



7/20/2020

Mr. Albert DeSalvo, Chair and;
Members of the City of Albany Planning Board
200 Henry Johnson Blvd
First Floor, Suite #3
Albany, NY 12210

Re: Applications CUP #0028; DPR #0091; DR#0096-0098
Property Address 2, 2A, and 2 Rear Colvin Avenue; 1057 & 1061 Washington Avenue
Applicant Stewart's Shops Corp.

Mr. DeSalvo and Members of the Planning Board:

This letter serves to address the community and City concerns regarding Stewart's Shops proposed development at the corner of Colvin and Washington Avenue.

Conditional Use Permit Review Standards Section 375-5(E)(16):

(i) Is consistent with any provisions of this USDO and the Albany City Code;

Vehicle Fueling Station is an allowed use in the Mixed-Use Neighborhood Center (MU-NC) zoning district by Conditional Use Permit. The neighborhood consists of a mixture of residential and commercial uses. This proposal aligns with the goals of the MU-NC zoning district. Stewart's Shops is a committed community partner and will provide local retail services to the surrounding community.

(ii) Would not result in a random pattern of development with little relationship to existing or planned development

The neighborhood consists of a mixture of residential and commercial uses. This proposal aligns with the goals of the MU-NC zoning district. Again, Stewart's Shops is a committed community partner and will provide local retail services to the surrounding community. After analyzing the Colvin Avenue corridor, the only logical land that would be a well-planned development for vehicle fueling stations would be the corner of Central Ave and Colvin Ave as well as Washington Ave and Colvin Ave. The site that Stewart's decided to pursue is opposite the existing Sunoco station. Many times, vehicle stations are located nearby each other on opposite corners. See below (Section V) for a list of locations where Stewart's Shops co-exist with other gas station users. The Trip Generation Letter developed by Creighton Manning Engineering (CME) indicates that the convenience store and gasoline filling has a high pass-by trip association of roughly 65%. Figure 1 shows the existing Average Annual Daily Traffic (AADT) from the New York State Department of Transportation (NYSDOT). This means that Stewart's looks for existing traffic in appropriately zoned parcels because Stewart's is not a destination drive business. Further, Section 375-3(C)(4)(viii): Commercial Uses does not reference a separation requirement amongst similar uses and this would not result in a random pattern of development.



Colvin & Central



Colvin & Washington



(iii) Would not cause negative fiscal or environmental impacts on adjacent properties and the surrounding neighborhood;

Fiscal Impact:

FHA

FHA is one mortgage loan insurance option potential residential property purchasers could pursue to secure financing for a given property. FHA loans have no correlation to a given zoning district established by the municipality and many of the existing homeowners could have FHA insurance despite proximity to the existing Sunoco. Concerns were raised by a small group of opposition along Rosemont Street claiming that a potential purchaser of their property could not apply for an FHA loan due to the proximity to a vehicle fueling station and it would ultimately cause a financial hardship. After reviewing the Federal Housing Administration's Single-Family Housing Policy Handbook 4000.1 specifically page 549 the proximity to a vehicle fueling station the regulation states it is for "**above ground stationary storage tanks only** (documented on page 549 of the handbook)," presumably referring to large propane tank facilities. Further it appears the intent of this provision could be to protect households that had a well and septic, and all the surrounding properties are connected to municipal water and sewer.

Stationary Storage Tanks (see attached documentation)

"If the subject property line is located within 300 feet of an aboveground, stationary storage tank with a capacity of 1,000 gallons or more of flammable or explosive material, then the Property is ineligible for FHA insurance, and the Appraiser must notify the Mortgagee of the deficiency of MPR or MPS."

Financial: Diminish of Property Value

Stewart's Shops engaged a third-party appraisal company to perform a study/report to show any potential impacts from our proposed development. Attached is a report completed by Upstate Appraisal Services, Incorporated.



The findings from the report showed that 141 Rosemont Street would have no diminution in value as the dwelling is already influenced by road noise, traffic and the driveway being along Washington Ave. 143 and 145 Rosemont Street would have a minor diminution in value of approximately \$5,000 for each property based on the proposed development. 145 Rosemont Street currently has a view to the rear of a parking lot and commercial office building located at 8 Colvin Ave.

Economic Impact:

The economic impact of the potential Stewart's Shops expansion will result in an increase in property taxes, an increase in sales, gas, use, and clothing tax collection, and an increase in wage taxes. Data was pulled from the Albany County Tax Information Image Mate Online to provide the most recent tax figures for the parcels we are looking to redevelop. The total taxes for 2, 2A, Rear 2 Colvin Avenue, 1057, 1061 Washington Avenue totals \$31,230.40 and the total assessed values are \$749,484.

The chart below is a completion of data from our current shop in the City of Albany located at 875 New Scotland Avenue (Assessed Valued \$984,800). Due to the size of the proposed development and our most recent project in the City of Albany we used 875 New Scotland Avenue for comparable real estate taxes and for estimating taxes based on the volume of the business.

Stewart's Shops 2019 Taxes	
Sales Tax	\$141,481.89
Gas Tax	\$228,330.60
Clothing Tax	\$90.49
Use Tax	\$1,873.05
Property & School Taxes	\$47,235.33
Total Taxes	\$419,011.36

Our proposed Colvin and Washington Avenue development total tax base for this development is projected to be approximately \$419,011.00. We provided this information to show the potential positive economic impact our development could have for the City of Albany and Albany County.

Environmental Impact

Our facilities utilize CARB (California Air Resource Board) compliant vapor tight components in their construction and undergo routine testing to prove vapor tightness including special testing of the UST vent caps. The vent caps normally are in a closed position but can open for safety reasons to protect the UST system from damage due to pressure imbalance. (For instance, during normal vehicle fueling the system is placed under a vacuum as fuel pumped out of the UST. The spring-loaded vent cap then opens to allow fresh atmospheric air into the tank to equilibrate pressure before reclosing to prevent the escape of fugitive vapors.) Further, our shops utilize Stage I vapor recovery systems while



filling underground storage tanks to prevent fugitive vapors from escaping during fuel deliveries. Stage I vapor recovery setups ensure that the vapor in the ullage space of the UST is returned to the fuel delivery tanker for safe return to the terminal rather than being displaced to the atmosphere as fuel levels in the UST rise.

Similarly, but on a smaller scale, onboard refueling vapor recovery (ORVR) systems on modern vehicles (at least 20 years old and newer) sequester fuel vapors displaced during vehicle fueling and are combusted later in the vehicle's engine. These systems have become so efficient at capturing fuel vapors that the EPA labeled facility Stage II systems (vacuum-enhanced recovery of fuel vapors at the dispenser) as obsolete and dropped the requirement for these systems even in sensitive non-attainment areas. Additionally, it's widely recognized that Stage II systems and ORVR are incompatible. Many states have thus required the removal of Stage II vapor recovery systems so as not to conflict with or reduce the efficiency of the passenger vehicle's ORVR system for the sequester of vapors during refueling. We concur with the States and USEPA that recognize the efficiency and capability of modern ORVR systems. Stewart's internal professional geologist oversees and manages all environmental compliance.

(iv) Is consistent with the purpose and objective of the zone district and character of the neighborhood in which it is located and the specific use standards applicable to the use;

The proposed project meets the purpose of the MU-NC zoning district, which goal is to promote a mixture of residential options, local retail, and small-scale commercial uses providing support services to the surrounding residential neighborhoods. This development provides services to the surrounding neighborhood. A formal interpretation request was made to the Chief Planning Official to confirm the plans are code compliant.

(v) Would not result in harmful cumulative effects or impacts of aggregate similar conditional uses;

We appreciate the concern expressed regarding the impact to the neighboring fueling stations; however, Stewart's has co-existed with competition on many street corners across the State. The primary beneficiary of competition amongst businesses in close proximity are the customers. This relationship frequently results in each of the businesses "stepping it up" so to speak, to provide the best service, atmosphere and prices possible in order to stay competitive.

Traffic patterns and zoning dictate the site selection choices. Customers typically gravitate toward the facility which provides the most convenient access in and out of the site, depending on which direction they are traveling to and from. The result is a distribution of customers between both locations which typically provides enough volume for each business to be successful.

Stewart's co-exists with competitors in many markets. Attached are examples of market areas where Stewart's operates across the street or next to a competitor. These examples are in the City of Albany, Town of Bethlehem, Town of Colonie, City of Troy, City of Amsterdam and Town of Rotterdam,



just to name a few. This shows that the Stewart's and any other operator can co-exist together as different products are offered to the community.

(vi) Would not place excessive burden on public improvements, facilities, services, or utilities; and

No excessive burdens will be placed on public improvements in fact Stewart's is looking to partner with the City of Albany for the installation of MioVision for improved signal operation. Facilities, services or utilities as the location of the proposed development has been previously developed and our proposed shop will tie into existing infrastructure located at the project site.

(vii) Will provide a necessary and desirable service that is in the interest of the public convenience and will contribute to the general welfare of the surrounding neighborhood or community.

This development will offer additional services to the surrounding community members. The product line offered at Stewart's are locally sourced and will allow the surrounding neighborhood or community another option to buy a wide range of products such as our fresh milk, bread, coffee, eggs, and ice cream. Additionally, our proposal will remove a large vacant structure from a premier corner in the City.

Lighting:

A photometric plan (S-4) was submitted with the Site Plan Set submission showing that no light spillage will occur on neighboring parcels because all fixtures are flush mounted downlit LED. The lighting installed is energy efficient and back shielded to ensure no light spillage can occur. At all times these lights can be adjusted to ensure lighting does not impact the surrounding neighbors.

Traffic:

As referenced above, a trip generation letter May 18th, 2020 was submitted by Creighton Manning Engineering.

Stormwater:

All stormwater will be treated on site per all requirements set forth by the NYSDEC and the City of Albany.

Community Giving and Support:

Stewart's Shops has always been a very active community member. In the last two years Stewart's has donated \$1,197,158.44 to over 500 different community organizations in the City of Albany. The below list is a few of the community organizations that have been recipients of the community giving and support.



- Albany Public Library
- South End Community Outreach Center
 - South End Children's Cafe
- Delaware Area Neighborhood Association
 - Boys and Girls Club of Albany
 - Senior Services of Albany
- Habitat for Humanity Capital District
 - LARK Fest
- Green Tech Charter School
 - Interfaith Partnership
- Food Pantries for the Capital District
- Family Promise of the Capital Region
 - Police Athletic League
 - Albany Damien Center
 - West Hill Middle School
- New Scotland Elementary School
 - Albany Youth Basketball
 - In Our Own Voices
- Washington Park Conservancy
- Henry John Charter School
 - Head Start Albany

This demonstrates that Stewart's is not only a local family and employee-owned business, but a true community partner that gives back and supports the market areas it serves in an abundance of ways.

Please consider the above remarks and the information included in determining a favorable decision regarding the proposed Stewart's. We hope to return to the City Planning Board at its next regularly scheduled meeting to discuss.

If I can provide any additional information or you have any questions, I can be reached at 518-581-1201 x 4445 or by email at MGinley@stewartsshops.com.

Sincerely,

A handwritten signature in dark ink, appearing to read "M. Ginley".

Michael P. Ginley, Esq.
General Counsel
Stewart's Shops Corp.
PO Box 435
Saratoga Springs, NY 12866

Cc:

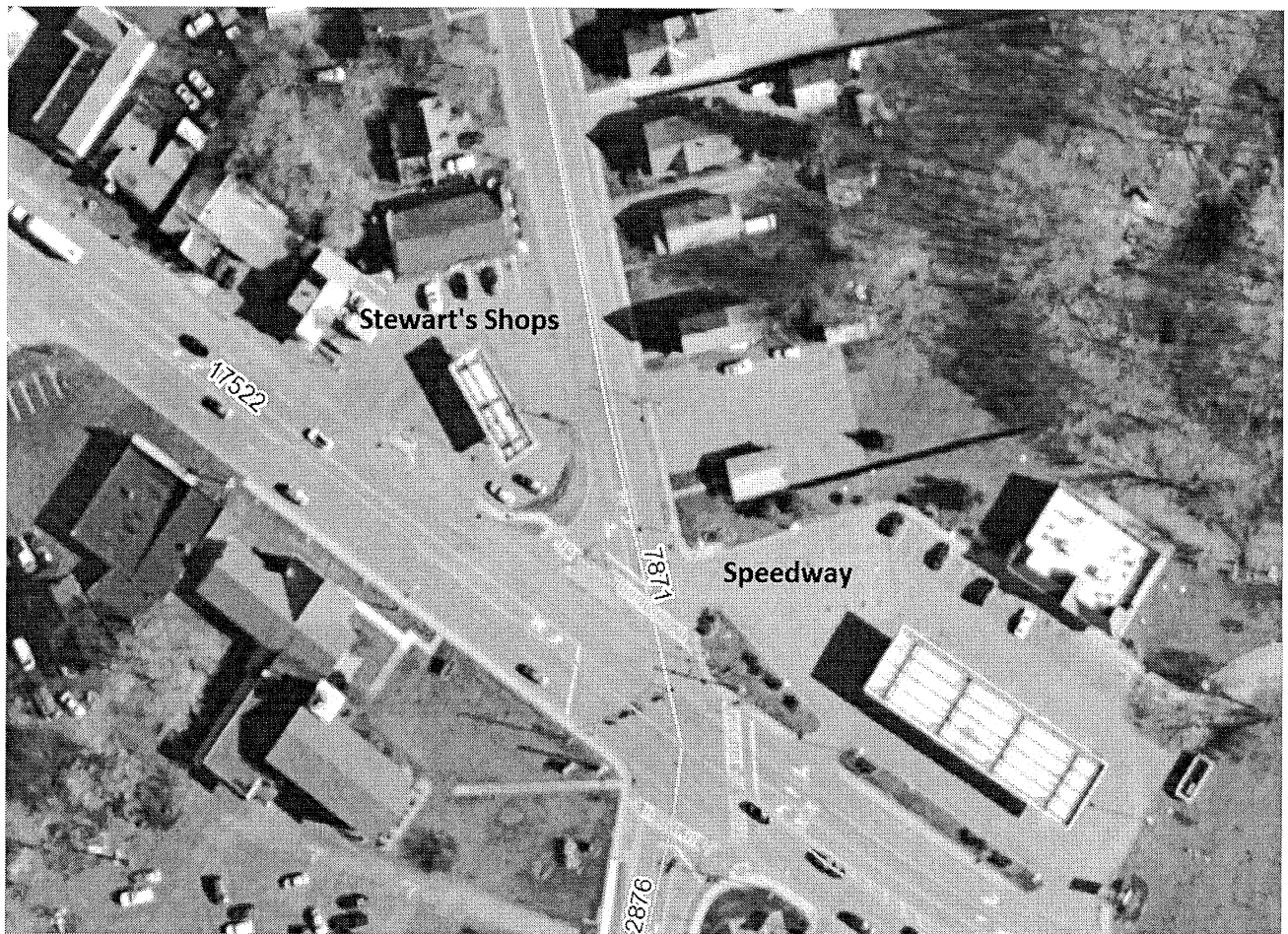
Tyler G. Fronte (TFronte@stewartsshops.com), James Gillespie (JGillespie@stewartsshops.com), Kathy M. Sheehan, Mayor (mayer@albanyny.gov), Christopher Spencer (Cspencer@albanyny.gov), Bradley Glass (Bglass@albanyny.gov), Zach Powell (Zpowell@albanyny.gov), General City PB Email: (Planningboard@albanyny.gov).

Attachments: Appraisal Report, FHA Stationary Storage Tank, Hudson Valley Cultural Resource Consultants, LTD

P.O. Box 435 Saratoga Springs, NY 12866



Rotterdam – Curry Road



P.O. Box 435 Saratoga Springs, NY 12866

Stewart's Shops



Speedway

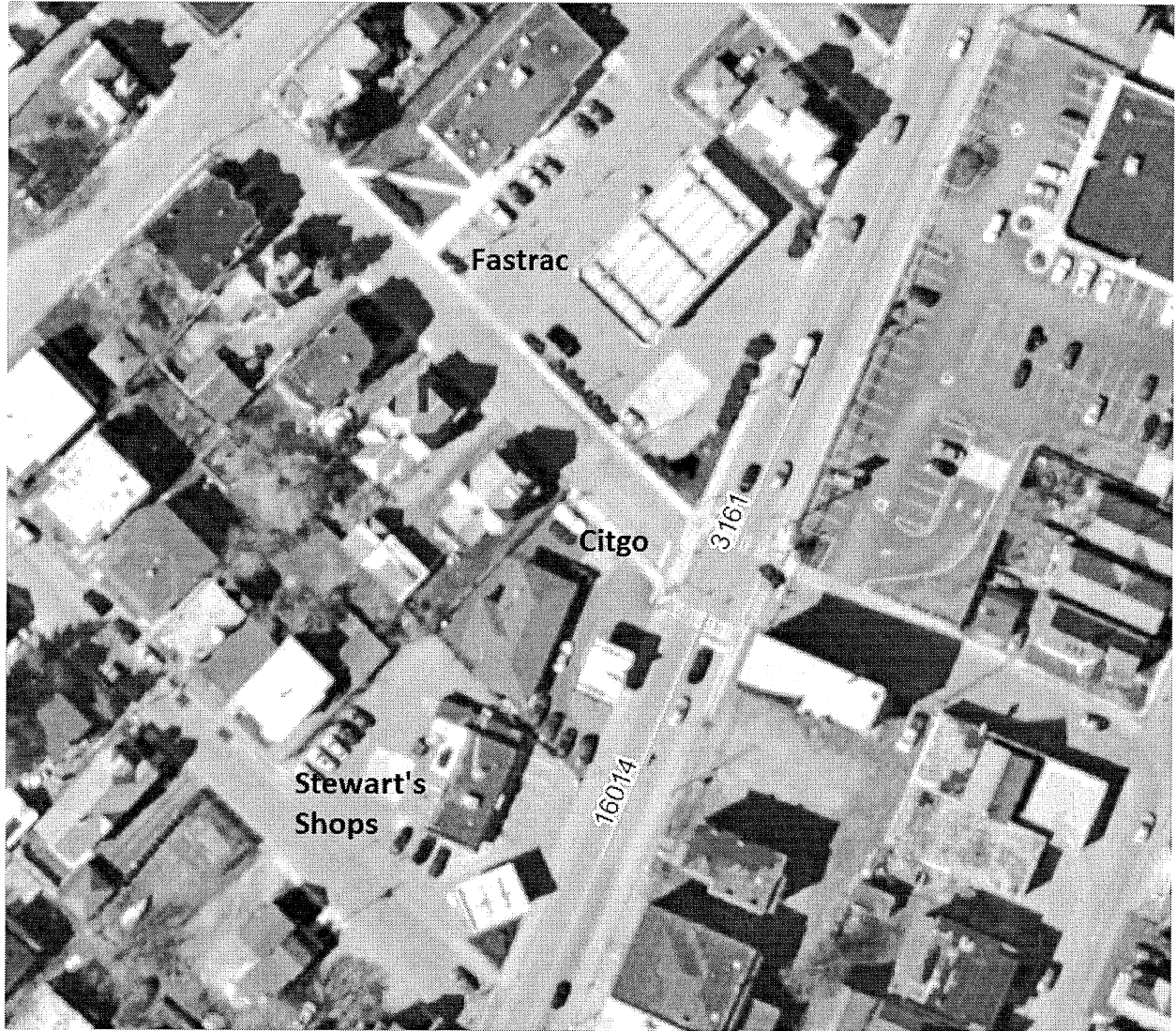


Stewart's Shops

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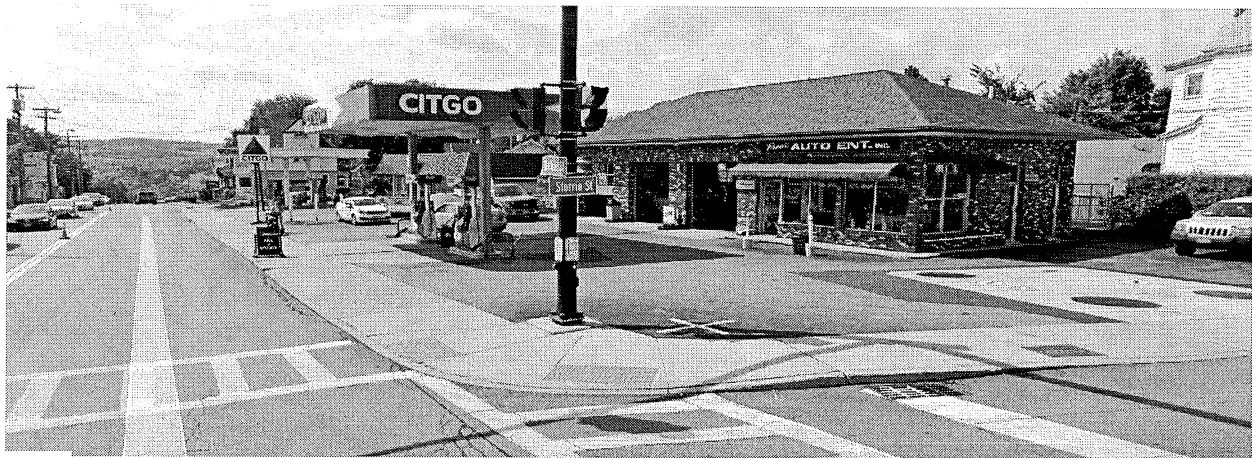
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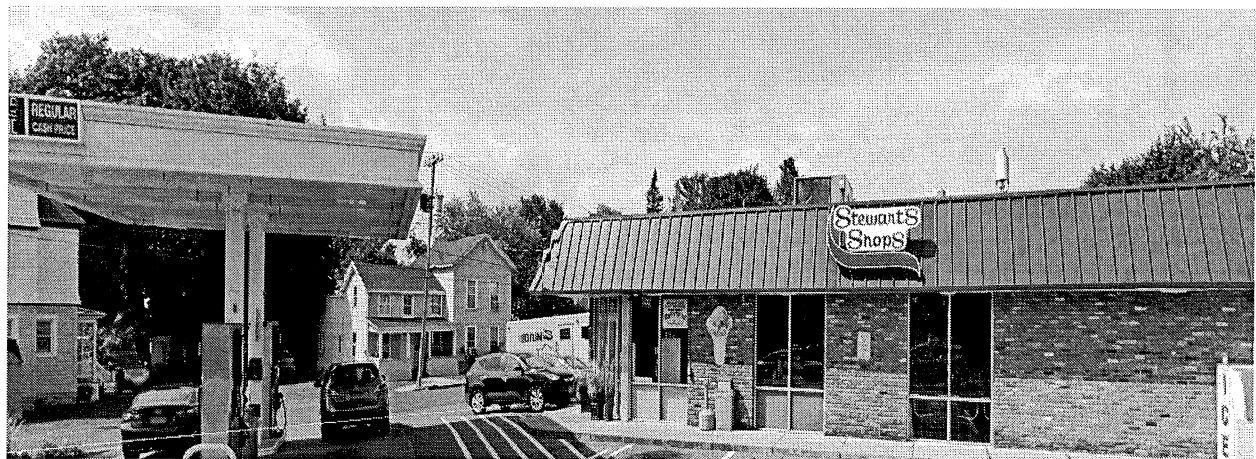
Stewart's Shops



Fastrac



Citgo



Stewart's Shops

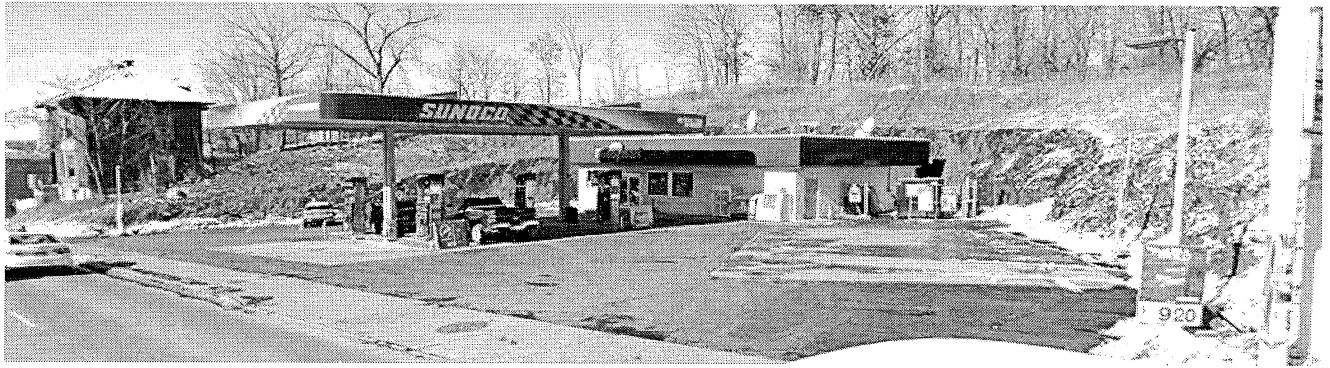
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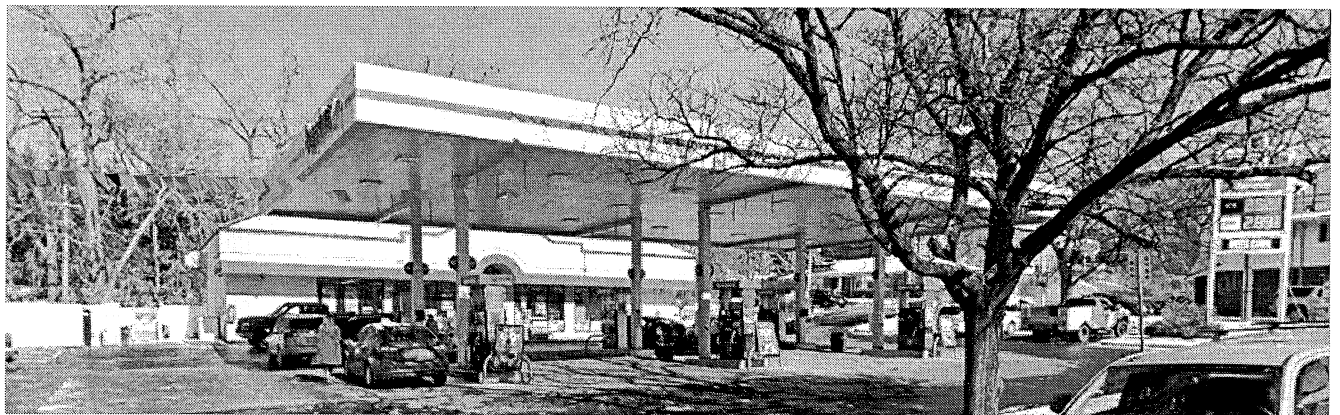
Stewart's Shops



Stewart's Shops



Sunoco



Speedway

P.O. Box 435 Saratoga Springs, NY 12866



Delaware Avenue – Albany



P.O. Box 435 Saratoga Springs, NY 12866

Stewart's Shops



Sunoco



Stewart's Shops

P.O. Box 435 Saratoga Springs, NY 12866



Delaware Avenue – Delmar



P.O. Box 435 Saratoga Springs, NY 12866

Stewart's Shops



Mobil



Stewart's Shops

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Fuller Road – Colonie



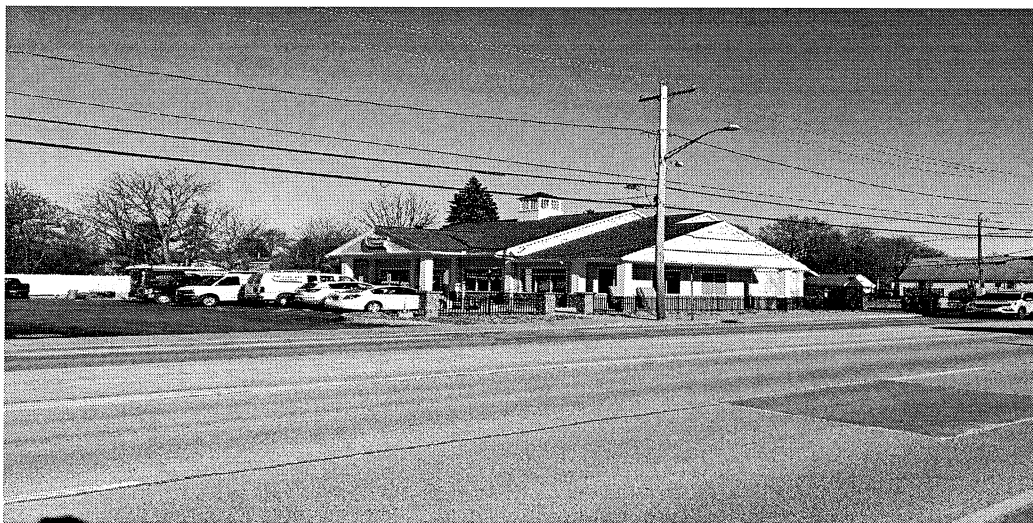
Stewart's Shops



Mobil



Sunoco



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II. ORIGATION THROUGH POST-CLOSING/ENDORSEMENT

D. Appraiser and Property Requirements for Title II Forward and Reverse Mortgages

3. Acceptable Appraisal Reporting Forms and Protocols

(7) Stationary Storage Tanks

If the subject property line is located within 300 feet of an aboveground, stationary storage tank with a capacity of 1,000 gallons or more of flammable or explosive material, then the Property is ineligible for FHA insurance, and the Appraiser must notify the Mortgagee of the deficiency of MPR or MPS.

iv. Site Conditions

(A) Access to Property

(1) Definition

Adequate Vehicular Access to Property refers to an all-weather road surface over which emergency and typical passenger vehicles can pass at all times.

(2) Required Analysis and Reporting

The Appraiser must notify the Mortgagee of the deficiency of MPR or MPS if the Property does not have safe pedestrian access and Adequate Vehicular Access from a public street or private street that is protected by a permanent recorded Easement, ownership interest, or is owned and maintained by an HOA. Shared driveways that are not part of an HOA must also meet these requirements.

The Appraiser must note whether there is safe pedestrian access and Adequate Vehicular Access to the site and analyze any effect on value or marketability.

The Appraiser must report evidence of a permanent Easement.

The Appraiser must ask if a maintenance agreement exists and comment on the condition of the private road or lane.

(B) Onsite Hazards and Nuisances

(1) Definition

Onsite Hazards and Nuisances refer to conditions that may endanger the health and safety of the occupants or the structural integrity or marketability of the Property.

(2) Standard

The Appraiser must report the presence of all Onsite Hazards and Nuisances so that the Mortgagee can determine eligibility and any corrective work that may be necessary to mitigate potential adverse effects from the special conditions.