

**FIVE MILE POINT WAREHOUSE INVESTORS, LLC  
325 SENTRY PARKWAY, BUILDING 5 WEST, SUITE 120  
BLUE BELL, PA 19422**

August 22, 2023

**Via E-Mail to [buildingcode@townofkirkwood.org](mailto:buildingcode@townofkirkwood.org)**

Town Board  
Town of Kirkwood  
70 Crescent Drive  
Kirkwood, NY 13795

**RE: Application for Zone Change for Tax Map # 162.15-2-11 and a portion of #162.15-2-12 (portion west of Interstate 81) and a portion of #162.16-1-18 by Five Mile Point Warehouse Investors, LLC (“Applicant”) for a development on the Five Mile Point Speedway Site accessed via Grosset Drive (the “Project”)**

Dear Kirkwood Town Board:

As you are aware, Five Mile Point Warehouse Investors, LLC made an initial application for the aforesaid Project in 2022. After productive public hearings, the democratic process and various comments generated through meetings and additional private discussions with area residents and businesses, we as Applicant made the decision to rescind our application and make significant proactive changes that reflect this valuable community input. Our revised plan is summarized as follows:

**Project Summary** – The Project will utilize the property commonly known as the Five Mile Point Speedway together with adjacent parcels controlled by Mr. Andrew Harpell and a portion of other adjacent parcels owned by Kirkwood Warehouse Investors, LLC. Applicant respectfully requests that the current properties’ zoning of Business-1, PUD and Multi-Residential be changed to Industrial Development. Applicant seeks to construct two industrial buildings on the properties, including Building 1 of 191,400 square feet and Building 2 of 264,000 square feet on approximately 52.36 total acres of land, both accessed via the extension of Grosset Drive from the south. Each of these buildings will be located on separate tax parcels. Both buildings have been designed to comply with the Town’s zoning regulations with respect to the parking of vehicles and trucks and will have additional property reserved for future pavement should the need arise for additional parking area. These reserved spaces are anticipated to remain green space unless or until additional parking is necessary and stormwater design will anticipate the future construction of these reserved spaces. All bulk requirements including lot size, lot frontage, lot coverage, minimum yard dimensions, height and density are fully in compliance with the Industrial Development Zoning Regulations.

This current application reflects various changes that address the most significant comments raised by the community but still maintains the goals and integrity of our development plans. The most important changes made to our revised plan are as follows:

**No Frances Street Driveway Access / Only Grosset Drive Access** - The Project driveways will no longer use Frances Street or Robert Street for direct driveway access. In the prior plan, the Project utilized both Robert Street and Frances Street for its access driveways. The Project will henceforth solely use the extension of Grosset Drive from the south for its driveway access. Right-of-way acquisition and property acquisition from the adjacent property owned by Kirkwood Warehouse Investors, LLC immediately to the south will permit the Project to make this change. This modification addresses concerns from the neighbors, the Town of Kirkwood and Broome County regarding Frances Street traffic between Interstate 81 and Crescent Street and other issues related to access from the north. This alternative access from Grosset Drive will also address historic existing noise, parking, traffic and maintenance problems along Frances Street that the Town and neighbors have all experienced with the Five Mile Point Speedway over the past decades. Concerns expressed regarding the impact on existing pedestrian activity in the neighborhood is also addressed by this new alternative, since driveway cuts on Frances Street are entirely eliminated.

Generous additional landscaping / tree buffering has also been added along Frances Street and the Project perimeter for increased visual and noise buffering for neighborhoods to the north and west.

It is worth noting that the current commercial zoning classification of the subject property permits various high traffic and high intensity land uses that, according to industry standard traffic data, would generate significant volumes of traffic on Frances Street and the abutting neighborhoods. However, this alternate access accommodation of Grosset Drive offered in our revised plan creates a bypass solution to forever limit Frances Street traffic in a manner that the current Speedway owners would never be able to offer to any other potential future uses/buyers of the site.

**Robert Street, Irving Avenue, William Street** – It was never the intention of the Applicant to have traffic from the Project traverse side streets in the neighborhood in our prior plan, but this concern was nonetheless expressed in various meetings. The current application clarifies this point and specifically notes that the Project will not have access onto Robert Street, Irving Avenue or William Street. The existing Up State Tower cell tower has a permanent easement and rights to access William Street to service the cell tower and that direct access has been maintained as required by that easement.

**Building Orientation** – The loading areas for both proposed buildings in the Project have been turned 180 degrees or “flip-flopped” and directly face east toward Interstate 81. This significant change will dramatically reduce the potential noise and lighting impact to all the neighboring properties to the west of the Project. Simply put, the abutting neighbors will now face the back of both buildings. The back of the buildings will face west and will only have a handful of standard doors to allow emergency egress for pedestrians per building code requirements; and this rear facing wall will only have minimal lighting limited to simple fixtures immediately over those egress doors. Although the truck courts will both face Interstate 81, all site lighting will still be shielded and designed and directed downward to eliminate offsite impacts.

In addition, the altered orientation of the buildings will actually serve as noise buffers to the western neighborhoods from sound generated at high decibels from existing Interstate 81 traffic volumes; specifically, the tall concrete back walls of the buildings will inhibit noise from both Interstate 81 and the Project truck courts (all of which face east). Interstate 81 is an extremely noisy highway, generally at

grade with the Project (with no sound attenuation barriers adjacent to the subject site), and sound emanating from the Interstate will no longer have a clear path toward the west.

**Substantial Building Setbacks** – The buildings are both well set back from Frances Street and the neighborhood. Building 1 is 388 feet away from Frances Street, with the back of this building over 98 feet away from the adjacent properties to the west. Simply put, the north side of Building 1 is now more than **an entire football field** away from Frances Street and the back/west side of Building 1 is double the required lot line setback from the adjacent residential properties to the west.

Building 2 will largely be hidden from view from Francis Street and from neighbors to the west. Building 2 is 667 feet away from Frances Street and sits behind a large, existing wooded wetland area at the southwest corner of Frances Street and I-81 that covers more than 8 acres of land and will not be disturbed by the Project. The back of this building is over 720 feet away from the adjacent properties to the west. Again, simply put, the north side of Building 2 is **1.8 football fields** away from Frances Street (and will be generally hidden from view by the aforementioned wetland) and the back/west side of Building 2 is over **2 football fields** away from residential properties to the west.

The combination of added generous landscape buffers, substantial setbacks from neighboring areas and the 8-acre existing wetland will effectively eliminate most of the visibility of the buildings from Frances Street and should eliminate noise and lighting concerns.

**No Wetland Impacts** – In the prior plan, a small 6,074 square foot wetland was going to be remediated due to driveway access. In the current plan, the Applicant does not impact this small wetland or any other wetlands on the site.

**Traffic Impact** – Applicant has modified its traffic studies to reflect the use of Grosset Drive for access. While Applicant will increase current traffic on Grosset Drive, two important points are worth noting in relation to Grosset traffic levels:

- First, the former Penguin Books warehouse had a very dense employment count with over 400 employees working there performing manual “pick and pack” operations for most of the book seller’s history on the site. Present uses at the now 97% occupied former Penguin building include employment counts of only about 100 employees, indicating dramatically reduced levels of traffic from the former Penguin days.
- Second and significantly, in 2018, Kirkwood Warehouse Investors, LLC (the current owner of the former Penguin building) demolished a 62,000 square foot building of over 90 feet in height (triple the height of most warehouses) that was a specialized robotic structure called an “automatic storage and retrieval system” (ASRS) building. Penguin ran out of available space on the site and built this specialized structure with the hope that they would not need to relocate. This rack supported ASRS building had very narrow aiseways, just wide enough for a robotic crane to grab pallets, and it housed approximately ***30,000 pallet positions***. Although the footprint of this demolished structure was only 62,000 square feet, it conservatively equated to a standard designed industrial building of approximately ***250,000 square feet*** needed to store this many pallet positions.

Thus, although Applicant proposes to add 455,000 square feet of buildings to Grosset Drive with this revised Project proposal, a building equal to over half of this newly proposed square footage (based on cubic volume and the ASRS pallet volumes) was actually demolished/eliminated five years ago and, as mentioned above, current traffic volumes are much lower than when Penguin operated.

## **BROOME COUNTY PLANNING DEPARTMENT REVIEW**

As this is a location requiring referral to the Broome County Planning Department pursuant to Section 239 of the General Municipal Law, we respectfully request that referral be done at your earliest convenience so that we may have the benefit of the County's comments during the review with the Town Planning Board.

Also, for the benefit of both Broome County and the Town of Kirkwood we would like to request that certain key points be considered in the review of our revised plans. We were not given the opportunity to discuss our previously proposed plan for the Five Mile Point Speedway with Broome County Planning Department in person or at any hearing and the approval process apparently does not allow for this direct communication (although we remain optimistic that perhaps such communication can be facilitated). As a result, we want to make sure that certain key points are highlighted for their consideration in the revised application. In light of major changes to our Project access, building orientation and setbacks, we want to highlight the following major points for consideration by all parties:

## **ADDITIONAL POINTS FOR BROOME COUNTY PLANNING TO CONSIDER IN ITS REVIEW OF THE PROJECT PURSUANT TO SECTION 239-L&M OF THE GENERAL MUNICIPAL LAW (THE "239 REVIEW"):**

### **PROJECT QUALITY**

The Project has been designed to create a campus-like, business park appearance with a stabilized site, appropriate drainage and proper erosion/sedimentation controls, paved surfaces, generous setbacks, enhanced landscaping and state-of-the-art buildings constructed to institutional quality investment standards. The goal is to attract first-class employers that will be a valuable addition to the Project and the community. Neither Kirkwood, Binghamton nor Broome County have historically seen developments that meet these high-quality standards. The Agency / Broome County Economic Development has spoken in support of this project and economic development executives from other areas of the Southern Tier have written letters confirming our company's reputation for delivering on our promises as well as the quality of our development and management. Our sincere intention is to make this Project an asset for the community and hope that this revised application will be considered in earnest.

Our plan is to construct high-quality light industrial buildings similar to those that we have constructed in other Northeastern U.S. locations and also similar to the adjacent, renovated Triumph Business Center that was formerly the Penguin building. It is worth noting that predecessor companies of Penguin Random House Books constructed total buildings of approximately 510,000 square feet on the adjacent site, with the primary structure opening its doors for operation **over 46 years ago**. For the last 8 of those 46 years the complex has been owned by Kirkwood Warehouse Investors, LLC, an affiliated company of ours that purchased the building from Penguin. In nearly 5 decades of operation originally as a book distribution location (with some printing, at times) and now as a distribution center for beverage packaging and tires, there have been no material reported problems with pollution, noise or traffic. No EPA or DEC complaints have occurred with any of the operations within this large complex. Although no limitations were placed on the use of the former Penguin buildings aside from those within the zoning code, everything has gone well. There have been no environmental issues or other

problems, various jobs have been offered to the community and significant real estate and payroll taxes have been generated. We expect the same positive result and performance for the Project.

It would be my pleasure to take any of the officials in the Town of Kirkwood and Broome County on a tour through the former Penguin building or any of our other projects in the Southern Tier or elsewhere. After the Town of Kirkwood lost a major valuable employer in Penguin, we renovated and leased the building to a high-quality list of tenants. We made the facility look great, renovated the façade, replaced the roof, upgraded dock equipment, removed old obsolete equipment, constructed and upgraded interior offices, changed most of the interior lights to modern energy-efficient LED fixtures, separated utilities, etc. Various local contractors have been hired to assist us with those renovations over the past 8 years. We recently signed a 349,000 SF warehouse lease/expansion in the former Penguin building with a company that was not in the Town of Kirkwood and that has manufacturing operations nearby in Nichols, NY. This international public company has a NYSE stock market capitalization of **\$10.5 billion** (as of August 22, 2023) and to attract this customer we required no public subsidies or other grants to get the deal done nor to renovate the building. They are likely one of the largest companies doing business in Broome County or the region. Their traffic volumes are a tiny fraction of the numbers we conservatively used for this new Project on the Five Mile Point Speedway site. We also brought in another large, growing company in the tire distribution business that wanted to stay in Broome County and needed a location that could safely and professionally accommodate their needed expansion.

As requested previously, we respectfully ask that you watch the professional drone videos that were recently flown/filmed of our 2 most recent “ground-up” business park developments in Central and Northeastern Pennsylvania. We created these videos to specifically enhance the Town, County and public’s review of the proposed Project. We intentionally had these locations filmed during normal business hours on a weekday and are hopeful that representatives of the Town and Broome County will watch the videos and see the high quality and design of these 100% occupied developments. More significantly, you will observe that they are nearly identical in scope and quality to what is proposed for our new Project in Kirkwood.

Here is a Dropbox link to the drone video:

[https://drive.google.com/file/d/155Xxe79EiWe8FDsHTNcETeWXDVxidxeo/view?usp=share\\_link](https://drive.google.com/file/d/155Xxe79EiWe8FDsHTNcETeWXDVxidxeo/view?usp=share_link)

#### **EXISTING INDUSTRIAL USES AND COMMERCIAL USES IN THE IMMEDIATE AREA:**

As a result of community input, we have created a new “front door” for the Project on Grosset Drive and the proposed use of the subject site is consistent with the existing uses along Grosset. Frances Street and the neighboring properties to the west have become the “back” of the Project and the buildings and traffic have been oriented to minimize impact. In any event, it is still worth noting that the surrounding neighborhood to the west and along Frances Street is a combination of residential, commercial and industrial uses. Various industrial uses/impacts have been functionally located within the neighborhood for some time, with several of them making up large sections of Frances Street frontage. Some may be pre-existing, non-conforming uses and others may be simply operating within the neighborhood despite existing zoning; but they are there. Various key industrial uses/impacts within the immediate neighborhood are as follows:

1. Town of Kirkwood Maintenance & Sand & Gravel Operations – To the west of the Project, fronting on Frances Street for approximately 400’ and wrapping around north to Crescent Street is the 7.35-acre property operated by the Town of Kirkwood for maintenance and construction of roads as well as other operations. These uses require trucks and commercial vehicles of various sizes and include a large unpaved, sand/gravel and salt operation and various metal maintenance buildings. This use can only be characterized as industrial usage of a property in the immediate neighborhood.

2. Joey Boats Marine Center – Until very recently and immediately adjacent to the west of the Project at 5 Irving Avenue, Joey Boats Marine Center was located on 3.6-acres of land and maintained boats, handled parts, service and sales. They also stored and wrapped boats indoors and outdoors on primarily unpaved surfaces (usually approx. 30-40 stored outside). Joey’s used Frances Street to transport boats of various lengths on trailers towed by trucks coming and going from their site. This business was best characterized as an industrial use and the Town and neighborhood were able to co-exist with it for years.
3. Country Town Auto Service is a well-established repair business that sits on 1.11 acres immediately adjacent to the west of the Project, with approximately 400’ of frontage along the south side of Frances Street. Country Town and has 4 large overhead garage doors facing Frances Street. This use is best described as commercial/ industrial.
4. Five Mile Point Speedway - Five Mile Point Speedway presently occupies the subject Project site and this current high intensity use, which has been there for 70+ years, cannot be ignored when objectively characterizing the character and flavor of the immediate neighborhood. Five Mile Point is a dirt track motor speedway with limited stormwater control, no paved areas and with aesthetics consistent with a facility nearing total physical and functional obsolescence. The current use includes loud dirt track motor races that literally can be heard from 5+ miles away and that clearly exceed municipal ordinances for sound. In between the races, loud grading trucks, water tanker trucks and “packer” trucks re-stabilize the racing surface. Noise levels are increased by an announcer regularly shouting into an elevated loudspeaker to be heard by racers and spectators and, of course, is made louder by racers revving their engines, the raucous spectators who come to watch the race and, understandably, clap, scream and cheer for their favorite racers at the top of their lungs.
  - Local air quality is impaired by the operations of the race cars that zoom around the track with adjacent and nearby residences and businesses being left with a coating of dust after each race, the fumes from the gasoline powered race cars and also the distinct burnt smell of race car tires. There are no emissions standards enforced/required for any of the motor race cars zooming around the dirt track motor speedway. Race cars at the Speedway are not equipped with exhaust gas recirculation valves, catalytic converters or any other pollution control devices; however, these types of emission control devices would clearly be required by law on cars and trucks occupying the buildings in our Project, and federal and state car and truck emission standards and regulations continue to become more stringent.
  - The Speedway also generates regular commercial truck traffic in relation to its races. According to the owner/operator of 5 Mile Point Speedway *“The Speedway averages roughly 120 race teams/cars per event. The average race car hauler with tow vehicle is almost 60 feet long. Several tractor trailer (stacker style) haulers are on the property weekly. “Stacker Haulers” allow a team to bring multiple race cars in one tractor trailer. On any given Saturday, 120 race car haulers enter and then later exit off of Frances Street.”*
  - While it is unlikely that a dirt track motor speedway would be found in the “approved” uses in any zoning ordinance, the current use of the Project site is most accurately characterized as industrial; certainly, it would not fall under the standard commercial uses that encompass shopping centers, restaurants, offices, hospital and other similar uses. The Town of Kirkwood can confirm decades of complaints from some residents in the area regarding the Speedway concerning noise, odors, dust,

parking problems, stormwater/wetland issues, dirt being tracked from unpaved dirt surfaces onto Frances Street, etc. to understand the intensity of the current use.

5. Interstate 81 – Interstate 81 begins at Interstate 40 in Dandridge, Tennessee, and extends through Virginia, West Virginia, Maryland, Pennsylvania and finally through New York State to the Canadian border. It is one of the top eight commercial trucking routes in the United States, serving as a main link between southern economic hubs and northeast markets. The subject Project's eastern edge has approximately 1,700 lineal feet of frontage on Interstate 81, which is the major north/south interstate highway in the Northeastern United States. This western side of Interstate 81 adjacent to the Project does not have a noise attenuation wall (like the east side across the Interstate) to minimize interstate highway sound. This severely limits the potential alternate uses aside from Industrial for the Project area. The Interstate itself has very high decibel levels and can't be ignored as part of what makes up the "community character" along the eastern boundary of the area. There is a reason that almost no residences immediately abut Interstate 81 in this part of Kirkwood. Interstate 81 is truly most closely compared to an industrial use because of its noise and intensity.....operating 24 hours per day / 7 days per week / 365 days per year.
6. Triumph Business Center - The Southern edge of the Project, totaling approximately 1,000 lineal feet of frontage, is the Industrial use of the former Penguin Books building (renamed as Triumph Business Center) that totals approximately 449,000 rentable square feet and that was constructed with cross-dock loading design (loading on both sides of the building).
7. Up State Tower Cell Tower – Near the Southern property line on the Project site, Up State Tower constructed a 100' tall cell tower that was approved recently by the Town of Kirkwood.
8. There are other uses that were permitted to operate within the neighborhood in the past. These include the Verizon building on .93 acres at 25 Robert Street, the Pony Express transportation escort/broker business that previously operated in the residence at 31 Robert Street (that parked tractor trailers there as well); a new metal self-storage facility on Frances Street; a local cabinet maker on Frances; the vacant unused auto repair facility in poor condition at the intersection of Crescent & Frances; and a new little fiber optics building at 49 Frances Street.

### **POTENTIAL CUSTOMERS FOR SUBJECT PROJECT**

We have not yet identified customers for the industrial buildings in our new business park. The buildings will only include manufacturing or warehousing uses permitted in the Industrial Development category of the Town of Kirkwood zoning ordinance. In addition, identifying certain specific industries within any building in any location is merely valid for a brief snapshot in time. As an example, in the 8 years since an affiliate of our company acquired the former Penguin building our customers have included warehousing for Shop-Vac Corp. (who left that building and then went bankrupt), Rogers Service Group, which is a reputable local logistics company that was storing Raymond forklifts, a Fortune 50 company storing beverage cans (who recently expanded into the Raymond space), a prominent tire wholesaler and a local firm creating signs and vehicle advertising wraps. The use in the buildings will continue to change over time as leases expire but will always comply with local ordinances and other applicable laws and regulations. Again, as discussed above, we want to reiterate that the adjacent uses in the former Penguin building have co-existed well with the community for over 46 years without incident and we anticipate the same results with the two new state-of-the-art buildings proposed on the subject site.

We are seeking to construct our Project in the Industrial Development / I-D zone in Kirkwood, because that is the only category we fit into; in most communities/locations, we fit into a category called “light-industrial” which excludes truck terminals as well as various heavy manufacturing uses. “Hazardous chemicals/wastes” are not typically permitted in most modern light industrial zones and, in any event, have nothing to do with the buildings we have designed for this park. As indicated previously, we shot drone videos of our 2 most recent projects during normal business hours on a weekday and are hopeful that this will help to dispel any factual errors and insinuations about the uses typically allowed in a modern industrial/business park. Additionally, we would invite a productive discussion that would potentially omit cross-dock truck terminals and certain heavy manufacturing uses from those permitted on the subject site, since our intention is not to accommodate those type of businesses in this location.

### **PROPOSED PROJECT’S APPROPRIATENESS IN THE CONTEXT OF SURROUNDING COMMUNITY**

We will not negatively impact the character of Kirkwood or the surrounding neighborhood with our Project. We intentionally designed our buildings to maintain adequate greenspace and to allow for a “campus-like appearance” consistent with our other recent development projects. The Industrial District allows for 40% total lot coverage, but we are 35% less than that with only 26% total lot coverage. The Project site backs up to Interstate 81 and the 2 proposed buildings will be well set back from the property boundaries and neighboring uses. We are well “tucked back” from Frances Street and the other buildings to the west. Please note as follows:

North	Approx 388’ is the closest distance from our Building 1 to Frances St Approx 666’ is closest distance from our Building 2 to Frances St and an 8-acre undisturbed wetland within this area will provide a natural project buffer.
South	Immediately South of the Buildings is Industrially zoned property (former Penguin Books)
East	Appr 320’ is the closest distance from Building 2 to Interstate 81
West	Appr 99’ is closest distance from the back of Building 1 to the Western property line Appr 720’ is closest distance from the back of Building 2 to the Western property line

The above-referenced changes to the building orientation along with changes to traffic access should address most community comments that were expressed in conjunction with our previous application. Generous landscaping, high quality design and construction, paving and stabilized earth control measures and large building setbacks will make the Project a successful addition to a neighborhood that houses industrial, commercial and residential uses. Our development proposal has taken the surrounding residential community into account, while also considering the abutting Interstate 81, other industrial and commercial uses adjacent and on Frances Street, industrially zoned property to the south and the current use of the Five Mile Point Speedway. Traffic studies have confirmed very low volumes of traffic and intersections at acceptable levels of service currently and following construction of the Project. Sounds, odors, dust and stormwater/wetland impacts from the high impact and currently unpaved / non-stabilized site of the Five Mile Point Speedway are projected to be improved after development of the two planned buildings.

### **TRAFFIC**

One of the first actions we took as the developer of the Project was to engage a highly respected traffic engineer who does work for various municipalities and developers in New York to prepare a comprehensive traffic study and understand the impact on various intersections. Those studies proved that current levels of traffic at various intersections studied are currently at acceptable levels of services as defined by traffic engineering industry



standards and best practices; and the study further showed that those levels of service are still acceptable after the inclusion of our traffic volumes under various conservative assumptions. We ran the traffic numbers using various levels of intensity to show the Town of Kirkwood, the County and DOT that even at very high volumes the intersections studied will perform at acceptable levels of service.

As a result of our diligence and integrity, NYS DOT sent a letter regarding our previously submitted plan, indicating that they had no issues with our prior traffic patterns that utilized Frances Street. With this newly revised plan, we will work cooperatively with them again to ensure that they are similarly comfortable with our use of Grosset Drive and our alternate traffic route proposed.

The subject buildings have not been designed as narrow truck terminals or giant “cross-dock” distribution facilities with loading on both sides of the building and extra trailer drop lots. The buildings proposed are simple, single-loaded facilities (docks only on one side) with ample parking exceeding that required in the Town of Kirkwood Industrial Zoning ordinance. As indicated, through multiple iterations of tenancy in the adjacent former Penguin Books warehouse we have not had the volume of traffic that we tested the intersections with for the subject Project; and please note that even with those higher levels of traffic for modeling purposes, the various intersections in Kirkwood studied all performed at acceptable levels of service. Lastly, we want to reiterate that the building that house 30,000 pallet positions was demolished and eliminated from the historic traffic; so, a significant portion of traffic from this new Project is just replacing traffic that was coming from the building we demolished on Grossett.

## **2016 TOWN OF KIRKWOOD COMPREHENSIVE PLAN**

We complement the parties involved for utilizing their best efforts to create a Comprehensive Plan that attempts to achieve certain community goals; however, the proposed commercial land uses for the subject site in that plan are not economically viable and will result in a vacant fallow land parcel following the departure of Five Mile Point Speedway.

The current dirt track motor speedway use does not offer employment to area residents and does not generate meaningful taxable revenues within the community (currently the Raceway pays approximately \$16,000 in real estate taxes per year with no salaried employees aside perhaps from the property owner himself). Furthermore, the current commercial zoning and uses anticipated within the Comprehensive Plan include provisions for office buildings, shopping centers and hospital complexes; these uses were not viable in this location before the Covid pandemic hit and are now even less viable post-pandemic, with many office workers still telecommuting and shoppers just ordering their goods online. Various storefronts along more prime commercial routes in Binghamton are already boarded up and are vacant and offices in prime locations are struggling badly. The most troubled real estate asset classes in the country, including those in prime locations, are office buildings and shopping centers many of which have mortgage defaults and are in foreclosure proceedings.

We please ask the Town and Broome County Planning to consider the following:

(1) Why Promote Uses For Which There Is No Actual Demand? – Is it appropriate to require and promote uses on the Project site that are not viable just because they were proposed in a Comprehensive Plan? It is my sincere belief, from years of experience with multiple property types before and since starting my own development company, that no firm is going to construct large scale offices, shopping centers or hospitals on this dirt track motor speedway site and the site is too noisy for residential uses. The Broome County IDA and major commercial real estate agencies operating in the region can confirm this. Sadly, this is a poor / ‘C’ location for those uses described in the Comprehensive Plan. This would be a secondary location for those uses and even primary locations for those categories are having enormous problems creating new businesses or generating demand. Various office buildings and shops

in much more prime locations for those uses in Broome County are already sitting vacant and many are financially distressed.

(2) Why Promote Residential Uses That Are Not Appropriate - Considering its history as a dirt track motor speedway and the noise and intensity of Interstate 81, homes and apartments are not going to be constructed on the site, particularly given the inventory of existing housing in more desirable locations within the Town and Broome County.

(3) Don't Let The Site Lie Fallow and Sit Vacant - The Five Mile Point Speedway has already announced to the public and its fans of its intention to close and has been bleeding financially, so staying the course is not an option. The Speedway was kept open for years past its prime as a labor of love by the family that started it, but the raceway will be closing and the site will be going vacant.

(4) Support A Well-Conceived Plan With Uses That Are In Demand and That Will Create Employment Encourage that the land be utilized for its highest and best use....which is clearly the well designed and considered Industrial Development proposed in our application that will be attractive to major employers and for which this is an 'A' location. Take advantage of the Applicant's offer to route all traffic to Grosset Drive, which will eliminate historic Frances Street racetrack traffic and as well as any future site uses.

Over the past 20 years, our company has developed other successful projects in the Southern Tier of New York, all worth noting for their ability to successfully meld into neighborhoods. In the Elmira, Chemung County, NY area adjacent to the Southport High School and in the middle of a residential neighborhood we renovated a 350,000 square foot World War II factory (now Southern Tier Commerce Center) that was in a state of disrepair at our acquisition and that we have owned for 20 years. In Elmira Heights/Horseheads, NY we renovated a former Flickinger's grocery warehouse of 285,000 square feet (now Victory Business Center) in an area with residences, industrial and other commercial space and have held that building for nearly 5 years. These were both single tenant facilities we renovated and re-branded to accommodate modern industrial tenants. The buildings are both fully leased to tenants including Corning, Best Buy, Frito Lay, Star Brands, Southern Tier Logistics and the local Corning Painted Post school district. Traffic and conflicting uses with neighbors have not been an issue. We are good neighbors and work well with the communities in which we operate.....as we have with the adjacent business that acquired the former Penguin Books warehouse 8 years ago.

### **Environmental Justice Area**

We have reviewed the New York DEC website and agree that the Project area falls within a potential Environmental Justice ("EJ") Area. EJ Areas are U.S. Census block groups of 250 to 500 households each that, in the Census, had populations that met or exceeded at least one of the following statistical thresholds:

*(1) At least 52.42% of the population in an urban area reported themselves to be members of minority groups; or (2) at least 26.28% of the population in a rural area reported themselves to be members of minority groups; or (3) at least 22.82% of the population in an urban or rural area had household incomes below the federal poverty level. The federal poverty level and urban/rural designations for census block groups are established by the U.S. Census Bureau. The thresholds are determined by a statistical analysis of the 2014-2018 American Community Survey (ACS) data, which is the most recent data available as of the time of the analysis in 2020.*

However, please note that this governmental policy only applies to certain types of projects. Based on our review of EJ policy, we do not feel that it is "applicable" in the instance of the modern industrial park we have designed since we are not planning to house industrial hazardous waste, solid waste or other noxious uses that obviously

would not be desired by the community. Please see the Applicability section immediately below taken from the DEC website:

**Applicability of EJ Policy:**

1. *Except as provided for below, the policy shall apply to applications for major projects and major modifications for the permits authorized by the following sections of the Environmental Conservation Law: (1) titles 7 and 8 of article 17, state pollutant discharge elimination system (SPDES) (implemented by 6 NYCRR Part 750 et seq.); 2) article 19, air pollution control (implemented by 6 NYCRR Part 201 et seq.); (3) title 7 of article 27, solid waste management (implemented by 6 NYCRR Part 360); including minor modifications involving any tonnage increases beyond the approved design capacity and minor modifications involving an increase in the amount of putrescible solid waste beyond the amount that has already been approved in the existing permit; (4) title 9 of article 27, industrial hazardous waste management (implemented by 6 NYCRR Part 373); and (5) title 11 of article 27, siting of industrial hazardous waste facilities (implemented by 6 NYCRR Part 361).*
2. *This policy shall not apply to permit applications for minor modifications, except as provided above, nor to renewals, registrations or general permits.*
3. *Permits authorized by delegation for sources subject to the federal requirements of prevention of significant deterioration (PSD) are subject to a review process under federal regulations and will undergo an environmental justice analysis consistent with EPA policy and guidance. Sources subject to the federal requirements of PSD will also be subject to other state permits applicable under this policy which will trigger the requirements of this policy in addition to the environmental justice analysis required by EPA policy and guidance.*

To reiterate, we do not believe that any potential tenant would require the above-listed permits and thus, we don't feel that this EJ policy applies to our proposed Project. As an additional point that we would like to make in relation to the topic of "Environmental Justice", our firm is proposing to construct a state-of-the-art industrial project that will create hundreds of respectable employment positions for local workers. We'd like to say to the Town and County that we are bringing the "**Justice of Jobs**." These jobs are anticipated to include light manufacturing and/or warehousing employment which is well suited to the parties in the community at the income levels for EJ described above; and gainful employment can help to raise families out of those noted levels of poverty. The Broome County IDA and the local real estate brokerage community can confirm the potential and need for creating those type of honorable jobs in this location.

It is common for some people to complain about the fact that many of the good jobs that were previously located in the United States have been moved to Mexico or overseas to China, Vietnam, India, Africa, or other distant countries. However, post-pandemic many international firms and other good companies are reconsidering this position, after realizing that problems associated with having their supply chains dependent on giant container ships traveling for many months to get to our U.S. ports and markets. The recent decision by Micron Technologies to locate a major chip plant in the Syracuse area is the largest example of this trend and we have been fielding inquiries from firms looking for potential appropriate locations. These companies will be comparing alternatives to other locations that already have the appropriate zoning, plans and infrastructure in place. We have spoken to the Agency/Broome County Industrial Development Agency, Cushman & Wakefield / Pyramid and other national brokers about this Project site, and they confirmed they do not have other shovel ready sites in the County to show to interested companies seeking proper sites for warehousing and light manufacturing.

This is an 'A' location for this proposed industrial use and a 'C' location for the alternate uses.....and the Town of Kirkwood can be rewarded and draw attractive jobs to this location. Kirkwood has a shrinking population base and a stagnant tax assessment base and this Project can be a win-win for them.

## **ENVIRONMENTAL / HISTORIC IMPACT / UTILITIES**

The Project will do what is necessary to comply with all local, county, state and federal laws. We are a sophisticated real estate investor and developer with decades of experience and performed a Phase I Environmental Assessment and took soil samples on the track which came back at acceptable levels. We will make this available to the Town of Kirkwood at its request.

We have used online resources and checked with the family that has owned the track for 70 years. They are not aware of, nor have they ever heard mention of any potential historic and archeological resources. There is nothing mentioned regarding the Project Site on the New York State Cultural Resource Information System mapping website.

We have gone through full ALTA survey and topographic work, full wetland delineation and detailed title work. This comprehensive information was utilized to create our development plans.

All water, sewer, electrical and gas utilities for the Project will be provided at levels required by the Project and will not negatively impact the use of these utilities by area residents. Any upgrades required of these utilities will be performed as required. Again, as indicated earlier, the adjacent industrial uses have co-existed well with the community for nearly 5 decades and this new project will maintain this impeccable record. The Kirkwood and other governmental ordinances are well drafted and protective of the community and, of course, we will be complying with all of these applicable laws.

Lastly, we reiterate again the unblemished success of the adjacent former Penguin Books building/now Triumph Business Center in providing jobs and paying taxes without any problems related to operations onsite.

## **CONCLUSION / REQUEST**

Thank you for your review of this detailed letter to accompany our revised application for this important proposed Project. Again, we are appreciative of earlier meetings, hearings and discussions that led us to make material productive changes to our prior withdrawn application and that have improved the quality of this Project.

We humbly request, after your careful consideration of our application and the points addressed in this Memorandum, that (1) you please refer our re-zoning request and site plan application to the Town of Kirkwood Planning Board and the Broome County Planning Board and (2) that the Town Board please set a date for a public hearing on this Project.

I look forward to answering any questions or providing clarifications to the details provided herein.

Sincerely,

*Adam P. Meinstein*

Adam P. Meinstein

Cc: Sarah Campbell, Hinman, Howard & Kattell, LLP  
Kenneth Ellsworth, Keith Barney, Mark Parker, Keystone Associates  
Gordon Stansbury, GTS Consulting

<b>Kirkwood Population</b>		
<b>Census</b>	<b>Pop.</b>	<b>%±</b>
<a href="#"><u>1860</u></a>	1,389	—
<a href="#"><u>1870</u></a>	1,402	0.9%
<a href="#"><u>1880</u></a>	1,344	-4.1%
<a href="#"><u>1890</u></a>	1,119	-16.7%
<a href="#"><u>1900</u></a>	918	-18.0%
<a href="#"><u>1910</u></a>	852	-7.2%
<a href="#"><u>1920</u></a>	899	5.5%
<a href="#"><u>1930</u></a>	1,237	37.6%
<a href="#"><u>1940</u></a>	2,150	73.8%
<a href="#"><u>1950</u></a>	2,997	39.4%
<a href="#"><u>1960</u></a>	4,651	55.2%
<a href="#"><u>1970</u></a>	5,687	22.3%
<a href="#"><u>1980</u></a>	5,834	2.6%
<a href="#"><u>1990</u></a>	6,096	4.5%
<a href="#"><u>2000</u></a>	5,647	-7.4%
<a href="#"><u>2010</u></a>	5,857	3.7%
<a href="#"><u>2020</u></a>	5,495	-6.2%
<b>2021 (est.)</b>	5,437 <sup>[3]</sup>	-1.1%

U.S. Decennial Census<sup>[3]</sup>

**KIRKWOOD'S STAGNANT /SHRINKING POPULATION**

The Projected employment of our Project is 300+ employees. As can be noted from the adjacent Census chart, the population of the Town of Kirkwood has been falling over the past 20 years. You need to go back to the late 1960's to find population equal to its current population level of approximately 5,437. Our Project, with employment of 300+ workers projected, has the potential to assist in stabilizing or reversing this negative trend. Based on our market knowledge, there is almost no vacant land in the Town of Kirkwood that offers the opportunity to construct facilities for new employment. The subject land is one of the only sites. While we appreciate Kirkwood's small-town appeal, stabilization of its population through employment and increased tax revenues can protect the Town's budget and ensure future livelihood of its citizenry.

The total Payroll in the Project if they end up as a Warehouse Use is estimated to be a base of at least \$9-\$10 million or more and if it is a Manufacturing Use is estimated to be a base of at least \$10-\$12 million or more.

Of course, these figures exclude construction jobs for the Project as well as money that workers in the buildings may spend in local establishments for food, other products and services that can trickle further into the Town and Broome County economies.

**FURTHER POTENTIAL ECONOMIC IMPACT**

Current property ownership's total Property Tax Assessed Value is only \$227,700 (with annual real estate tax paid totaling approx. \$16,000). As an example of the potential of the Project, our affiliated company has paid over \$2.5 million of real estate taxes in 8 years of ownership and this

excludes the impact of payroll and other taxes as well as the trickle down of goods and services in the local and regional economy.

Our Project Square Footage is 455,400 SF and Estimated Stabilized Tax Assessed Value of Project - \$19,300,000

According to the 2022 Final Assessment Roll for Broome County, the entire Town of Kirkwood has an Assessed Total for tax purposes of \$272,386,890 spread across 2,729 parcels. It is roughly estimated that the Project may be able to increase that Assessed total by as much as 7% at Project stabilization and significantly enhance the ratables for the local tax base.

# STEBEN COUNTY IDA

INDUSTRIAL DEVELOPMENT AGENCY

MAKING CONNECTIONS  
CREATING SOLUTIONS

April 24, 2023

Town Board of the Town of Kirkwood  
c/o Lew Grubham, Town of Kirkwood Supervisor  
70 Crescent Drive  
Kirkwood, NY 13795

Dear Supervisor Grubham:

Please let this letter serve as a reference for Mr. Adam Meinstein and his continued efforts to invest in the region through his company Equilibrium Equities. With over 25 years of economic development experience in the Southern Tier, it has been my pleasure to work with Adam for the past 20 years on projects in both Chemung and Steuben Counties.

I can assure you that Adam takes pride in his projects and will work closely with the community to make investments which will support sound and well thought out development practices. The first project I worked with Adam on was the redevelopment of a former blighted manufacturing property adjacent to a public high school in a residential neighborhood. Not only did he work closely with his team to immediately address the condition of the property but also worked with his tenants to limit operational impacts of the project in the neighborhood.

This same integrity, reliability, and commitment can be seen with Adam's projects throughout the Southern Tier which allow him to successfully redevelop properties which are typically collocated in or near mixed neighborhoods.

Throughout my career I have worked with Adam not only on his own developments but as a resource and sounding board for other similar redevelopments. I would encourage the Town to act positively on his proposal for the Five Mile Point Speedway and hope that you will give him the opportunity to invest further in the Town of Kirkwood.

Sincerely,



James Johnson  
Executive Director



May 3, 2023

Mr. Lew Grubham, Supervisor  
Town of Kirkwood  
70 Crescent Drive  
Kirkwood, NY 13795

Dear Supervisor Grubham,

Our organization has been working with Equilibrium Equities and Adam Meinstein for nearly two decades. His group has invested in several vacant industrial sites which have been transformed into multi-use commercial space, but specifically warehouse and distribution centers for major industrial partners in our region including Southern Tier Logistics, Corning Incorporated, and more.

I have personally worked with Adam since my time with New York State Empire State Development, helping him navigate through NYS incentives. As the Town of Southport Supervisor, I am fortunate that Adam chose to invest in the former Remington Rand industrial site, which was blighted and vacant for years. It is now a vibrant and safe property that has helped to improve the entire neighborhood.

Now, as the President of Southern Tier Economic Growth and the Executive Director of the Chemung County Industrial Development Agency, I am looking forward to working with Adam and his team on future projects to benefit Chemung County. I've spoken with my counterparts in other areas of the Northeast who have worked with Equilibrium and all had nothing but positive accounts about working with Adam.

We are fortunate to have a developer with his skill, reputation and knowledge investing in our area and I encourage the Town of Kirkwood to give full and fair consideration to his proposal for the Five Mile Point Speedway.

Sincerely,

A handwritten signature in black ink that reads "Joseph Roman". The signature is written in a cursive, flowing style.

Joseph Roman  
President