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April 8, 2020

Borough of Belmar  
601 Main Street  
Belmar, NJ 07719

Attn: Ms. April Claudio

RE: Planning Board Waiver  
825 8<sup>th</sup> Avenue (Belmar Plaza)  
Unit 4 C  
Belmar, NJ 07719

Dear Ms. Claudio

Enclosed please find a copy of the Planning Board application prepared by our office. As you are aware, Dynamic Engineering has signed a lease with the landlord of 825 8<sup>th</sup> Avenue to take over the 6,225 SF tenant space that was previously occupied by West Marine.

The Belmar Plaza has a history of being occupied by both retail and office uses (see Surfside Tax and Accounting). Furthermore, the Plaza is located in the CBD-1 Zone in which Professional Offices are a permitted use.

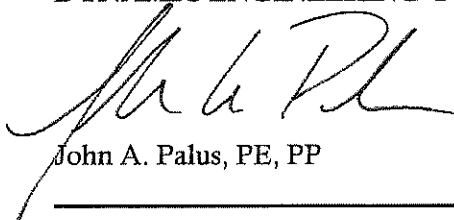
At this time, we are requesting a waiver from appearing before the Planning Board for a change in tenancy. As this is a simple change in tenancy, there will be no exterior improvements that would impact the existing drainage, circulation, landscaping, buffering, lighting or any other elements of the existing site. Further, the office use would result in a reduced parking demand (1/250SF) as compared to the prior retail use (1/200 SF). Overall, it is anticipated that the office use will provide an improvement to the existing parking situation on site and provide patrons to support the numerous restaurants and retail uses in the surrounding area.

In light of the current Pandemic we would like to expeditiously move forward with our tenancy in order to ensure our business can remain functioning in these difficult times.

Please feel free to contact me at 732-687-4058 with any questions.

Sincerely,

**DYNAMIC ENGINEERING CONSULTANTS, PC**



John A. Palus, PE, PP

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1904 Main Street, Lake Como, NJ 07719 T. 732-974-0198

245 Main Street, Suite 110, Chester, NJ 07930 T. 908-879-9229  
8 Robbins Street, Suite 102, Toms River, NJ 08753 T. 732-974-0198  
826 Newtown Yardley Rd., Suite 201, Newtown, PA 18940 T. 267-685-0276

100 NE 5<sup>th</sup> Avenue, Suite B2, Delray Beach, FL 33483 T. 561-921-8570  
14521 Old Katy Road, Suite 270, Houston, TX 77079 T. 281-789-6400  
714 S. Greenville Avenue, Suite 100, Allen, TX 75002 T. 972-534-2100



# BOROUGH OF BELMAR

DEPARTMENT OF CONSTRUCTION, PLANNING & ZONING  
601 Main Street  
Post Office Box A  
Belmar, NJ 07719  
Phone: (732) 681-3700 x225  
Fax: (732) 681-3434  
Web: [www.belmar.com](http://www.belmar.com)

## DEVELOPMENT APPLICATION

DATE RECEIVED: \_\_\_\_\_ APPLICATION NO: \_\_\_\_\_

RECEIVED BY: \_\_\_\_\_ FEE AMOUNT PAID: \_\_\_\_\_

(Items above to be filled out by the Borough)

Date Prepared: 04-07-2020 (Please Print) Zone: CBD1

Block(s): 86.01 Lot(s): 1

Site Address: 825 8th Ave (Belmar Plaza) Unit 4C Belmar

Name of Owner(s): BMIA, LLC

Owner Address: 63 West Main Street PO Box 5008 Freehold, NJ 07728

Phone #: 732-780-8888 Email: kjacobs@gbtldnj.com

Name of Applicant (if different than owner): Dynamic Engineering Consultants

Applicant Address: 1904 Main Street Lake Como

Phone #: 732-974-0198 Email: japalus@dynamicec.com

Name of Professional Preparing Plan: Not Applicable Change in Tenancy License #: \_\_\_\_\_

Name of Firm: \_\_\_\_\_

Firm Address: \_\_\_\_\_

Phone #: \_\_\_\_\_ Email: \_\_\_\_\_

Name of Attorney Representing Applicant: Not Applicable

Name of Firm: \_\_\_\_\_

Firm Address: \_\_\_\_\_

Phone #: \_\_\_\_\_ Email: \_\_\_\_\_

**1. Application Request**

a. The applicant is hereby requesting an application for the following:

- |  |   |
|--|---|
| <input type="checkbox"/> Minor Subdivision                               | <input type="checkbox"/> Final Major Site Plan                      |
| <input type="checkbox"/> Preliminary Major Subdivision                   | <input type="checkbox"/> Appeal of Zoning Officer's Decision ("A")  |
| <input type="checkbox"/> Final Major Subdivision                         | <input type="checkbox"/> Interpretation of Zoning Ordinance ("B")   |
| <input type="checkbox"/> Conditionally Exempt Site Plan                  | <input type="checkbox"/> Hardship or Flexible Bulk Variance ("C")   |
| <input type="checkbox"/> Minor Site Plan                                 | <input type="checkbox"/> Use Variance ("D")                         |
| <input type="checkbox"/> Preliminary Major Site Plan                     | <input checked="" type="checkbox"/> Other: <u>Change in Tenancy</u> |
| <input type="checkbox"/> Amended Preliminary, Final or Minor Subdivision |   |
| <input type="checkbox"/> Amended Preliminary, Final or Minor Site Plan   |   |

Is a variance or conditional use approval required? NO If so, please specify the section of the Ordinance: \_\_\_\_\_ and provide a detailed explanation of the variances needed and attach explanation hereto.

**2. Items of Proposed Development**

- a. Address: 825 8th Avenue (Belmar Plaza) Unit 4C Belmar, NJ
- b. Zoning District: \_\_\_\_\_
- c. Number of Existing Lots: 1 Number of Proposed Lots: N/A
- d. For the construction of: (check all that apply and provide # of each type)
- |   |  |
|---|--|
| <input type="checkbox"/> Single Family Dwelling _____                         | <input type="checkbox"/> Accessory Use _____           |
| <input type="checkbox"/> Two Family Dwelling _____                            | <input type="checkbox"/> Addition _____                |
| <input type="checkbox"/> Other Residential _____                              | <input type="checkbox"/> Commercial Structure(s) _____ |
| <input checked="" type="checkbox"/> Other (Describe) <u>Change in Tenancy</u> |  |
- Number of units that will qualify as Affordable Units \_\_\_\_\_ for sale and \_\_\_\_\_ for rent.
- e. Provide brief description of proposed development: Convert West Marine retail to Dynamic Engineering Consultants office space.
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

**3. Consent for Site Review**

- a. The applicant and owner realize that as part of the Planning Board / Zoning Board of Adjustment review of its application, that the Board may determine it necessary or advisable to visit the subject premises for the purposes of performing a site inspection and review. The applicant and owner do hereby give permission to any member of the Borough of Belmar's Planning Board and Zoning Board of Adjustment as well as any other Borough employee or officer to enter the subject premises for the purpose of performing a site inspection and review.

 _____ Owner Initials	<u>4/9/20</u> _____ Date	JAP _____ Applicant Initials	<u>4-7-2020</u> _____ Date
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**5. Certificate of Concurrence & Statement of the Landowner**

- a. I hereby certify that I am the Owner of Record of the site depicted and that I concur with the plans presented to the Planning Board / Zoning Board of Adjustment.
- b. Application is made with my complete understanding and permission in accordance with the agreement of purchase or other option entered into between me and the applicant.
- c. Permission is hereby granted to: \_\_\_\_\_, otherwise known as the Applicant, to submit the proposed development plans on my behalf as the: (Tenant or Contract Purchaser if applicable): \_\_\_\_\_.

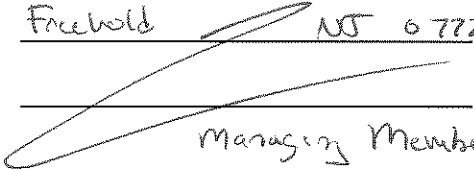
 _____ Owner Initials	<u>4/9/20</u> _____ Date	JAP _____ Applicant Initials	<u>4-7-2020</u> _____ Date
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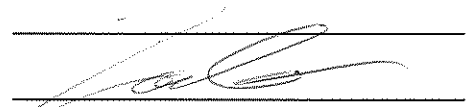
**6. Escrow Agreement**

- a. The ordinances of the Borough of Belmar require the Applicant to pay certain sums into an escrow account for review of said application for development and for the Owner of said property to agree to the charges against same or become a lien on its property.
- b. The Applicant shall submit an escrow payment to the Borough of Belmar in the amount of to be held by the Borough in an interest bearing account pursuant to N.J.S.A. 40:55D-53.1.
- c. The Borough has the right to withdraw funds from said escrow account for payment of all invoices submitted by the professionals reviewing the application on behalf of the Borough pursuant to N.J.S.A. 40:55D-53.2.
- d. If the escrow account is reduced to 25% of its original amount or if additional payments are deemed necessary by the Planning Board / Zoning Board of Adjustment / Borough, the Applicant shall be notified of such and agrees to make an additional payment within twenty-one (21) days of receipt of request pursuant to Borough Code.

 _____ Owner Initials	<u>4/9/20</u> _____ Date	JAP _____ Applicant Initials	<u>4-7-2020</u> _____ Date
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7. **Final Certification**

	<u>Owner</u>	<u>Applicant (if other than owner)</u>
Name:	<u>B M I A , LLC</u>	<u>Dynamic Engineering Consultants</u>
Address:	<u>63 West Main St.</u>	<u>1904 Main Street</u>
	<u>Freehold NJ 07728</u>	<u>Lake Como, NJ 07719</u>
Signature:	 <u>Managing Member</u>	

	<u>Notary Public</u>	<u>Attorney on behalf of Applicant/Owner</u>
Name:	<u>Zachary J. Gross, Esq.</u>	<u>Not applicable</u>
Address:	<u>63 W. Main Street, Freehold, NJ 07728</u>	
Signature:		

Stamp: Attorney at Law  
in The State of New Jersey

Seal:

APR 15 2012

7



**RECORD AND RETURN TO:**

Coastal Title Agency, Inc.  
2 Paragon Way, Suite 400B  
PO Box 740  
Freehold, NJ 07728

130

Prepared by:

*[Handwritten signature]*  
Michael DuPont, Esq.

*[Faint, illegible text, possibly a stamp or receipt]*

**DECLARATION OF RESTRICTION**

THIS DECLARATION OF RESTRICTION (this "Declaration") is made as of January 1, 2012, by the Borough of Belmar, a municipal corporation of the State of New Jersey, in the County of Monmouth, having an address at 601 Main Street, P.O. Box A, Belmar, New Jersey 07719 ("Belmar") for the benefit of BMIA, LLC, a Limited Liability Company of the State of New Jersey, in the County of Monmouth, having an address at c/o G.B. Ltd. Oper. Co., Inc., 63 West Main Street, P.O. Box 5008, Freehold, New Jersey 07728 ("BMIA").

**RECITALS**

- A. Belmar owns fee title to the Restricted Parcel (as defined below), which is located in the Borough of Belmar, County of Monmouth, State of New Jersey and which does not have a Block and Lot designation on the Borough of Belmar Tax Map.
- B. BMIA is the owner of property within the Borough of Belmar consisting of Block 86.01, Lot 1, which property has heretofore been commonly called the "Belmar Mall."
- C. Pursuant to this Declaration, Belmar intends to restrict the use of the Restricted Parcel, in accordance with the terms and conditions hereinafter set forth.

NOW, THEREFORE, Belmar hereby declares that the restrictions contained in this Declaration shall be binding upon the Restricted Parcel and any parties who acquire any interests in and to any portion of the Restricted Parcel.

**DECLARATION**

1. Recitals. The recitals set forth in this Declaration contain statements of fact and/or expressions of intention and are made part of the substance of this Declaration.

2. Restricted Parcel. For purposes of this Declaration, the term "Restricted Parcel" or "Parking Lot" shall mean and refer only to the Borough-owned property generally located to the east of the railroad and running from Eighth Avenue to Tenth Avenue which surrounds Block

86.01, Lot 1 on its south, west and east sides, the north side is bordered by Eighth Avenue as depicted on the map attached hereto as EXHIBIT A. The Restricted Parcel is part of what is commonly known as "Belmar Plaza" and shall not be deemed to include, restrict or affect any other real property or interest in real property now or hereafter owned by Belmar.

3. Restriction.

(a) The restrictions on the Restricted Parcel shall be in effect for a term of fifty (50) years from January 1, 2012 (the "Restriction").

(b) The Restricted Parcel shall continue to be maintained by Belmar as a municipal parking lot open to the public at large and to provide access to BMIA's property and to provide access to Eighth Avenue and Tenth Avenue except as provided herein.

(c) Belmar shall not reduce the number of parking spaces on the Restricted Parcel below two hundred and twenty (220) parking spaces without consultation with and approval from BMIA. Belmar shall not increase the number of parking spaces currently devoted to ten (10) hour parking beyond the 75 parking spaces depicted in gray as shown on EXHIBIT A which are generally described as being situated between the back of BMIA's building and the railroad tracks which contains 32 parking spaces and to the south of BMIA's building which contains 43 parking spaces without taking into consideration the needs of the adjacent property owners.

(d) This Restriction shall not be construed to limit Belmar's ability to pass ordinances, resolutions and take other actions as provided by law to regulate the use of the Parking Lot, including time limits on parking.

(e) This Restriction shall not be construed to limit Belmar's ability to maintain, renovate, reconfigure and/or control the Parking Lot including temporarily closing portions of the Parking Lot for public events and like occurrences.

(f) This Restriction shall not be construed to limit any other existing rights of third parties, if any, to the Restricted Parcel, including but not limited to, the right of the owners, agents, servants and employees of the owner of Block 86, Lot 1, which presently contains the business known as Freedman's Bakery, and/or New Jersey Department of Environmental Protection, the United States Environmental Protection Agency or like agencies to access and/or use the Parking Lot regarding environmental remediation, monitoring and related activities.

(e) Nothing in this Declaration shall be construed to give BMIA any further rights than those enumerated herein.

4. No Third Party Beneficiaries. The Restriction is intended for the sole benefit of Belmar and BMIA. Accordingly, no person or entity, including the tenants of BMIA, except Belmar or BMIA shall have any rights or privileges under this Declaration, including, without limitation, any right to enforce (or seek to enforce) the Restriction or any other provision of this Declaration.

5. Binding Effect. The rights and obligations set forth in this Declaration shall run with the land. This Declaration shall be binding upon and shall inure to the benefit of the heirs, successors and assigns of BMLA.

6. No Rights in Public. Nothing herein is intended, nor shall it be construed, held or taken, as a dedication of the Restricted Parcel or any portion thereof, nor shall or does this Declaration create any rights in, to, or for the benefit of the general public with respect to the Restricted Parcel.

7. Governing Law, Forum Selection, and Waiver of Jury Trial. The Parties agree that this Declaration shall be governed by and interpreted according to the laws of the State of New Jersey, without reference to the choice of law principles thereof. Each of the parties hereto irrevocably submits to the jurisdiction of the Superior Court of New Jersey, Monmouth County, for the purpose of any suit, action, proceeding or judgment relating to or arising out of this Declaration and the transactions contemplated thereby and to the laying of venue in such Court. Each party hereto irrevocably waives any objection to the laying of venue of any such action or proceeding brought in said Court and irrevocably waives any claim that any such suit, action or proceeding brought in said Court has been brought in any inconvenient forum. The Parties further agree that any claims relating to or arising out of this Declaration and the transactions contemplated thereby shall be tried before a Judge and without a trial by jury.

[Signatures Commence on Following Pages]

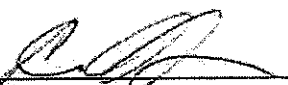


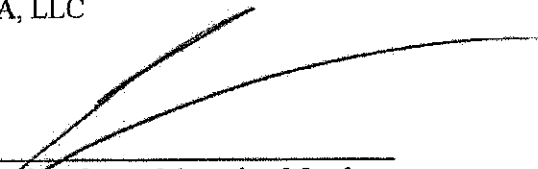


**AGREED TO AND ACCEPTED:**

WITNESS:

BMIA, LLC

By:   
Carol J. Truss

By:   
Carl P. Gross, Managing Member

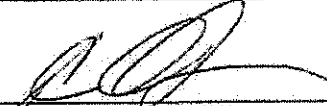
STATE OF NEW JERSEY   )  
  )ss.:  
COUNTY OF MONMOUTH )

I CERTIFY that on March 15, 2012, Carl P. Gross, the Managing Member of BMIA, LLC, a Limited Liability Company of New Jersey, personally appeared before me and acknowledged under oath, to my satisfaction, that this person (or if more than one, each person):

- a. This person is the Managing Member of the BMIA, LLC, the Limited Liability Company named in this document;
- b. The person who signed this document is the proper officer who is Carl P. Gross, the Managing Member of the LLC; and
- c. This document was signed and delivered by the LLC as its voluntary act duly authorized by a proper resolution of its Members

Signed and sworn to before me on

March 15, 2012.

  
Carol J. Truss, Esq.  
Attorney at Law, State of New Jersey

# **EXHIBIT A**







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## INTEROFFICE MEMORANDUM

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**To:** Planning Board Members  
**From:** April Claudio, Planning Board Secretary  
**Subject:** 825 Belmar Plaza  
**Date:** April 27, 2020  
**cc:** Doug Kovats, Esq., Jerry Freda, Ted Bianchi

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Dynamic Engineering submitted a Site Plan Application Waiver request for 825 Belmar Plaza. Their request is to relocate their engineering offices to the old West Marine storefront. The application involves a change of use from retail to office. Typically, this would require site plan approval however given the nature of the application they have requested a waiver from the submission of a full site plan application. Per Borough Ordinance, the Site Plan Committee which consists of 3 members of the Planning Board, can review an application to determine if the waiver can be granted. The Committee consists of Rick Meyer, Tom Burke and Jay McDermott.

They have reviewed the application and offered the following comments:

Tom Burke: The floor plan calls for 8 private offices. As a result of this, I see no problem with granting a waiver as presented in the April 8, 2020 letter from Dynamic Engineering. While parking is always an issue with me, I do not see that the application as presented would present any additional strain on the parking in the plaza parking lot. I vote to grant the waiver as presented.

Jay McDermott: I agree that the space is less intense given office use and the parking requirements are less for office (1 per 250 SF) versus retail (1 per 200 SF) therefore I vote that we grant the waiver as requested in the April 8, 2020 letter from Dynamic Engineering.

Rick Meyer: I have reviewed the packet and support the waive of a formal site plan application.

Therefore, in light of these comments, it is recommended the Board grant the waiver of a full site plan submission.

I would ask that Doug Kovats to review the attached and prepare the necessary resolution for the Board to consider. If anyone has any questions, please feel free to reach out to myself or Doug individually. Thank you.