing structures should be maintained." *See*, Comprehensive Plan, pp. 82.

**D. A traffic and circulation study projecting the effects of the proposed use of the existing and probably future traffic and access in the vicinity of the proposed use.**

The proposed application for a re-issuance and amendment of a Special Permit Use in order to continue to operate a retail store (supermarket) in the ShopRite Shopping Center on South Riverside Avenue is not expected to have any

November 20, 2014

Page 5

significant effects on future traffic access in the vicinity of the supermarket or within the existing Shopping Center. The proposed additions are primarily located in the rear of the building, toward the portion of the property line which borders on Route 9 and on the left hand side of the building which borders on a vacant lot. These proposed additions will not have any negative effects on vehicular access to the site, nor will they have any negative effects on the circulation of traffic within the site. The internal renovations will primarily serve to improve the customer experience by upgrading the internal décor, relocating and expanding some departments, altering and widening the aisles and adding new department and aisle signage. The construction of a new mezzanine and vestibule in the front portion of the store will improve pedestrian customer access to the store.

Moreover, following the proposed addition of the approximately 20,844 sf., the Applicant will continue to be in conformance with the parking requirements set forth at §230-51 of the Village Code. See, Parking Calculations on Site Plan C1.0.

**E. Copies of environmental assessments or permit applications and supporting materials which may be required to meet New York State or federal regulations.**

Attached are a Short Form EAF and Coastal Assessment Form providing all of the required information regarding the Application's expected impacts.

**F. A stormwater pollution prevention plan (SWPPP) consistent with the requirements of Chapter 196, Article I, Stormwater Management and Erosion and Sediment Control, shall be required for any special permit approval that qualifies as or authorizes a land development activity as defined in Chapter 196, Article I.**

The Applicant's proposal to construct an additional 20,844 sf. of gross floor area constitutes a "land development activity" as defined in Chapter 196, Article I. The attached letter from the Lauro Group addresses the issue of the SWPPP, which cannot be fully prepared at this stage of the project. Nevertheless, the Applicant acknowledges that a full SWPPP which addresses all of the relevant areas of inquiry, must be approved prior to final approval of the Special Permit Use and Site Plan.

Based upon the submitted proposed Site Plan and related drawings and documents and based upon the reasons set forth above, it is respectfully requested that the applicant, ShopRite, be re-issued a Special Permit Use and also be granted permission to amend that Special Permit Use and its Site Plan to add 20,844 sf. of additional floor area in order to allow for the renovation and expansion of the existing supermarket retail space.

SHAMBERG MARWELL HOLLIS ANDREYCAK & LAIDLAW, P.C.

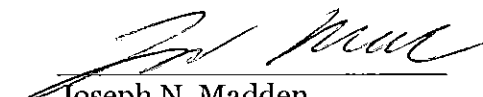
November 20, 2014

Page 6

Thank you for your consideration of this matter, please do not hesitate to call me at (914) 666-5600 ext. 332 if you have any questions or concerns about this submission.

Very truly yours,

SHAMBERG MARWELL HOLLIS  
ANDREYCAK & LAIDLAW, P.C.



Joseph N. Madden

JNM/kc  
Enclosures

# **Exhibit E**



*Mayor*  
Dr. Greg Schmidt

*Trustees*  
Bob Anderson  
Ann Gallelli  
Brian Pugh  
Ken Walsh

*Village Manager*  
Janine M. King

*Treasurer*  
Sandra Bullock

*Clerk*  
Pauline DiSanto

*Engineer*  
Daniel F. O'Connor, P.E.

April 14, 2016

**Shamberg Marwell Hollis Andreycak  
and Laidlaw, P.C.**  
Attorneys at Law  
Attn: Daniel Hollis, III  
55 Smith Street  
Mt. Kisco, NY 10549

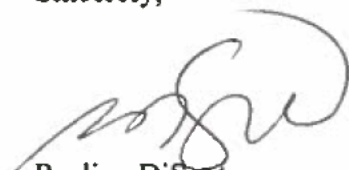
**Re: Shop Rite Supermarket Special Permit**

Dear Mr. Hollis:

At the April 4, 2016 Regular Village Board Meeting, the Village Board of Trustees approved the request for modification and renewal of a Special Permit for Shop Rite Supermarkets, Inc. located at 460 South Riverside Avenue, Croton on Hudson, NY.

This letter and the attached certified resolution will serve as your permit and shall be valid for a period of five years from the date of issuance. Any application for renewal of the permit shall be made no later than 90 days prior to the expiration date.

Sincerely,



**Pauline DiSanto**  
Village Clerk

On motion of TRUSTEE WALSH, seconded by TRUSTEE GALLELLI, the following resolution was adopted unanimously by the Board of Trustees of the Village of Croton-on-Hudson, New York; with a 5-0 vote.

WHEREAS, the Village Board of Trustees has received an application from Shop Rite Supermarkets, Inc. for a modification and renewal of its Special Permit at 460 South Riverside Avenue, and

WHEREAS, on January 20, 2015 the Village Board declared itself lead agency for SEQRA purposes in connection with the proposed action; and

WHEREAS, the Village received a modified application from Shop Rite Supermarkets Inc. reflecting a revised site development plan; and

WHEREAS, on January 19, 2016 the Village referred the revised application packet to the Planning Board for recommendation back to the Village Board and referred the Environmental Assessment Form, Coastal Assessment Form and all other application documents to the Waterfront Advisory Committee for its written preliminary recommendation of consistency with the Village's Local Waterfront Revitalization Program; and

WHEREAS, the Village Board of Trustees has received a favorable recommendation from the Planning Board; and

WHEREAS, the Waterfront Advisory Committee (WAC) has issued a preliminary and final recommendation of consistency with the LWRP in connection with the Proposed Action; and

WHEREAS, on March 7, 2016 the Village Board of Trustees issued and adopted the EAF Parts 2 and 3 Determination of Significance and adopted a Negative Declaration in connection with the proposed action; and

WHEREAS, on April 4, 2016 the Village Board determined that the Proposed Action was consistent with the policy standards and conditions set forth in the Village's Local Waterfront Revitalization Program; and

WHEREAS, a Public Hearing was held and closed on April 4, 2016; and

WHEREAS, the Village Board has reviewed the objectives and goals listed in section 230-58 of the zoning code,

NOW THEREFORE BE IT RESOLVED: the Village Board makes the following findings with respect to the goals and objectives listed in Section 230-58 of the zoning code:

1. All structures in the existing shopping center including the proposed addition to ShopRite are found to be accessible to fire, police and EMS responders.
2. The existing structures and the proposed 17,000± square foot addition to ShopRite are found to be compatible with the orderly development of the General Commercial (C-2) zoning district in which it is located and that of adjacent properties in conformity with the zoning district applicable to such properties.
3. The vehicle traffic of the existing retail use and proposed addition to ShopRite is found to be in congruity with the normal traffic of the neighborhood and the safety and convenience of pedestrians are found to be improved by the proposed lighted sidewalk from the northerly entrance of the shopping center to the store entrance.



4. The location and height of the existing structures and proposed addition to ShopRite and the location, nature and height of walls and fences and nature and extent of landscaping on the site are found to be compatible with adjacent land and buildings and their appropriate development.
5. Ecological or environmental assets of the site or adjacent lands are found to be preserved with the implementation of the landscaping and storm water pollution prevention plans.

AND BE IT FURTHER RESOLVED: that the Village Board issues a special permit for a modification and renewal of Shoprite Supermarket's Special Permit at 460 South Riverside Avenue subject to the following conditions:

- A. That, replacement trees (3.5" caliper) be planted on site as shown on the concept tree planting plan to be more specifically determined by the Planning Board during site plan review.
- B. That, an ADA accessible sidewalk from the northern entrance along South Riverside Avenue to the southern entrance to the ShopRite entrance be provided with the Planning Board's review and approval of the details during site plan approval.
- C. That lighting be provided for the proposed sidewalk (accessible route) for increased safety and access for pedestrians during the evening hours.
- D. That, a stormwater pollution prevention plan (SWPPP) consistent with the requirements of Village Code Chapter 196, Article I, Stormwater Management and Erosion and Sediment Control, shall be approved by the Village Engineer prior to the issuance of a building permit.
- E. That, amended site plan approval for the proposed addition and associated site improvements be obtained from the Planning Board.
- F. That, this special permit is issued for a five (5) year term, and application for renewal of the special permit shall be made no later than three months prior to the expiration date.

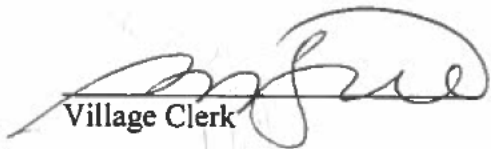
Dated: April 4, 2016

\*\*\*\*\*

State of New York            )  
   ss:  
 County of Westchester    )

I, Pauline DiSanto, Clerk of the Village of Croton-on-Hudson, in the County of Westchester, State of New York, do hereby certify that the annexed resolution is a copy of an original on file in my office and has been duly adopted at a regular meeting of the Board of Trustees of said Village held on April 4<sup>th</sup>, 2016.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of the said Village this 14<sup>th</sup> day of April, 2016.

  
 Village Clerk

(Seal)

# **Exhibit F**



**ENGINEERS OFFICE**  
Stanley H. Kellerhouse Municipal Building  
One Van Wyck Street, 2<sup>nd</sup> floor  
Croton-on-Hudson, NY 10520-2501

*Mayor*  
Gregory Schmidt  
*Trustees*  
Robert Anderson  
Ann Gallelli  
Brian Pugh  
Ken Walsh  
*Village Manager*  
Janine King  
*Village Treasurer*  
Sandra Bullock  
*Village Engineer/Building Inspector*  
Daniel O'Connor, P.E.  
*Asst. Building Inspector/Assessor*  
Joseph Sperber  
*Fire Inspector*  
Peter Anfitatro  
*Office Manager*  
Ronnie Rose

May 12, 2016

Mr. P. Daniel Hollis, III  
Shamberg Marwell Hollis Andreycak & Laidlaw, P.C.  
Attorneys at Law  
55 Smith Avenue  
Mount Kisco, New York 10549

**Re: Amended Site Plan  
ShopRite Supermarkets Inc. – 460 South Riverside Avenue  
Sec. 79.17 Block 2 Lot 2**

Dear Mr. Hollis:

At its regularly scheduled meeting on Tuesday, May 10, 2016, the Planning Board of the Village of Croton-on-Hudson granted Amended Site Plan approval for the proposed expansion of ShopRite Supermarket at 460 South Riverside Avenue. Enclosed is the resolution with conditions for the Amended Site Plan approval.

We look forward to working with ShopRite during the building permit application and construction process.

If you have any questions, please don't hesitate to call me at 271-4783.

Sincerely,

Daniel O'Connor, P.E.  
Village Engineer

DOC:rr

Enclosure

cc: Robert Lauro, P.E. (via e-mail)  
Dan Peveraro, P.E. (via e-mail)  
File

## **RESOLUTION**

**WHEREAS**, the Planning Board held a public hearing on an Amended Site Plan application on Tuesday, April 26 and May 10, 2016 for ShopRite Supermarkets, LLC at 460 South Riverside Avenue, hereafter known as "the Applicant," said property located in the C-2 Zoning District at 460 South Riverside Ave. and designated on the Tax Map of the Village of Croton-on-Hudson as Section 79.17 Block 2 Lot 2; and

**WHEREAS**, this Amended Site Plan application is for a proposed 17,000± square foot addition to the existing ShopRite building; and

**WHEREAS**, on April 4, 2016, the Village Board, issued a special permit for a modification and renewal of ShopRite Supermarket's Special Permit subject to certain conditions; and

**WHEREAS**, the Planning Board received comments from the Advisory Board on the Visual Environment; and

**WHEREAS**, under section 196-3(C) of the Village Code, the Planning Board is the approving authority for the Stormwater Pollution Prevention Plan (SWPPP) and hereby approves the Stormwater Pollution Prevention Plan, subject to the conditions specified below.

**WHEREAS**, under section 208-16(C) of the Village Code the Planning Board is the approving authority for the issuance of a Tree Removal Permit and in accordance with section 208-16(E) of the Village Code the approval of the Amended Site Plan includes the approval to remove trees noted on the site plan to be removed, subject to the conditions specified below.

**WHEREAS**, under section 120-4 of the Village Code the Planning Board is the approving authority for the issuance of an Excavation and Filling Permit and in accordance with section 120-3(C) of the Village Code, the approval of the Amended Site Plan incorporates the excavation and filling permit, subject to the conditions specified below.

**NOW, THEREFORE BE IT RESOLVED**, that the Amended Site Plan application, as shown on Sheet C0.0 entitled "Cover Sheet, "Sheet C1.0 entitled "Site Plan", Sheet C2.0 entitled "Removal Plans", Sheet C3.0 entitled "Grading & Drainage Plan", Sheet C4.0 entitled "Utility Plan", Sheet C5.0 entitled "Lighting Plan", Sheet C6.0 entitled "Landscape Plan", Sheet C7.0 entitled "Details Plan", and Sheet C7.1 entitled "Details Plan II", submitted by The Lauro Group, P.C., Islandia, New York, and last revised March 18, 2016, be approved subject to the following conditions:

1. That, the foregoing recitals are incorporated herein as if set forth at length.
2. That, all conditions specified in the Special Permit issued by the Village Board on April 4, 2016 are incorporated herein as if set forth at length.
3. That, the proposed bollard lighting in the South Riverside Avenue ROW be powered by a separate metered electrical circuit. Electrical plans for the separate metered electrical circuit are to be submitted to and approved by the Village Engineer prior to the installation of the lighting system.
4. That, ShopRite shall reimburse the Village for reasonable maintenance expenses for the bollard lighting system in the South Riverside Ave. ROW within 30 days of receipt of an invoice from the Village.
5. That, the final Stormwater Pollution Prevention Plan be submitted to and approved by the Village Engineer prior to the issuance of a building permit.

6. That, the site plans be approved by the Village Engineer prior to the issuance of a building permit.
7. That, the signage for the train parking spaces on South Riverside Avenue in the area of the proposed accessible sidewalk be relocated a minimum of 18" behind the proposed sidewalk prior to the construction of the sidewalk or as approved by the Village Engineer.
8. That, a parking lot maintenance agreement be required for the upkeep of the parking lot and the maintenance and health of the landscape trees and said agreement to be signed by the Landlord and the Village. That a draft agreement shall be submitted to the Planning Board for review and comment and recommendations to the Village Board. The agreement shall be finalized prior to a certificate of occupancy being issued.
9. That, the areas of the parking lot not having new pavement installed shall be patched, seal coated, and restriped to create a uniform looking surface appearance across the entire parking lot.
10. That, in accordance with sections 208-18 and 208-19 of the Village Code the following conditions are established for the approval to remove trees:
  - a. That, replacement trees (3.5" caliper) and shrubs be planted on site as shown on the approved landscaping plan.
  - b. That, if any of the trees noted on the plan to be saved are damaged during construction, the applicant will replace such trees with a tree of 3.5" minimum caliber with the species to be approved by the Village Engineer.
  - c. That, the trees to remain shall be protected with tree trunk armor and/or root zone protection as shown on the site plans listed above or as required by the Village Engineer.
  - d. That, in accordance with section 208-19(A) of the Village Code the applicant shall file with the Village a suitable bond or other security payable to the Village to cover the completion of conditions (a) through (c) above, said bond to be filed prior to the issuance of a building permit with amount and form of the bond to be approved by the Village.
  - e. That, tree removal operations shall not be permitted between the hours of 8:00 p.m. and 8:00 a.m. Sunday through Friday and between the hours of 8:00 p.m. and 10:00 a.m. Friday through Sunday.
  - f. That, any stumps remaining above grade shall be removed to less than two feet.
  - g. That, no tree removal shall occur unless a building permit has been issued by the Village Engineer.
  - h. That, within 30 days after the completion of all tree removals the Village Engineer shall be notified of such completion.
  - i. That, the approval to remove trees shall be valid for the term of amended site plan approval and shall terminate upon the issuance of a certificate of occupancy.

9. That, the following conditions are established as part of the approval of the Stormwater Pollution Prevention Plan under Chapter 196 of the Village Code:
- a. That, a copy of the SWPPP shall be retained at the site of the land development activity during construction from the date of initiation of construction activities to the date of final stabilization.
  - b. That, no land disturbance work shall commence until the installation of the sediment and erosion control devices has been completed and found acceptable by the Village Engineer or his authorized agent.
  - c. That, each contractor and subcontractor who will be involved in soil disturbance and/or stormwater management practice installation shall sign and date a copy of the following certification statement before undertaking any land development activity: "I certify under penalty of law that I understand and agree to comply with the terms and conditions of the stormwater pollution prevention plan. I also understand that it is unlawful for any person to cause or contribute to a violation of water quality standards." Copies of these statements shall be delivered to the Village Engineer prior to the issuance of a building permit.
    - i. That, the certification must include the name and title of the person providing the signature, address and telephone number of the contracting firm; the address (or other identifying description) of the site; and the date the certification is made.
    - ii. That, the certification shall contain proof that each contractor who will be involved in a land development activity has obtained training and/or certification in proper erosion and sedimentation control practices. Such certification shall become part of the SWPPP for the land development activity and shall be retained on-site.
  - d. That, the applicable stormwater facility maintenance, inspection and repair requirements in section 196-9 of the Village Code be complied with, the stormwater leaching structure shall be inspected annually within 48 to 72 hours after a heavy rainfall (1" or more) to determine that the leaching structure have drained. If the leaching structure have not drained remedial action shall be taken to rebuild the storm water management system and restore the infiltrative capacity of the soil. An inspection port or cover at grade shall be provided for each leaching structure.
  - e. That, deep and percolation tests be conducted in the area of the storm water leaching structure and the results included in the Storm Water Pollution Prevention Plan.
  - f. That, the applicant shall contact the Village Engineer at least 48 hours before any of the work inspections listed in section 196-10(A)(1) of the Village Code are required.
  - g. That, in accordance with section 196-10(C) an as-built plan of the stormwater management practices shall be submitted to the Village Engineer.
  - h. That, in accordance with section 196-10(F) the landowner shall grant to the Village the right to enter the property at reasonable times and in

a reasonable manner for the inspection of the stormwater management facilities.

11. That, in accordance with sections 120-7 and 120-8 of the Village Code the following conditions are established for the approval of the excavation and fill work:
  - a. That, suitable fencing, with a minimum height of 48", be provided to guard any excavation greater than four feet in depth. All gates shall be locked at all times when work is not being performed on the property.
  - b. That, excavation and/or filling work shall not commence until a building permit has been issued and erosion and sediment control devices have been installed, inspected, and accepted by the Village Engineer in order to prevent potential impacts to stormwater drainage, water bodies and/or wetlands.
  - c. That, during construction all excavations shall be drained so that any standing water at the bottom not be greater than one foot.
  - d. That, any fill from off-site shall be clean, containing no garbage, refuse or deleterious matter, the Village Engineer shall inspect all fill from off-site sources and may require testing, by an approved laboratory, to determine the cleanliness of the fill.
  - e. That, appropriate dust-control measures shall be implemented on-site and on access roads and any traveled areas used in connection with any excavation and/or filling work to protect the public and surrounding area against windblown soil and dust.
  - f. That, removal of soil or other material from the ground and/or placement of fill on the ground shall not prevent or interfere with the orderly development of land in the vicinity, shall not unreasonably impede traffic flow, or parking.
  - g. That, to prevent the earth of adjoining property from caving in before permanent supports have been provided for the sides of such excavation, any person causing any excavation to be made shall provide such sheet piling, bracing or other methods as may be necessary, plans for which are to be submitted to and approved by the Village Engineer prior to any such excavation being undertaken.
  - h. That, provisions shall be made for the temporary drainage of the property during excavations or filling operations and for the permanent drainage to be effective upon the completion of the operations.
  - i. That, any excess soil from the excavation shall be removed from the site immediately but in no event more than 20 days from excavation.
  - j. That, all disturbed areas not hardsurfaced or mulched shall be covered with 3" of top soil, perennial rye grass and mulch, and be reseeded and remulched as necessary to achieve a minimum 85% grass coverage or covered with other ground cover as shown on the approved landscaping plan.
  - k. That, the Village Engineer shall be notified by the next business day if bedrock is encountered in the excavation. If hammering is

required, a rock excavation plan shall be submitted to the Village Engineer for review and approval and shall not include any blasting operations. The rock excavation plan shall provide for the shortest possible timeframe for the removal of bedrock with the goal that all bedrock removal operations be conducted in a two to three week period as approved by the Village Engineer. The Village Engineer may extend this period on a day by day basis due to weather events that would not allow reasonable working conditions.

- l. That, in accordance with section 120-7 of the Village Code the applicant shall file with the Village a suitable bond or other security to cover the completion of conditions (a) through (k) above, said bond to be filed prior to the issuance of a building permit with amount and form of the bond to be approved by the Village.
- m. That, excavation and/or filling operations shall not be permitted between the hours of 8:00 p.m. and 8:00 a.m. Sunday through Friday and between the hours of 8:00 p.m. and 10:00 a.m. Friday through Sunday.
- n. That, there shall be no on-site processing of fill or excavated soil or the erection or use of any structure for such processing however, power equipment for the purpose of filling and excavation is permitted.
- o. That, the Planning Board reserves the right to impose additional reasonable conditions related to the excavation and filling operations during the terms of this approval if in its opinion such additional reasonable conditions are necessary.
- p. That, the approval for excavation and/or filling operations shall be valid for a period of one year starting on the date of issuance of the building permit and subject to termination or renewal as specified in section 120-10(A) of the Village Code.
- q. That, any revision to the work covered by the approval of the excavation and or filling work shall be reviewed by the Village Engineer and if determined to be a substantial revision a submission of a new application to the Planning Board shall be required.
- r. That, following the completion of the work the applicant shall submit a certification of completion by a NYS licensed design professional to the Village Engineer. The Village Engineer may require the submission of an as-built survey.
- s. The approval for excavation and filling operations may be suspended or revoked and stop work orders issued as set forth in section 120-10(E)-(G) of the Village Code.



Unless a building permit is issued and work is commenced and diligently prosecuted within three years of the date of the resolution approving the site plan, such site plan shall become null and void. Any application for an extension of site plan approval shall be made six months prior to the expiration date.

The Planning Board of the Village of  
Croton-on-Hudson, New York

Rob Luntz, Chairperson  
Steve Krisky  
Bruce Kauderer  
Janet Mainiero  
Rocco Mastronardi

Motion to approve by Mr. Mastronardi, seconded by Ms. Mainiero and carried all in favor by a vote of 5 to 0.

Resolution accepted at the meeting held on Tuesday, May 10, 2016.

