1. Agendas

    Documents:

    5-9-13_WORK_SESSION_AGENDA_PT._1.PDF
    5-9-13_WORK_SESSION_AGENDA_PT._2.PDF

City of Newburgh Council Work Session
5:00 pm
May 9, 2013

AGENDA

1. Review of Tentative Agenda for Monday night:

   a. Approval of the minutes of the City Council meeting of April 22, 2013
   b. Approval of the minutes of the Work Session of April 18, 2013
   c. Matters of Litigation

2. Purple Heart Designations:

   a. (Res. 92) Resolution to proclaim the City of Newburgh a Purple Heart City
   b. (Res. 93) Resolution to proclaim the Newburgh Armory Unity Center a Purple Heart City Center

3. Grants/Contracts:

   a. (Res. 94) Agreement with Orange County for the City's participation in the Summer Youth Employment Program
   b. (Res. 95) License agreement with St. Luke's Cornwall Hospital to allow use of the City owned property located in the Carter Street pedestrian walkway known as Larkin Park for a farmers market

4. Economic and Community Development/Real Estate:

   a. 5 Scobie Drive, Project Update – Teri Waivada
   b. Request of Ben Papaleo for PILOT for the redevelopment of 307 Broadway – Teri Waivada
   c. Large Scale Mixed Use Special Permit Text Amendment
      - (Res. 96) Adopting the Environmental Assessment Form and Issuing a Negative Declaration
      - Ordinance to amend Article VII, entitled "Special Use Permits" of Chapter 300 of the Code to add a section to be entitled "Large-Scale Mixed-Use Development Special Permit
   d. (Res. 97) Request for extension of time to rehabilitate 44 Hasbrouck
   e. (Res. 98) Request for extension of time to rehabilitate 128 Dubois
   f. (Res. 99) Release of Restrictive Covenants 83 Nicoll Street

g. (Res. 100) Authorizing a change order to the contract with Ritter and Paratore Contracting, Inc. as it relates to the 7-11 Johnes Street demolition project in an amount not to exceed $38,530.00.
h. (Res. 101) Sunset Ridge Subdivision, reduction of the Public Improvement Security amount.
i. Commercial Builders Summit was held today (perhaps give a brief update)
j. Discussion of the Release of Covenants 67 Liberty Street
k. 72 Hasbrouck Street – Keith Giftt
l. 350-352 Liberty Street – Amendment to the State Assistance Contract for the remediation costs

5. Discussion:

a. Chamber Street Sidewalk Project
b. Salary Adjustments – Non-Bargaining Unit

6. Executive Session:

a. Pending Litigation

CITY OF NEWBURGH

CITY CLERK'S OFFICE
83 BROADWAY
NEWBURGH, NEW YORK 12550
PHONE (845)569-7311
FAX (845)569-7314

LORENE VITEK
CITY CLERK

KATRINA COTTEN
LISETTE WILLIAMS
DEPUTY CLERKS

MEMORANDUM

TO: Michelle Kelson, Corporation Counsel

FROM: Katrina Cotten, Deputy City Clerk

RE: Notice of Claim:
Peter DeRose Vs. City of Newburgh

DATE: April 24, 2013

Please find attached Notice of Claim regarding the above, which was received in our office via Certified Mail on this date.

Attachment

Cc City Manager
Mayor & Council

DREYER LAW OFFICES, PLLC
5419 ROUTE 9W
NEWBURGH, NEW YORK 12550
E-MAIL: DREYERLAWOFFICES@AOL.COM

DARRYL J. DREYER
SARAH R. DREYER

MAIN: (845) 522-8910
FAX: (845) 522-8981
24 HOUR LINE: (914) 805-2562

April 22, 2013

VIA CERTIFIED MAIL # 7012 3050 0000 5839 2447
RETURN RECEIPT REQUESTED

RECEIVED
APR 24 2013
CITY CLERK

City of Newburgh
83 Broadway
Newburgh, New York 12550

Attn: Lorene Vitek, City Clerk

Re: DeRose v. City of Newburgh
Date of Loss: 02/14/13

Dear Ms. Vitek:

Enclosed herewith please find service upon you of the Verified Notice of Claim against the City of Newburgh on behalf of Peter DeRose.

Very truly yours,

DREYER LAW OFFICES, PLLC

BY: SARAH R. DREYER

SRD/kel
Enclosure

In the Matter of the Claim of

PETER DeROSE

against

CITY OF NEWBURGH and NEW YORK STATE DEPARTMENT OF MOTOR VEHICLES

RECEIVED
APR 24 2013
CITY CLERK

TO: CITY OF NEWBURGH

PLEASE TAKE NOTICE that the undersigned claimant(s) hereby make(s) claimed and demand against you as follows:

1. ***The name and post-office address of each claimant and claimant's attorney is:***
Claimant resides at 72 1/2 Henry Avenue, Newburgh, New York 12550. Claimant's attorneys are Dreyer Law Offices, PLLC, 5419 Route 9W, Newburgh, New York 12550.

2. ***The nature of the claim:***
The nature of the claim is for permanent and personal injuries sustained by the claimant, Peter DeRose, as a result of the negligence of the City of Newburgh, their agents, servants and/or employees, departments, agencies and those acting under their directions, in failing to maintain their sidewalks to keep clear of snow and ice.

3. ***The time when, the place where and the manner in which the claim arose:***
The claim arose on Thursday, February 14, 2013, when the claimant, Peter DeRose , was caused to slip and fall due to an icy condition on the sidewalk in front of 128 Broadway, causing injuries to the claimant.

4. ***The items of damage or injuries claimed are (do not state dollar amounts):***
The claimant, Peter DeRose, is entitled to a monetary recovery in an amount exceeding the jurisdictional limits of all lower courts which would otherwise have jurisdiction herein, due to the injuries he sustained as well as the pain, suffering and disability that resulted.

The undersigned claimant(s) therefore present this claim for adjustment and payment. You are hereby notified that unless it is adjusted and paid within the time provided by law from the date of presentation to you, the claimant(s) intend(s) to commence an action on this intended claim.

Dated: April 22, 2013

PETER DeROSE

State of New York, County of Orange ss.:

PETER DeROSE, being duly sworn, deposes and says that he is the intended claimant in the within Notice of Claim; that he has read the foregoing Notice of Claim and knows the contents thereof; that the same is true to deponent's own knowledge, except as to the matter therein stated to be alleged on information and belief, and that as to those matters deponent believes it to be true.

PETER DeROSE

Sworn before me, this
22 day of April, 2013.

NOTARY PUBLIC

SARAH DREYER
Notary Public - State of New York
No. 02DR6217207
Qualified in Orange County
My Comm. Expires Feb. 8, 2014

CITY OF NEWBURGH

CITY CLERK'S OFFICE
83 BROADWAY
NEWBURGH, NEW YORK 12550
PHONE (845)569-7311
FAX (845)569-7314

LORENE VITEK
CITY CLERK

KATRINA COTTEN
LISETTE WILLIAMS
DEPUTY CLERKS

MEMORANDUM

TO: Michelle Kelson, Corporation Counsel

FROM: Lisette Acosta-Ramirez, Deputy City Clerk

RE: Notice of Claim:
Ramona McCallum vs. City of Newburgh

DATE: April 15, 2013

Please find attached Notice of Claim regarding the above, which was hand delivered to our office on April 12, 2013.

Attachment

Cc City Manager
Mayor & Council

Blumberg's Law Products® T 1183– Notice of Claim against a Public Authority Pursuant to §50 General Municipal Law : Not for use in the Court of Claims : 6-81

BlumbergExcelsior, Inc., PUBLISHER, NYC 10013

In the Matter of the Claim of

RECEIVED
APR 12 2013
CITY CLERK

TO:

PLEASE TAKE NOTICE that the undersigned claimant(s) hereby make(s) claim and demand against you as follows:

1. *The name and post-office address of each claimant and claimant's attorney is:*

Ramona McCallum 347 489 8976
55 Lake Drive
Newburgh, Ny 12550. 845 392 4964.

2. *The nature of the claim:*

Damage clothing caused by Brown wate
at Laundromaut.

3. *The time when, the place where and the manner in which the claim arose:*

4/12/13 at 10:50 Am 24 Liberty st (Liberty St Laundro Ma
Newburgh, Ny 12550.
I went to do my Laundry and the wat
in the machine was brown and my
clothing was damaged they turned Rusty
and brown.

4. *The items of damage or injuries claimed are (do not state dollar amounts)*

(1) Blankets (4)
(2) Rugs (5).
(3) Towels (7)
(4) T-shirts (23) Fruit of loom (white T)
(5) Sweaters (12) – Hollister, Abercombie, Ralph Lauren
(6) Underwear (32) boxer brief + Panties
(7) Socks. (18) pairs
(8) Sheet sets (5)
(9) Working clothe (5 Suits)

The undersigned claimant(s) therefore present this claim for adjustment and payment. You are hereby notified that unless it is adjusted and paid within the time provided by law from the date of presentation to you, the claimant(s) intend(s) to commence an action on this claim.

Dated:

RAMONA A. McCallum.

The name signed must be printed beneath

The name signed must be printed beneath

Attorney(s) for Claimant(s)
Office and Post Office Address, Telephone Number

INDIVIDUAL VERIFICATION

State of New York, County of Orange *ss.:*

Ramona A. McCallum.

being duly sworn, deposes and says that deponent is the claimant in the within action; that . .he has read the foregoing Notice of Claim and knows the contents thereof; that the same is true to deponent's own knowledge, except as to the matters therein stated to be alleged on information and belief, and that as to those matters deponent believes it to be true.

Sworn to before me, this 12th *day of* April 2013.

LUIS A. PEÑA
Notary Public, State of New York
Qualified In Orange County
Reg. No. 01PE6225959
My Commission Expires Aug. 2, 2014

CORPORATE VERIFICATION

State of New York, County of ~~Orange~~ *ss.:*

~~Ramona A. McCallum~~

being duly sworn, deposes and says that deponent is the *of* *corporate claimant named in the within action; that deponent has read the foregoing Notice of Claim and knows the contents thereof, and that the same is true to deponent's own knowledge, except as to the matters therein stated to be alleged upon information and belief, and as to those matters deponent believes it to be true.*

This verification is made by deponent because said claimant is a *corporation, and deponent an officer thereof, to wit its*
The grounds of deponent's belief as to all matters not stated upon deponent's knowledge are as follows:

Sworn to before me, this 12th *day of* April 2013

LUIS A. PEÑA
Notary Public, State of New York
Qualified In Orange County
~~Reg. No. 01PE6225959~~
My Commission Expires Aug. 2, 2014

In the Matter of the Claim of

Notice of Claim Against

Attorney(s) for Claimant(s)
Office and Post Office Address

CITY OF NEWBURGH

CITY CLERK'S OFFICE
83 BROADWAY
NEWBURGH, NEW YORK 12550
PHONE (845)569-7311
FAX (845)569-7314

LORENE VITEK
CITY CLERK

KATRINA COTTEN
LISETTE WILLIAMS
DEPUTY CLERKS

MEMORANDUM

TO: Michelle Kelson, Corporation Counsel

FROM: Lisette Acosta-Ramirez, Deputy City Clerk

RE: Notice of Claim:
Doris Pacheco vs. City of Newburgh

DATE: April 15, 2013

Please find attached Notice of Claim regarding the above, which was hand delivered to our office on April 12, 2013.

Attachment

Cc City Manager
Mayor & Council

Blumberg's Law Products® T 1183— Notice of Claim against a Public Authority Pursuant to §50 General Municipal Law : Not for use in the Court of Claims : 6-81

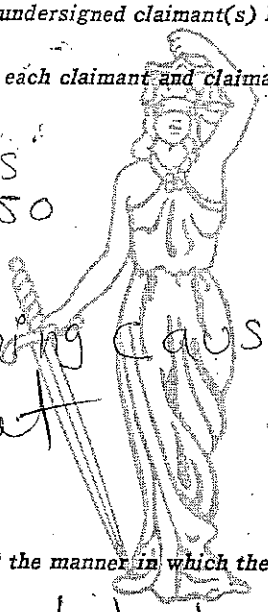
BlumbergExcelsior, Inc., PUBLISHER, NYC 10013

In the Matter of the Claim of

RECEIVED
APR 12 2013
CITY CLERK

TO:

PLEASE TAKE NOTICE that the undersigned claimant(s) hereby make(s) claim and demand against you as follows:



1. The name and post-office address of each claimant and claimant's attorney is:

Jorps Pacheco
35 Liberty Heights
Newburgh N.Y 12550
(845) 562-8619.

2. The nature of the claim:

Damaged Clothing caused by Brown water at Laundromat

3. The time when, the place where and the manner in which the claim arose:

4/12/13 at 24 Liberty st (Liberty st Laundromat) on the city of Newburgh.
All my clothing was destroyed because of brown water coming from the machine.

4. The items of damage or injuries claimed are (do not state dollar amounts)

(1) T-shirts (25)
(2) Rugs (2)
(3) Towels. (4)
(4) Socks (24)
(5) Underwear (16)
(6) Shorts (4)

The undersigned claimant(s) therefore present this claim for adjustment and payment. You are hereby notified that unless it is adjusted and paid within the time provided by law from the date of presentation to you, the claimant(s) intend(s) to commence an action on this claim.

Dated:

X Doris L. Pacheco
The name signed must be printed beneath

Doris L. Pacheco.
The name signed must be printed beneath

Attorney(s) for Claimant(s)
Office and Post Office Address, Telephone Number

INDIVIDUAL VERIFICATION

State of New York, County of Orange *ss.:*

being duly sworn, deposes and says that deponent is the claimant in the within action; that . .he has read the foregoing Notice of Claim and knows the contents thereof; that the same is true to deponent's own knowledge, except as to the matters therein stated to be alleged on information and belief, and that as to those matters deponent believes it to be true.

Sworn to before me, this 12
day of April 2013

Virginia L Gross

VIRGINIA L. GROSS
Notary Public, State of New York
Qualified in Orange County
No. 01GR5012047
Commission Expires June 15, 2013

CORPORATE VERIFICATION

State of New York, County of *ss.:*

being duly sworn, deposes and says that deponent is the *of* *corporate claimant named in the within action; that deponent has read the foregoing Notice of Claim and knows the contents thereof, and that the same is true to deponent's own knowledge, except as to the matters therein stated to be alleged upon information and belief, and as to those matters deponent believes it to be true.*

This verification is made by deponent because said claimant is a *corporation, and deponent an officer thereof, to wit its*
The grounds of deponent's belief as to all matters not stated upon deponent's knowledge are as follows:

Sworn to before me, this
day of

In the Matter of the Claim of

Notice of Claim Against

Attorney(s) for Claimant(s)
Office and Post Office Address

CITY OF NEWBURGH

CITY CLERK'S OFFICE
83 BROADWAY
NEWBURGH, NEW YORK 12550
PHONE (845)569-7311
FAX (845)569-7314

LORENE VITEK
CITY CLERK

KATRINA COTTEN
LISETTE WILLIAMS
DEPUTY CLERKS

MEMORANDUM

TO: Michelle Kelson, Corporation Counsel

FROM: Katrina Cotten, Deputy City Clerk

RE: Notice of Claim:
Celeste Mays and Carrie Beard vs. City of Newburgh

DATE: April 12, 2013

Please find attached Notice of Claim regarding the above, which was personally served on our office on this date.

Attachment

Cc City Manager
Mayor & Council

Blumberg Law Products T 1183– Notice of Claim against a Public Authority Pursuant to §50 General Municipal Law : Not for use in the Court of Claims : 6-81

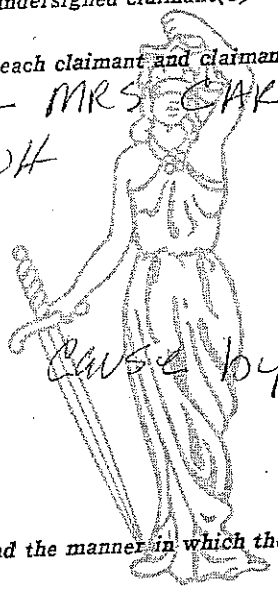
BlumbergExcelsior, Inc., PUBLISHER, NYC 10013

In the Matter of the Claim of

RECEIVED
APR 12 2013
CITY CLERK

TO:

PLEASE TAKE NOTICE that the undersigned claimant(s) hereby make(s) claim and demand against you as follows:



1. The name and post-office address of each claimant and claimant's attorney is:

Celeste Mays + MRS. CARRIE BEARD
63 Liberty St WH
NewBurgh N Y

2. The nature of the claim:

Damage Clothing Caused by the Laundry
Brown water

3. The time when, the place where and the manner in which the claim arose:

4-12-13
24 Liberty flats
Newburgh NY 12550

4. The items of damage or injuries claimed are (do not state dollar amounts)

108 items
My mom church Clothes
Suits
Coat
pants
skirts
Dresses
Blouse
every day Clothes
underwears
Towels
wash clothes
sweaters

The undersigned claimant(s) therefore present this claim for adjustment and payment. You are hereby notified that unless it is adjusted and paid within the time provided by law from the date of presentation to you, the claimant(s) intend(s) to commence an action on this claim.

Dated:

Celeste Mays

The name signed must be printed beneath

The name signed must be printed beneath

Celeste Mays

Attorney(s) for Claimant(s)
Office and Post Office Address, Telephone Number

INDIVIDUAL VERIFICATION

State of New York, County of Orange *ss.:*

Celeste Mays *being duly sworn, deposes and says that deponent is the claimant in the within action; that . .he has read the foregoing Notice of Claim and knows the contents thereof; that the same is true to deponent's own knowledge, except as to the matters therein stated to be alleged on information and belief, and that as to those matters deponent believes it to be true.*

Sworn to before me, this 12th *day of* April 2013

LUIS A. PEÑA
Notary Public, State of New York
Qualified in Orange County
Reg. No. 01PE6225959
My Commission Expires Aug. 2, 2014

CORPORATE VERIFICATION

State of New York, County of *ss.:*

being duly sworn, deposes and says that deponent is the *of* *corporate claimant named in the within action; that deponent has read the foregoing Notice of Claim and knows the contents thereof, and that the same is true to deponent's own knowledge, except as to the matters therein stated to be alleged upon information and belief, and as to those matters deponent believes it to be true.*

This verification is made by deponent because said claimant is a *corporation, and deponent an officer thereof, to wit its*
The grounds of deponent's belief as to all matters not stated upon deponent's knowledge are as follows:

Sworn to before me, this
day of

In the Matter of the Claim of

Notice of Claim Against

Attorney(s) for Claimant(s)
Office and Post Office Address

CITY OF NEWBURGH

CITY CLERK'S OFFICE
83 BROADWAY
NEWBURGH, NEW YORK 12550
PHONE (845)569-7311
FAX (845)569-7314

LORENE VITEK
CITY CLERK

KATRINA COTTEN
LISETTE WILLIAMS
DEPUTY CLERKS

MEMORANDUM

TO: Michelle Kelson, Corporation Counsel

FROM: Katrina Cotten, Deputy City Clerk

RE: Notice of Claim:
Robert Boone vs. City of Newburgh

DATE: April 12, 2013

Please find attached Notice of Claim regarding the above, which was personally served on our office on this date.

Attachment

Cc City Manager
Mayor & Council

File #106333-1/11

In the Matter of the Claim of

ROBERT BOONE,

Claimant,

-against-

CITY OF NEWBURGH,

Respondent.

RECEIVED
APR 12 2013
CITY CLERK

TO: CITY OF NEWBURGH

PLEASE TAKE NOTICE *that the undersigned claimants hereby make claim and demand against you as follows:*

1. *The name and post-office address of each claimant and claimants' attorney is:*

ROBERT BOONE
Claimant
60 Benkard Ave.
Newburgh, New York 12550

FINKELSTEIN & PARTNERS, LLP
Attorneys for Claimant
1279 Route 300, PO Box 1111
Newburgh, New York 12551

2. The nature of the claim: Claim is for severe and serious permanent personal injuries, severe pain and suffering and medical expenses sustained by claimant, ROBERT BOONE.

3. The time when, the place where and the manner in which the claim arose: This claim arose on or about the 15th day of January, 2013, at approximately 2:00 P.M. on the sidewalk in front of premises located at 347 Broadway, approximately 31.7 feet northwest from the CHG & E utility pole# 2354n, in the City of Newburgh, County of Orange, State of New York, which is owned, maintained, controlled, operated and/or managed by the respondent, CITY OF NEWBURGH. The manner in which the claim arose is that while the claimant was lawfully walking thereon, he was caused to be precipitated to the ground, thereby sustaining severe and serious personal injuries due to the negligence, recklessness and carelessness of the respondents, their agents, servants and/or employees, in among other things, as follows: allowing, causing and/or permitting the aforesaid sidewalk to be,

SEE ATTACHED RIDER **SEE ATTACHED PHOTOS**

RIDER TO NOTICE OF CLAIM IN THE MATTER OF

----------x

ROBERT BOONE,

Claimant,

-against-

CITY OF NEWBURGH,

Respondent.

----------x

3. (continued)
become and remain in an icy, dangerous and hazardous condition to persons lawfully thereon; in causing and/or permitting dangerous accumulations of ice in and upon said sidewalk so as to constitute a trap creating danger to persons upon said sidewalk; in allowing, causing and/or permitting dangerous, hazardous and/or unsafe conditions to exist on the aforesaid sidewalk; in failing to properly and adequately sand and/or salt the sidewalk and/or use another type of traction to avoid the accident herein; in failing to properly remove and/or provide for the proper removal of ice from said sidewalk; in failing to fence off, barricade and/or by some other means block off the area of the dangerous, hazardous and unsafe conditions; in creating a trap; in failing to properly maintain, check and/or inspect said sidewalk; in failing to provide proper and adequate warnings to persons on the sidewalk of the existing conditions; in failing to remedy or take precautionary steps in reference to the aforementioned conditions; in creating a trap; in failing to use that degree of caution, prudence and care which was reasonable and proper under the controlling circumstances; in failing to take those steps necessary to avoid the contingency which occurred; in acting with reckless disregard for the safety of others; in hiring inept, incompetent and unskilled agents, servants and/or employees, and in other ways being negligent, wanton, reckless and careless.

4. The items of damage or injuries claimed are as follows: Claimant, ROBERT BOONE, sustained severe and serious permanent personal injuries to his body, including, but not limited to fracture left ankle requiring surgery to repair, abrasions both knees, sprain and/or strain both knees, permanent significant scarring and disfigurement, severe pain and suffering and extensive medical bills. Exact extent of same are unknown at this time.

The undersigned claimant(s) therefore present this claim for adjustment and payment. You are hereby notified that unless it is adjusted and paid within the time provided by law from the date of presentation to you, the claimant(s) intend(s) to commence an action on this claim.

Dated: February 14 , 2013

"X" Robert Boone
The name signed must be printed beneath

"X" Robert Boone
The name signed must be printed beneath

Finkelstein & Partners, LLP
Attorneys for Claimant
1279 Route 300
P.O. Box 1111
Newburgh, NY 12551
Phone No: (800) 634-1212

By: _____

DAVID AKERIB, ESQ.

INDIVIDUAL VERIFICATION

State of New York, County of Orange *ss.:*

ROBERT BOONE,
being duly sworn, deposes and says that deponent is the claimant in the within action; that he/she has read the foregoing Notice of Claim and knows the contents thereof; that the same is true to deponents own knowledge, except as to the matters therein stated to be alleged on information and belief, and that as to those matters deponent believes it to be true.

"X" Robert Boone
The name signed must be printed beneath

"X" Robert Boone
The name signed must be printed beneath

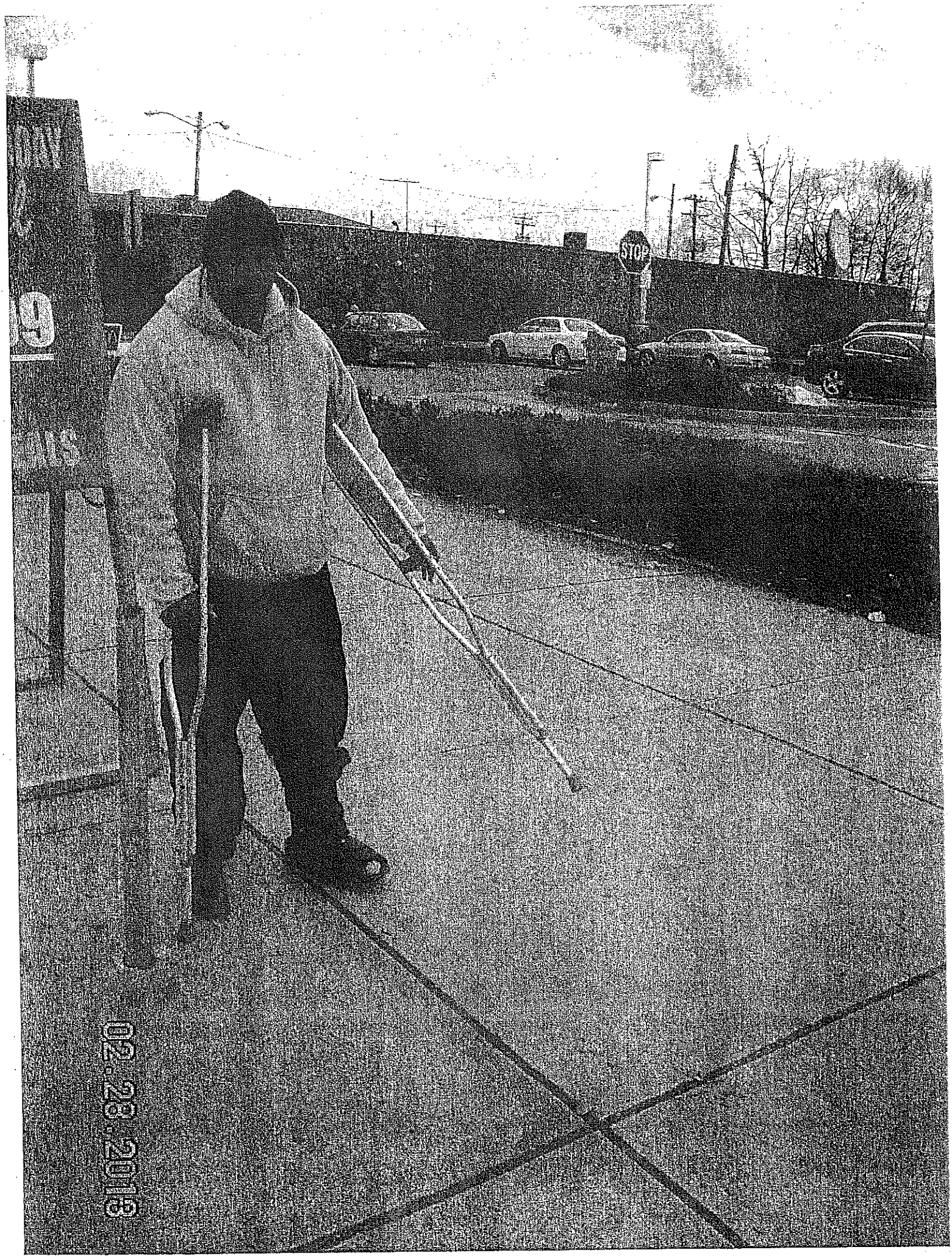
Sworn to before me, this
14TH *Day of* Feb , 2013

Ana Rodriguez
NOTARY PUBLIC

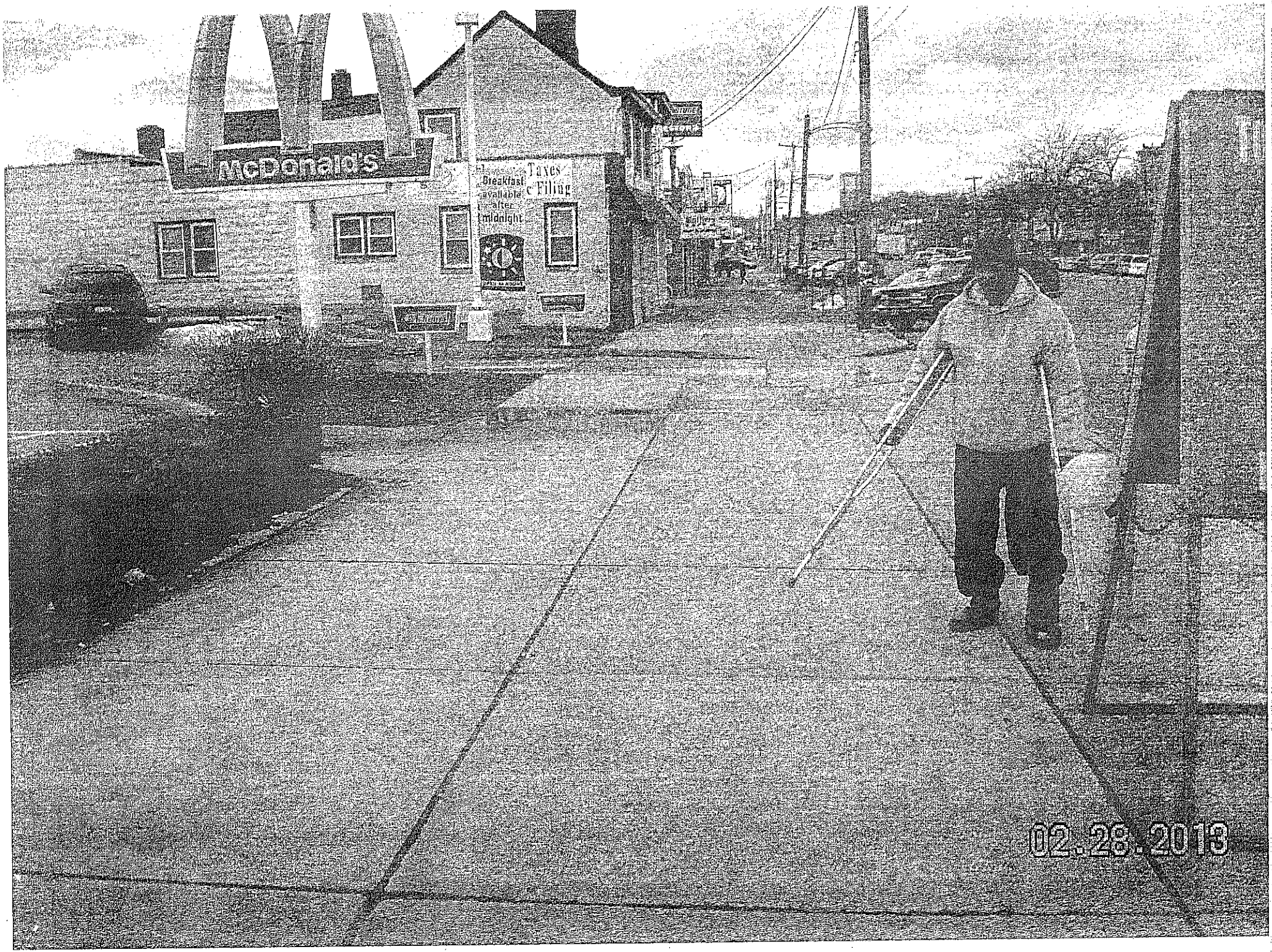
ANA RODRIGUEZ
Notary Public, State of New York
Qualified in Orange County
Registration # 01RO5056552
Commission Expires March 4, 2014

$1 ANY SIZE
Premium Roast Coffee
NO LEFT TURN
$19
02.28.2018

$1
ANY SIZE
premium roast coffee
STOP
02.28.2013


STOP
02.28.2018

TUESDAY & SUNDAY
02.28.2013


McDonald's
Taxes
Breakfast
available
after
midnight
e-Filing
02.28.2013

CITY OF NEWBURGH

CITY CLERK'S OFFICE
83 BROADWAY
NEWBURGH, NEW YORK 12550
PHONE (845)569-7311
FAX (845)569-7314

LORENE VITEK
CITY CLERK

KATRINA COTTEN
LISETTE WILLIAMS
DEPUTY CLERKS

MEMORANDUM

TO: Michelle Kelson, Corporation Counsel

FROM: Lisette Acosta-Ramirez, Deputy City Clerk

RE: Notice of Claim:
Cornelius Stubbs vs. City of Newburgh

DATE: April 17, 2013

Please find attached Notice of Claim regarding the above, which was hand delivered to our office on April 16, 2013..

Attachment

Cc City Manager
Mayor & Council

BlumbergExcelsior, Inc., PUBLISHER, NYC 10013

In the Matter of the Claim of

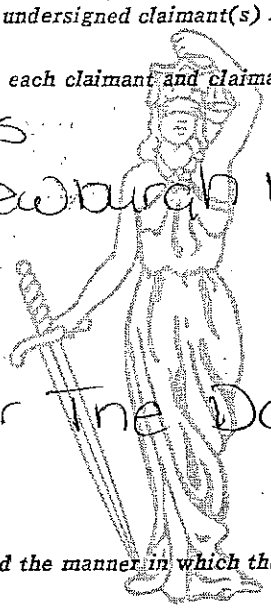
RECEIVED
APR 16 2013
CITY CLERK

TO:

PLEASE TAKE NOTICE that the undersigned claimant(s) hereby make(s) claim and demand against you as follows:

1. The name and post-office address of each claimant and claimant's attorney is:

Cornelius Stubbs
P.O BOX 1891 Newburgh N.Y 12551
(845) 219-3392



2. The nature of the claim:

Reinburst for the Damage

3. The time when, the place where and the manner in which the claim arose:

11:00 pm ON William ST.
Newburgh N.Y 12550

4. The items of damage or injuries claimed are (do not state dollar amounts)

front Suspension
Lower Control Arm includes new bots
Riant
Includes Bushings And Lower Ball Joint
Replace inc. diagnosis
front Suspension
Lower Confront Arm / one Side (B)

Rim

Foa / Driving Lamp Fog Lamp Assembly Right Labor Repl

ulheeling / Alignment

New York State Department of Motor Vehicles

POLICE ACCIDENT REPORT

MV-104A (3/04)

Local Codes: CN-007463-13 / KCMD22000230

☐ AMENDED REPORT

Accident Date (Month / Day / Year)	Day of Week	Military Time	No. of Vehicles	No. Injured	No. Killed	Not Investigated at Scene ☐ / Accident Reconstructed ☐	Left Scene ☐	Police Photos
4 / 14 / 2013	Sunday	23:00	1	0	0			☐ Yes ☒ No

☐ VEHICLE ☐ BICYCLIST ☐ PEDESTRIAN ☐ OTHER PEDESTRIAN

VEHICLE 1

VEHICLE 1 - Driver License ID Number: 950943265 — State of Lic.: NY

Driver Name - exactly as printed on license: STUBBS, CORNELIUS D

Address (Include Number and Street): PO BOX 1891 — Apt. No.:

City or Town: NEWBURGH — State: NY — Zip Code: 12551

Date of Birth (Month / Day / Year)	Sex	Unlicensed	No. of Occupants	Public Property Damaged
8 / 22 / 1971	M	☐	01	☐

Name - exactly as printed on registration: STUBBS, CORNELIUS D — Sex: M — Date of Birth: 8 / 22 / 1971

Address (Include Number and Street): 86 WILLIAM ST — Apt. No.: — Haz. Mat. Code: — Released: ☐

City or Town: NEWBURGH — State: NY — Zip Code: 12550

Plate Number	State of Reg.	Vehicle Year & Make	Vehicle Type	Ins. Code
GFF5345	NY	2008 LNDR	SUBN	071

Ticket/Arrest Number(s):

Violation Section(s):

Check if involved vehicle is:
☐ more than 95 inches wide;
☐ more than 34 feet long;
☐ operated with an overweight permit;
☐ operated with an overdimension permit.

VEHICLE 1 DAMAGE CODES

	1	2	3	4	5
Box 1 - Point of Impact / Box 2 - Most Damage	4	4			
Enter up to three more damage codes			3		

Vehicle Bv: Towed: To:

VEHICLE 2

VEHICLE 2 - Driver License ID Number: — State of Lic.:

Driver Name - exactly as printed on license:

Address (Include Number and Street): — Apt. No.:

City or Town: — State: — Zip Code:

Date of Birth (Month / Day / Year)	Sex	Unlicensed	No. of Occupants	Public Property Damaged
		☐		☐

Name - exactly as printed on registration: — Sex: — Date of Birth (Month / Day / Year):

Address (Include Number and Street): — Apt. No.: — Haz. Mat. Code: — Released: ☐

City or Town: — State: — Zip Code:

Plate Number	State of Reg.	Vehicle Year & Make	Vehicle Type	Ins. Code

Ticket/Arrest Number(s):

Violation Section(s):

Check if involved vehicle is:
☐ more than 95 inches wide;
☐ more than 34 feet long;
☐ operated with an overweight permit;
☐ operated with an overdimension permit.

VEHICLE 2 DAMAGE CODES

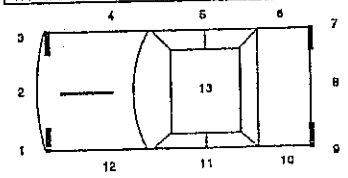
	1	2	3	4	5
Box 1 - Point of Impact / Box 2 - Most Damage					

Vehicle Bv: Towed: To:

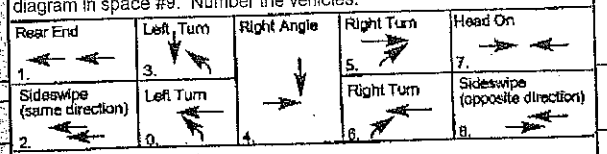
VEHICLE DAMAGE CODING:

1-13 SEE DIAGRAM ON RIGHT.

14. UNDERCARRIAGE
15. TRAILER
16. OVERTURNED
17. DEMOLISHED
18. NO DAMAGE
19. OTHER



Circle the diagram below that describes the accident, or draw your own diagram in space #9. Number the vehicles.



ACCIDENT DIAGRAM

See the last page of the MV-104A for the accident diagram.

9.

Cost of repairs to any one vehicle will be more than $1000.
☒ Unknown/Unable to determine ☐ Yes ☐ No

Reference Marker	Coordinates (if available)
	Lattitude/Northing:
	Longitude/Easting:

Place Where Accident Occurred:

County ORANGE ☒ City ☐ Village ☐ Town of NEWBURGH

Road on which accident occurred WILLIAM ST (Route Number or Street Name)

at 1) intersecting street _____ (Route Number or Street Name)

or 2) 30 feet _____ miles ☐N ☒S ☐E ☐W of BROADWAY (Milepost, Nearest intersecting Route Number or Street Name)

Accident Description/Officer's notes

(D1) RESPONDED TO POLICE HQ ON 04/14/13 AT APPROX 1138 HOURS TO REPORT THAT ON 04/13/13 AT APPROX 2300 HOURS HE WAS TRAVELING NORTHBOUND ON WILLIAM ST., APPROACHING BROADWAY WHEN (V1)'S RIGHT FRONT TIRE STRUCK A DEEP POTTHOLE. (D1) STATES THE HOLE WAS LARGE AND DEEP ENOUGH TO BEND THE INSIDE OF HIS RFRONT RIM AS WELL AS KNOCK THE FRONT PASSENGER DRIVING LIGHT LOOSE. THIS OFFICER OBSERVED SAID POTHOLE AS IT IS DIRECTLY IN FRONT OF THE ENTRANCE TO 7-11 WILLIAM ST, APPROX. 10' WEST OF THE EAST SIDE OF THE STREET CURB. THE STREET IS MOSTLY

USE COVER SHEET: N

ALL INVOLVED

	8	9	10	11	12	13	14	15	16	17 BY	TO 18	Names of all involved	Date of Death Only
A	1	1	4	1	41	M	-	-	-			STUBBS, CORNELIUS D	
B													
C													
D													
E													
F													

Officer's Rank and Signature	Badge/ID No.	NCIC No.	Precinct/Post Troop/Zone	Station/Beat Sector	Reviewing Officer	Date/Time Reviewed
P.O. K Brune	286	03502	C		Schluter, C	4/14/2013 20:13

Print Name in Full: K Brune

New York State Department of Motor Vehicles

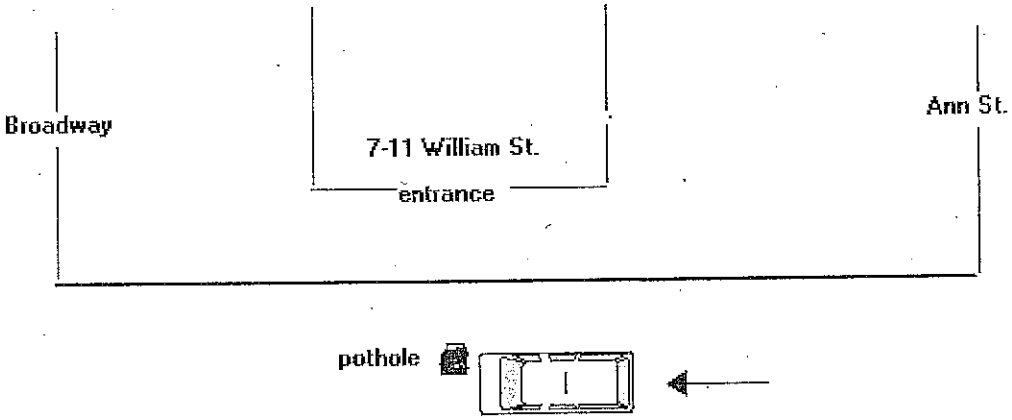
POLICE ACCIDENT REPORT

MV-104A (3/04)

Local Codes	
CN-007463-13	
KCMD22000230	

☐ AMENDED REPORT

Accident Date			Day of Week	Military Time	No. of Vehicles	No. Injured	No. Killed	Not Investigated at Scene ☐ / Accident Reconstructed ☐	Left Scene	Police Photos
Month	Day	Year								
4	14	2013	Sunday	23:00	1	0	0		☐	☐ Yes ☒ No



CITY OF NEWBURGH

CITY CLERK'S OFFICE
83 BROADWAY
NEWBURGH, NEW YORK 12550
PHONE (845)569-7311
FAX (845)569-7314

LORENE VITEK
CITY CLERK

KATRINA COTTEN
LISETTE WILLIAMS
DEPUTY CLERKS

MEMORANDUM

TO: Michelle Kelson, Corporation Counsel

FROM: Katrina Cotten, Deputy City Clerk

RE: Notice of Claim:
Colleen Guyt Vs. City of Newburgh

DATE: April 23, 2013

Please find attached Notice of Claim, which was personally served on our office on this date.

Attachment

Cc City Manager
Mayor & Council

In the Matter of the Claim of

COLLEEN GUYT,

Claimant,

-against-

THE CITY OF NEWBURGH and JOHN A. JENEROSE,

Respondents.

RECEIVED
APR 23 2013
CITY CLERK

TO: THE CITY OF NEWBURGH

***PLEASE TAKE NOTICE** that the undersigned claimant(s) hereby make(s) claim and demand against you as follows:*

1. *The name and post office of each claimant and claimant's attorney is:*

Colleen Guyt
8 Oak Lane
Campbell Hall, NY 10916

LoBiondo Law Offices
36 North Plank Road
Newburgh, New York 12550
(845) 569-7600

2. The nature of the claim: Claim is for severe personal injuries, permanency, severe pain and suffering, lost earnings and medical expenses occurring to claimant, COLLEEN GUYT.

3. The time when, the place where and the manner in which the claim arose: That on or about the 1st day of March, 2013, at approximately 1:05 p.m. at the intersection of Pierce's Road and Gidney Avenue in the City of Newburgh, County of Orange, State of New York, upon information and belief, a public thoroughfare. The vehicle operated by one, John A. Jenerose, a Police Officer employed by the City of Newburgh, and owned by the Respondent, THE CITY OF NEWBURGH, came into contact with the vehicle being operated by the Plaintiff, as a result of the negligence of Defendant, John A. Jenerose, thereby causing claimant to sustain severe and serious personal injuries as a result of the negligence, wantonness, recklessness and carelessness of the Respondent, THE CITY OF NEWBURGH, its agents, servants and/or employees in, among other things, as follows:

In the Matter of the Claim of

COLLEEN GUYT,

Claimant,

-against-

THE CITY OF NEWBURGH and JOHN A. JENEROSE,

Respondents.

3. *(continued)*

in the ownership, operation, maintenance, management and control of the Respondents' vehicle, in failing to observe the Claimants' vehicle; in failing to see what was there to be seen; in failing to keep Respondents' motor vehicle under proper control; in failing to stop Respondents' motor vehicle prior to the collision; in failing to use that degree of caution, prudence and care which was warranted under the circumstances; in failing to keep proper lookout; in failing to stop and/or slow down; in failing to sound a horn; in violating the rules of the roadway; in failing to keep alert and attentive; in failing to obey traffic signs, signals, and/or lights; in failing to yield right of way; in failing to properly apply brakes; and in other ways was negligent, reckless and careless.

4. The items of damage or injuries claimed are as follows: The Claimants sustained severe and serious permanent injuries to their mind and body, including, but not limited to, Lumbar and cervical injuries, headaches, pain and suffering, medical bills, and loss of services. The exact amount of same is unknown at this time.

The exact amount of the expenses and damages cannot be determined at the present time.

SEE ATTTACHED POLICE ACCIDENT REPORT

WHEREFORE, Claimant claims damages against THE CITY OF NEWBURGH and JOHN A. JENEROSE.

PLEASE TAKE NOTICE, that the undersigned Claimant therefore presents this claim for adjustment and payment. You are hereby notified that unless it is adjusted and paid within the time provided by law from the date of presentation to you, the Claimant intends to commence an action on this claim.

Dated: Newburgh, New York
April 18, 2013

COLLEEN GUYT

ANTHONY R. LoBIONDO, ESQ.
LoBIONDO LAW OFFICES
Attorneys for Claimant
36 North Plank Road
Newburgh, New York 12250
(845) 569-7600

INDIVIDUAL VERIFICATION

STATE OF NEW YORK)

) ss.:

COUNTY OF ORANGE)

COLLEEN GUYT, being duly sworn, deposes and says that deponent is the Claimant in the within action; that she has read the foregoing Notice of Claim and knows the contents thereof; that the same is true to deponent's own knowledge, except as to the matters therein stated to be alleged on information and belief, and that as to those matters deponent believes it to be true.

COLLEEN GUYT

Sworn to before me on this
18 day of April, 2013.

Notary Public LISA A. ROME
NOTARY PUBLIC STATE OF NEW YORK
ORANGE COUNTY
LIC # 01R06261066
COMM EXP 05/07/2016

Page 1 of 2 Pages

Local Codes: NEWBURGH City Police

CN-003950-13

New York State Department of Motor Vehicles

POLICE ACCIDENT REPORT

MV-104A (6/04)

☐ AMENDED REPORT

POLICE COPY 1

Accident Date Month	Day	Year	Day of Week	Military Time	No. of Vehicles	No. Injured	No. Killed	Not Investigated at Scene ☐ / Accident Reconstructed ☐	Left Scene ☐	Police Photos ☑ Yes ☐ No
03	01	13	FR	1305	2	0	—			

VEHICLE 1

VEHICLE 1 - Driver License ID Number: 328 121 929 — State of Lic.: NY

Driver Name - exactly as printed on license: JENEROSE, JOHN A.

Address (Include Number & Street): 55 BROADWAY — Apt. No.:

City or Town: NEWBURGH — State: NY — Zip Code: 12550

Date of Birth Month	Day	Year	Sex	Unlicensed	No. of Occupants	Public Property Damaged
10	25	66	M	☐	1	☐

Name–exactly as printed on registration: CITY OF NEWBURGH — Sex: — — Date of Birth Month / Day / Year:

Address (Include Number & Street): 83 BROADWAY — Apt. No.: — Haz. Mat Code: — Released: ☐

City or Town: NEWBURGH — State: NY — Zip Code: 12550

Plate Number	State of Reg.	Vehicle Year & Make	Vehicle Type	Ins. Code
159	—	'05 CHEVY	4DSD	318

Ticket/Arrest Number(s): —

Violation Section(s): —

Check if involved vehicle is:
☐ more than 95 inches wide;
☐ more than 34 feet long;
☐ operated with an overweight permit;
☐ operated with an overdimension permit.

VEHICLE 1 DAMAGE CODES

	1	2
Box 1 - Point of Impact	1	1
Box 2 - Most Damage		

Enter up to three more Damage Codes: 3 — 4 — 5 —

Vehicle Towed: By NOT TOWED — To —

VEHICLE 2

☑ VEHICLE 2 ☐ BICYCLIST ☐ PEDESTRIAN ☐ OTHER PEDESTRIAN

VEHICLE 2 - Driver License ID Number: 582 863 620 — State of Lic.: N.Y.

Driver Name - exactly as printed on license: GUYT, COLLEEN L.

Address (Include Number & Street): 6 OAK LN — Apt. No.: —

City or Town: CAMPBELL HALL — State: NY — Zip Code: 10916

Date of Birth Month	Day	Year	Sex	Unlicensed	No. of Occupants	Public Property Damaged
07	22	88	F	— ☐	1	☐

Name–exactly as printed on registration: DRIVER 2 — Sex: — — Date of Birth Month / Day / Year:

Address (Include Number & Street): — — Apt. No.: — Haz. Mat. Code: — Released: ☐

City or Town: — — State: — Zip Code: —

Plate Number	State of Reg.	Vehicle Year & Make	Vehicle Type	Ins. Code
ENT7536	NY	'06 VOLKS	4DSD	300

Ticket/Arrest Number(s): —

Violation Section(s): —

Check if involved vehicle is:
☐ more than 95 inches wide;
☐ more than 34 feet long;
☐ operated with an overweight permit;
☐ operated with an overdimension permit.

VEHICLE 2 DAMAGE CODES

	1	2
Box 1 - Point of Impact	9	9
Box 2 - Most Damage		

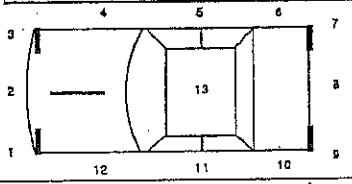
Enter up to three more Damage Codes: 3 — 4 — 5 —

Vehicle Towed: By NO. 1 TOWED — To —

VEHICLE DAMAGE CODING:

1-13. SEE DIAGRAM ON RIGHT.

14. UNDERCARRIAGE
15. TRAILER
16. OVERTURNED
17. DEMOLISHED
18. NO DAMAGE
19. OTHER

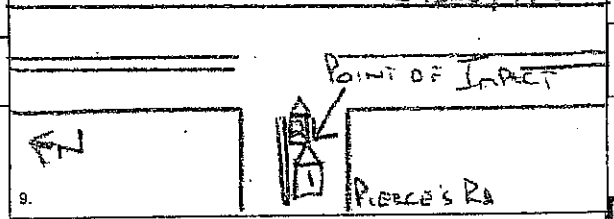


Circle the diagram below that describes the accident, or draw your own diagram in space #9. Number the vehicles.

Rear End 1. — Left Turn 3. — Right Angle — Right Turn 5. — Head On 7.

Sideswipe (same direction) 2. — Left Turn 0. — Right Turn 6. — Sideswipe (opposite direction) 8.

ACCIDENT DIAGRAM



Cost of repairs to any one vehicle will be more than $1000.
☑ Unknown/Unable to Determine ☐ Yes ☐ No

Reference Marker	Coordinates (if available)
	Latitude/Northing:
	Longitude/Easting:

Place Where Accident Occurred:

County ORAN — ☐ City ☐ Village ☐ Town of NEWBURGH

Road on which accident occurred PIERCE'S RD. (Route Number or Street Name)

at 1) intersecting street GIDNEY AVE. (Route Number or Street Name)

or 2) ____ Feet ____ Miles ☐N ☐S ☐E ☐W of ____ (Milepost, Nearest intersecting Route Number or Street Name)

Accident Description/Officer's Notes: DRIVER 1, AN ON DUTY POLICE OFFICER OPERATING A MARKED POLICE CAR STATES HE WAS TRAVELLING EAST ON PIERCE'S RD. AND STOPPED BEHIND VEH. 2 WHICH WAS ALREADY STOPPED. VEH 2 WAS STOPPED, FACING EAST ON PIERCE'S RD. AT GIDNEY AVE. DRIVER 1 STATED HE WAS WATCHING TRAFFIC AND STARTED TO ROLL FORWARD, MISJUDGED THE DISTANCE BETWEEN VEH 1 AND VEH 2 AND DIDN'T HAVE TIME TO STOP PRIOR TO STRIKING VEH. 2 FROM BEHIND.

USE COVER SHEET: N

	8	9	10	11	12	13	14	15	16	17 BY	TO 18	Names of all involved	Date of Death Only
A	1	1	1	1	46	M	—	13	6	—	—	DRIVER 1	—
B	2	1	4	1	24	F	—	13	6	—	—	DRIVER 2	—
C													
D													
E													
F													

Officer's Rank and Signature	Print Name in Full	Badge/ID No.	NCIC No.	Precinct/Post Troop/Zone	Station/Beat/ Sector	Reviewing Officer	Date/Time Reviewed
SGT.	JASON ALBRECHTSON	378	0350			378	3-1-13

1 of 2 Pages

Local Codes: Newburgh City Police
CW-003590-13

New York State Department of Motor Vehicles

POLICE ACCIDENT REPORT

MV-104A (6/04)

☐ AMENDED REPORT POLICE COPY 1

Accident Date Month	Day	Year	Day of Week	Military Time	No. of Vehicles	No. Injured	No. Killed	Not Investigated at Scene ☐ / Accident Reconstructed ☐	Left Scene	Police Photos
03	01	13	FR	1305	2	Ø	—		☐	☑ Yes ☐ No

☐ VEHICLE 2 ☐ BICYCLIST ☐ PEDESTRIAN ☐ OTHER PEDESTRIAN

VEHICLE 1	VEHICLE 2
VEHICLE 1 - Driver License ID Number / State of Lic.	VEHICLE 2 - Driver License ID Number / State of Lic.
Driver Name - exactly as printed on license	Driver Name - exactly as printed on license
Address (Include Number & Street) / Apt. No.	Address (Include Number & Street) / Apt. No.
City or Town / State / Zip Code	City or Town / State / Zip Code
Date of Birth (Month / Day / Year) / Sex / Unlicensed ☐ / No. of Occupants / Public Property Damaged ☐	Date of Birth (Month / Day / Year) / Sex / Unlicensed ☐ / No. of Occupants / Public Property Damaged ☐
Name - exactly as printed on registration / Sex / Date of Birth (Month / Day / Year)	Name - exactly as printed on registration / Sex / Date of Birth (Month / Day / Year)
Address (Include Number & Street) / Apt. No. / Haz. Mat Code / Released ☐	Address (Include Number & Street) / Apt. No. / Haz. Mat. Code / Released ☐
City or Town / State / Zip Code	City or Town / State / Zip Code
Plate Number / State of Reg. / Vehicle Year & Make / Vehicle Type / Ins. Code	Plate Number / State of Reg. / Vehicle Year & Make / Vehicle Type / Ins. Code
Ticket/Arrest Number(s)	Ticket/Arrest Number(s)
Violation Section(s)	Violation Section(s)

VEHICLE 1

Check if involved vehicle is:
☐ more than 95 inches wide;
☐ more than 34 feet long;
☐ operated with an overweight permit;
☐ operated with an overdimension permit.

VEHICLE 1 DAMAGE CODES

Box 1 - Point of Impact Box 2 - Most Damage		1	2
Enter up to three more Damage Codes	3	4	5

Vehicle Towed: By / To

VEHICLE 2

Check if involved vehicle is:
☐ more than 95 inches wide;
☐ more than 34 feet long;
☐ operated with an overweight permit;
☐ operated with an overdimension permit.

VEHICLE 2 DAMAGE CODES

Box 1 - Point of Impact Box 2 - Most Damage		1	2
Enter up to three more Damage Codes	3	4	5

Vehicle Towed: By / To

Circle the diagram below that describes the accident, or draw your own diagram in space #9. Number the vehicles.

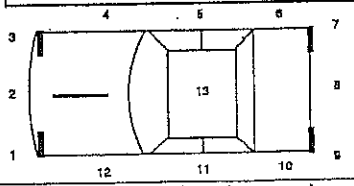
Rear End	Left Turn	Right Angle	Right Turn	Head On
1.	3.		5.	7.
Sideswipe (same direction)	Left Turn		Right Turn	Sideswipe (opposite direction)
2.	0.	4.	6.	8.

ACCIDENT DIAGRAM

9.

VEHICLE DAMAGE CODING:

1-13. SEE DIAGRAM ON RIGHT.
14. UNDERCARRIAGE
15. TRAILER
16. OVERTURNED
17. DEMOLISHED
18. NO DAMAGE
19. OTHER



Cost of repairs to any one vehicle will be more than $1000.
☐ Unknown/Unable to Determine ☐ Yes ☐ No

Reference Marker

Coordinates (if available)
Latitude/Northing:
Longitude/Easting:

Place Where Accident Occurred:
County ORAN ☑ City ☐ Village ☐ Town of NEWBURGH
Road on which accident occurred PIERCE'S RD. (Route Number or Street Name)
at 1) intersecting street GIDNEY AVE. (Route Number or Street Name)
or 2) ____ Feet ____ Miles ☐ N ☐ S ☐ E ☐ W of ____ (Milepost, Nearest intersecting Route Number or Street Name)

Accident Description/Officer's Notes: DRIVER 2 STATED SHE WAS STOPPED ON PIERCE'S RD. AT GIDNEY AVE. AND WAS STRUCK FROM BEHIND BY VEH. 1. DRIVER 2 HAD NO VISIBLE INJURIES, STATED SHE DID NOT HAVE PAIN OF ANY KIND AND DID NOT NEED AN AMBULANCE. PO TUCKER RESPONDED AND TOOK PHOTO'S WHICH WERE TOT'D I.D. DRIVER 1 COMPLETED DEPARTMENTAL SUPPLEMENT.

USE COVER SHEET N

ALL INVOLVED

	8	9	10	11	12	13	14	15	16	17 BY	TO 18	Names of all involved	Date of Death Only
A													
B													
C													
D													
E													
F													

Officer's Rank and Signature	Badge/ID No.	NCIC No.	Precinct/Post Troop/Zone	Station/Beat/Sector	Reviewing Officer	Date/Time Reviewed
Print Name in Full: JASON ALBRECHTSEN	278	03501			SGT.	3-1-13

CITY OF NEWBURGH

CITY CLERK'S OFFICE
83 BROADWAY
NEWBURGH, NEW YORK 12550
PHONE (845)569-7311
FAX (845)569-7314

LORENE VITEK
CITY CLERK

KATRINA COTTEN
LISETTE WILLIAMS
DEPUTY CLERKS

MEMORANDUM

TO: Michelle Kelson, Corporation Counsel

FROM: Lisette Acosta-Ramirez, Deputy City Clerk

RE: Summons & Complaint:
Wells Fargo Bank, et al. vs. City of Newburgh, et al.

DATE: April 23, 2013

Please find attached Summons & Complaint regarding the above, which was hand delivered to our office on April 22, 2013.

Attachment

Cc City Manager
Mayor & Council

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ORANGE

SUMMONS

INDEX # 002907/13

Original Filed With Clerk on 4/9/13

Plaintiff Designates Orange County as the Place of Trial

The Basis of Venue is that the Subject of the Action is situated in Orange County.

Plaintiff resides at 315 Vision Drive Columbus OH 43219 County of Franklin

RECEIVED
APR 09 2013
CITY CLERK

WELLS FARGO BANK, NATIONAL ASSOCIATION AS TRUSTEE FOR STRUCTURED ASSET MORTGAGE INVESTMENTS II INC., GREENPOINT MORTGAGE FUNDING TRUST 2005-AR4, MORTGAGE PASS-THROUGH CERTIFICATES, SERIES 2005-AR4,

Plaintiff,

— against —

HUGH MCKENZIE, SOPHIA MCKENZIE, SOMAC ENTERPRISES, INC., THE CITY OF NEWBURGH, NEW YORK STATE DEPARTMENT OF TAXATION & FINANCE, MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC. SOLELY AS NOMINEE FOR GREENPOINT MORTGAGE FUNDING, INC.

and JOHN DOE AND JANE DOE #1 through #7, the last seven (7) names being fictitious and unknown to the plaintiff, the persons or parties intended being the tenants, occupants, persons or parties, if any, having or claiming an interest in or lien upon the mortgaged premises described in the Complaint,

Defendants.

TO THE ABOVE-NAMED DEFENDANTS:

YOU ARE HEREBY SUMMONED to answer the Complaint in this action and to serve a copy of your answer, or, if the Complaint is not served with this Summons, to serve a notice of appearance, on the Plaintiff's Attorney(s) within 20 days after the service of this Summons, exclusive of the day of service (or within 30 days after the service is complete if this Summons is not personally delivered to you within the State of New York); The United States of America

may appear or answer within 60 days of service hereof; and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the Complaint.

NOTICE

YOU ARE IN DANGER OF LOSING YOUR HOME

If you do not respond to this Summons and Complaint by serving a copy of the answer on the attorney for the mortgage company who filed this foreclosure proceeding against you and filing the answer with the court, a default judgment may be entered and you can lose your home.

Speak to an attorney or go to the court where your case is pending for further information on how to answer the summons and protect your property.

Sending a payment to your mortgage company will not stop this foreclosure action.

YOU MUST RESPOND BY SERVING A COPY OF THE ANSWER ON THE ATTORNEY FOR THE PLAINTIFF (MORTGAGE COMPANY) AND FILING THE ANSWER WITH THE COURT.

Dated: Huntington, NY
April 3, 2013

Respectfully submitted,

STIENE & ASSOCIATES, P.C.

By: Christopher Virga
Attorneys for Plaintiff
187 East Main Street
Huntington, NY 11743
(631) 935-1616, Fax (631) 935-1223

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ORANGE

WELLS FARGO BANK, NATIONAL ASSOCIATION AS TRUSTEE FOR STRUCTURED ASSET MORTGAGE INVESTMENTS II INC., GREENPOINT MORTGAGE FUNDING TRUST 2005-AR4, MORTGAGE PASS-THROUGH CERTIFICATES, SERIES 2005-AR4,

Plaintiff,

— against —

HUGH MCKENZIE, SOPHIA MCKENZIE, SOMAC ENTERPRISES, INC., THE CITY OF NEWBURGH, NEW YORK STATE DEPARTMENT OF TAXATION & FINANCE, MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC. SOLELY AS NOMINEE FOR GREENPOINT MORTGAGE FUNDING, INC.

and JOHN DOE AND JANE DOE #1 through #7, the last seven (7) names being fictitious and unknown to the plaintiff, the persons or parties intended being the tenants, occupants, persons or parties, if any, having or claiming an interest in or lien upon the mortgaged premises described in the Complaint,

Defendants.

COMPLAINT

INDEX #

Plaintiff, Wells Fargo Bank, National Association as Trustee for Structured Asset Mortgage Investments II Inc., GreenPoint Mortgage Funding Trust 2005-AR4, Mortgage Pass-Through Certificates, Series 2005-AR4, by its attorneys, **STIENE & ASSOCIATES, P.C.,** complaining of the defendants, alleges upon information and belief as follows:

1. That the plaintiff herein is, and at all times hereinafter mentioned was, a National Bank organized and existing under and by virtue of the laws of the United States of America, having its principal place of business at 3415 Vision Drive, Columbus, OH 43219.

2. Upon information and belief, at all times hereinafter mentioned, the defendants set forth in "Schedule 1-Defendants" reside or have a place of business at the address set forth therein (any that are corporations being organized and existing under the laws of the State set forth therein) and are made defendants in this action in the capacities therein and for the reasons set forth in said Schedule.

3. That the United States of America, The People of the State of New York, The State Tax Commission of the State of New York, the Industrial Commission of the State of New York, New York City Parking Violations Bureau, New York City Environmental Control Board and City of New York Transit Adjudication Bureau and all other agencies or instrumentalities of the Federal, State or local government (however designated), if any, are made parties solely by reason of the facts set forth in "Schedule 2-Defendants".

4. On May 20, 2005, the defendant, Hugh McKenzie (hereinafter "Obligor"), executed and delivered to GreenPoint Mortgage Funding, Inc. a Note ("the Note") dated May 20, 2005, whereby the Obligor promised to pay GreenPoint Mortgage Funding, Inc. the principal sum of $187,650.00. A copy of the Note, with proper endorsements, is annexed hereto as **Exhibit "A"**.

5. On May 20, 2005, the defendants Hugh McKenzie and Sophia McKenzie (the "Mortgagors") executed and delivered to Mortgage Electronic Registration Systems, Inc., solely as nominee for GreenPoint Mortgage Funding, Inc. a Mortgage ("the Mortgage") in the principal sum of $187,650.00 with interest, mortgaging the premises known as 12-16 Dubois St, Newburgh, NY 12550 n/k/a 14 Dubois Street, Newburgh, NY 12550 ("the Premises") as

collateral security for the Note. The mortgaged premises are more fully described in Exhibit "B" annexed hereto.

6. The Mortgage was duly recorded in the Orange County Clerk's Office on May 31, 2005, under liber 11859, page 471, and the Recording Tax was duly paid. Said Mortgage was assigned from Mortgage Electronic Registration Systems, Inc., solely as nominee for GreenPoint Mortgage Funding, Inc. to Wells Fargo Bank, National Association As Trustee For Structured Asset Mortgage Investments II Inc., Greenpoint Mortgage Funding Trust 2005-AR4, Mortgage Pass-Through Certificates, Series 2005-AR4, as memorialized by Assignment of Mortgage recorded in the Orange County Clerk's Office on April 23, 2009 in Liber 12814 at page 114. Copies of the aforementioned loan documents are annexed hereto as **Exhibit "C"**.

7. Pursuant to the Note, the Obligor promised to make consecutive monthly payments in initial amounts of $791.14 each month, at the initial adjustable interest rate of 3.0%, commencing on July 1, 2005, and on the first day of each succeeding month to and including June 1, 2035, until the entire principal amount and accrued interest shall be due and payable.

8. Pursuant to the Mortgage, the Mortgagors promised to pay, in addition to principal and interest, all amounts necessary to pay for taxes, assessments, leasehold payments or ground rents (if any), hazard insurance and mortgage insurance.

9. The Mortgagors defaulted on their obligations under the terms of the Note and Mortgage by failing and omitting to pay to the Plaintiff payments due on October 1, 2008 and said default has continued for a period in excess of fifteen (15) days.

10. At the time of the default, the interest rate was 6.375%. Said rate has been calculated from September 1, 2008, the first date of the month before the default date of October 1, 2008.

11. Plaintiff notified the Mortgagors of the default under the terms of the Note and Mortgage but the Mortgagors failed to remedy the default. As a result of the Mortgagors' failure to remedy the default, the plaintiff elected to declare the entire principal balance due and owing and notified the Mortgagors of this election.

12. Pursuant to the terms of the Note and Mortgage, the plaintiff has elected and does hereby elect to declare the entire principal balance to be due and owing.

13. By reason of the foregoing, there is now due and owing from the Mortgagors to plaintiff the principal sum of $201,370.20 plus interest and late charges.

14. The Note provides that in the event any installment shall become overdue for a period in excess of fifteen (15) days a late charge of 2.0% on the overdue sum may be charged for the purpose of defraying the expense in handling such delinquent payment.

15. The Mortgage further provides that in the event of default by the Mortgagors, plaintiff may recover all costs, including reasonable attorneys' fees, disbursements, and allowances provided by law in bringing any action to protect its interest in the premises.

16. Plaintiff shall not be deemed to have waived, altered, released or changed the election hereinbefore made by reason of the payment after the date of commencement of this action of any or all of the defaults mentioned herein, and such election shall continue and remain effective until the costs and disbursements of this action and any and all future defaulted payments under the aforesaid Note and Mortgage occurring prior to the discontinuance of this action are fully paid.

17. That in order to protect its security, the plaintiff may be compelled during the pendency of this action to pay taxes, assessments, water, sewer charges, insurance premiums, and other charges for the protection of the premises, and the plaintiff requests that any sums so

paid by it shall be added to the sum otherwise due herein and be deemed secured by the said Mortgage and adjudged a valid lien on the premises described herein.

18. That the plaintiff is now and was at the commencement of the within action the sole, true and lawful owner of the said Note and Mortgage securing the same or has been delegated the authority to institute a mortgage foreclosure action against the homeowner by the owner and holder of the subject Mortgage and Note, and the within subject Mortgage complies with the underwriting standards in §6-m of the Banking Law, as well as the pre-foreclosure notice requirements, unless exempt from doing so; and that there are no pending proceedings at law or otherwise to collect or enforce said Note and Mortgage.

19. Plaintiff has complied with all the provisions of Banking Law §§ 6-1 and 6-m; Real Property Actions and Proceedings Law § 1304. A copy of the pre-foreclosure notices is annexed hereto as **Exhibit "D"**.

20. Plaintiff has complied with RPAPL § 1306.

21. That each of the defendants, including but not limited to the aforementioned defendants, have or claim to have some interest in, or lien upon, the said mortgaged premises or some part thereof, which interest or lien, if any, is subject and subordinate to the lien of the plaintiff's Mortgage.

22. Any lien held or claimed to be held by any of the defendants named herein is subject and subordinate to the lien of the plaintiff's Mortgage.

23. That Schedules "1" and "2" are expressly incorporated and made a part of the Complaint for all purposes with the same force and effect as if they were completely and fully set forth herein whenever reference has been made to each or any of them.

24. That if the premises consists of more than one parcel, plaintiff respectfully requests that the judgment of foreclosure provide for the parcels be sold as one parcel.

WHEREFORE, plaintiff demands judgment against the defendants as follows:

A. that the defendants and all persons claiming under them, or any of them, subsequent to the filing of the Notice of Pendency of this action and the recording of the mortgage in the Office of the Clerk of Orange County, the county in which said mortgaged premises are located, and every person whose conveyance or encumbrance is subsequent or subsequently recorded or subordinate, be forever barred or foreclosed of any and all right, title, claim, lien and equity of redemption of the said mortgaged premises and each and every part thereof;

B. that the premises be sold according to law;

C. that the amount due to plaintiff on its Note and Mortgage may be adjudged;

D. that the monies received from the sale may be brought into Court;

E. that plaintiff be paid the amount adjudged to be due it with interest thereon to the time of such payment, together with the costs and disbursements of this action, together with plaintiff's attorneys' fees, late charges, escrow advances and the expenses of said sale to the extent that the amount of such monies applicable thereto will pay the same;

F. that this Court, if requested, forthwith appoint a Receiver of the rents and profits of said premises with the usual powers and duties;

G. plaintiff specifically reserves its rights to share in any surplus monies arising from the sale of subject premises by virtue of its position as a judgment or other lien creditor excluding the Mortgage being foreclosed herein.

H. that plaintiff have such other and further relief as may be just and equitable together with the costs, allowances and disbursements of this action.

Dated: Huntington, NY
April 3, 2013

Yours etc.,

STIENE & ASSOCIATES, P.C.,

By: Christopher Virga
Attorneys for Plaintiff
187 East Main Street
Huntington, NY 11743
(631) 935-1616, Fax (631) 935-1223

Schedule 1-Defendants

Hugh McKenzie 14 Dubois Street Newburgh, NY 12550	Original mortgagor of premises being foreclosed herein by virtue of a mortgage dated 5/20/2005 and recorded on 5/31/2005 in the Orange County Clerk's Office, in Liber 11859, page 471.
Sophia McKenzie 14 Dubois Street Newburgh, NY 12550	Original mortgagor of premises being foreclosed herein by virtue of a Mortgage dated 5/20/2005 and recorded on 5/31/2005 in the Orange County Clerk's Office, in Liber 11859, page 471.
Somac Enterprises, Inc. 14 Dubois Street Newburgh, NY 12550	Record owner of premises being foreclosed herein by virtue of a Deed dated 12/13/2006, and recorded on 1/3/2007 in Reel/Liber 12334, Page 746 in the Orange County Clerk's Office.
Mortgage Electronic Registration Systems, inc. solely as nominee for Greenpoint Mortgage Funding, Inc.	Holder of Mortgage inferior to that being foreclosed herein, dated May 20, 2005 and recorded May 31, 2005 in Liber 11859, page 497 of the Orange County Clerk's Office.
JOHN DOE AND JANE DOE #1 through #7 14 DUBOIS ST Newburgh, NY 12550	Said name being fictitious, it being the intention of plaintiff to designate any and all occupants of premises being foreclosed herein, and generally all persons or parties, if any, having or claiming an interest in or lien upon the mortgaged premises described in the Complaint.

Schedule 2-Defendants

The City of Newburgh 83 Broadway City Hall Newburgh, NY 12550	Named as a party defendant to extinguish any and all liens it has against the premises being foreclosed herein which liens are more particularly described in **Exhibit E** annexed hereto.
New York State Department of Taxation & Finance 250 Veterans Memorial Highway Hauppauge, NY 11788	Named as a party defendant to extinguish any possible unpaid franchise taxes.

CITY OF NEWBURGH

CITY CLERK'S OFFICE
83 BROADWAY
NEWBURGH, NEW YORK 12550
PHONE (845)569-7311
FAX (845)569-7314

LORENE VITEK
CITY CLERK

KATRINA COTTEN
LISETTE WILLIAMS
DEPUTY CLERKS

MEMORANDUM

TO: Michelle Kelson, Corporation Counsel

FROM: Lisette Acosta-Ramirez, Deputy City Clerk

RE: Notice of Claim:
Susan Grimm vs. City of Newburgh

DATE: April 26, 2013

Please find attached Notice of Claim regarding the above, which was hand delivered to our office on April 23 2013.

Attachment

Cc City Manager
Mayor & Council

RECEIVED
APR 23 2013
CITY CLERK

File #106337-1/11

In the Matter of the Claim of

SUSAN GRIMM,

Claimant,

-against-

CITY OF NEWBURGH,

Respondent.

TO: CITY OF NEWBURGH

PLEASE TAKE NOTICE *that the undersigned claimants hereby make claim and demand against you as follows:*

1. The name and post-office address of each claimant and claimants' attorney is:

SUSAN GRIMM
Claimant
111 Broadway, Apt. 226
Newburgh, NY 12550

FINKELSTEIN & PARTNERS, LLP
Attorneys for Claimant
1279 Route 300, PO Box 1111
Newburgh, New York 12551

2. The nature of the claim: Claim is for severe and serious permanent personal injuries, severe pain and suffering and medical expenses sustained by claimant, SUSAN GRIMM.

3. The time when, the place where and the manner in which the claim arose: This claim arose on or about the 25th day of January, 2013, at approximately 12:30 P.M. on the sidewalk on the east side of Mill Street, in the area of a certain cable wire and anchor and surrounding area, approximately 27.7 feet north from utility pole #CHG&E N21510, adjacent to the Church of the Good Shepherd, located at 271 Broadway, City of Newburgh, County of Orange, State of New York, which is owned, maintained, controlled, operated and/or managed by respondent, CITY OF NEWBURGH.

SEE ATTACHED RIDER **SEE ATTACHED PHOTOS**

RIDER TO NOTICE OF CLAIM IN THE MATTER OF

----------x

SUSAN GRIMM,

Claimant,

-against-

CITY OF NEWBURGH,

Respondent.

----------x

3. (continued)
The manner in which the claim arose was that while the claimant was walking on said sidewalk, she was caused to come into contact with a utility cable and/or wire running off of a certain utility pole, which had been anchored into the sidewalk, causing her to be precipitated to the ground, thereby sustaining severe and serious personal injuries, due to the negligence, wantonness, recklessness and carelessness of, among others, the respondent, CITY OF NEWBURGH, its agents, servants and/or employees in, among other things, as follows: allowing, causing and/or permitting dangerous, hazardous and unsafe conditions to exist on the aforesaid sidewalk; in allowing, causing and/or permitting a utility cable and/or wire to be strung, placed and/or extended across said sidewalk in an unsafe, dangerous and hazardous condition and manner; in allowing, causing and/or permitting said utility cable and/or wire to extend across said sidewalk without properly and adequately placing fluorescent marking, tags and/or other warnings to alert persons of said cable and/or wire; in failing to attach a brightly colored covering and/or marking over said utility cable and/or wire to alert persons of said utility cable and/or wire; in failing to warn persons of the dangerous, hazardous and unsafe conditions; in allowing, causing and/or permitting said unmarked utility cable and/or wire to extend across said sidewalk creating a dangerous, hazardous and unsafe condition to persons on said sidewalk; in failing to properly maintain, check, inspect and/or repair said utility cable and/or wire; in creating a trap; in failing to properly maintain, check and/or inspect said sidewalk; in failing to use that degree of

SEE ATTACHED RIDER **SEE ATTACHED PHOTOS**

RIDER TO NOTICE OF CLAIM IN THE MATTER OF

----------x

SUSAN GRIMM,

Claimant,

-against-

CITY OF NEWBURGH,

Respondent.

----------x

3.(continued)
caution, prudence and care which was reasonable and proper under the controlling circumstances; in failing to take those steps necessary to avoid the contingency which occurred; in acting with a reckless disregard for the safety of others; in hiring inept, incompetent and unskilled agents, servants and/or employees, and in other ways being negligent, wanton, reckless and careless.

4. The items of damage or injuries claimed are as follows: Claimant, SUSAN GRIMM, sustained severe and serious permanent personal injuries to her body, including, but not limited to fracture left leg, cast applied, future surgery may be required with resulting scarring, severe pain and suffering and extensive medical bills. Exact extent of same are unknown at this time.

The undersigned claimant(s) therefore present this claim for adjustment and payment. You are hereby notified that unless it is adjusted and paid within the time provided by law from the date of presentation to you, the claimant(s) intend(s) to commence an action on this claim.

Dated: February 12 , 2013

"X" Susan L. Grimm
The name signed must be printed beneath
SUSAN GRIMM

"X" _____
The name signed must be printed beneath

Finkelstein & Partners, LLP
Attorneys for Claimant
1279 Route 300
P.O. Box 1111
Newburgh, NY 12551
Phone No: **(800) 634-1212**

By: Edward M. Steves
EDWARD M. STEVES, ESQ.

INDIVIDUAL VERIFICATION

State of New York, County of Orange *ss.:*

SUSAN GRIMM,
being duly sworn, deposes and says that deponent is the claimant in the within action; that he/she has read the foregoing Notice of Claim and knows the contents thereof; that the same is true to deponents own knowledge, except as to the matters therein stated to be alleged on information and belief, and that as to those matters deponent believes it to be true.

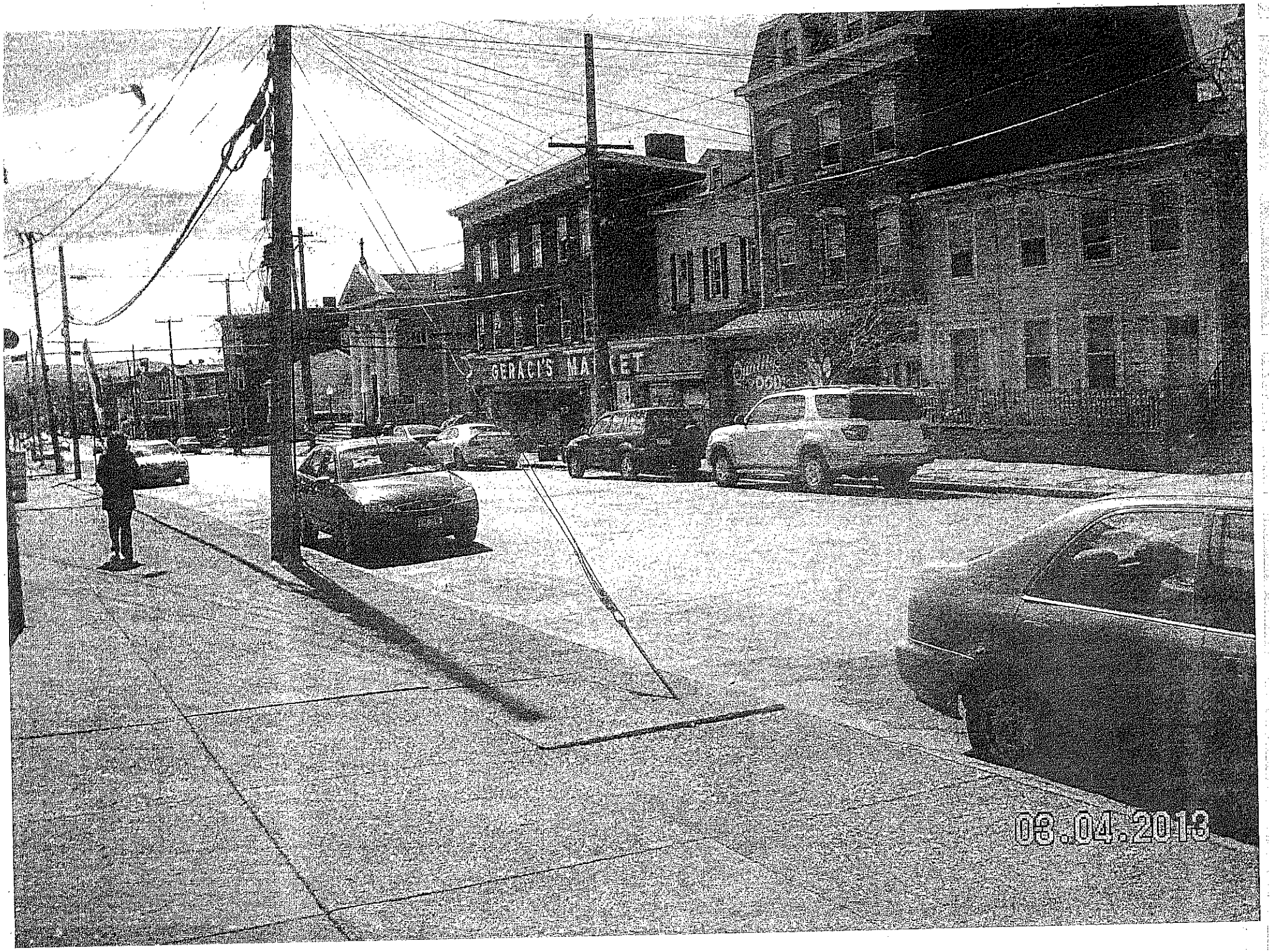
"X" Susan L. Grimm
The name signed must be printed beneath
SUSAN GRIMM

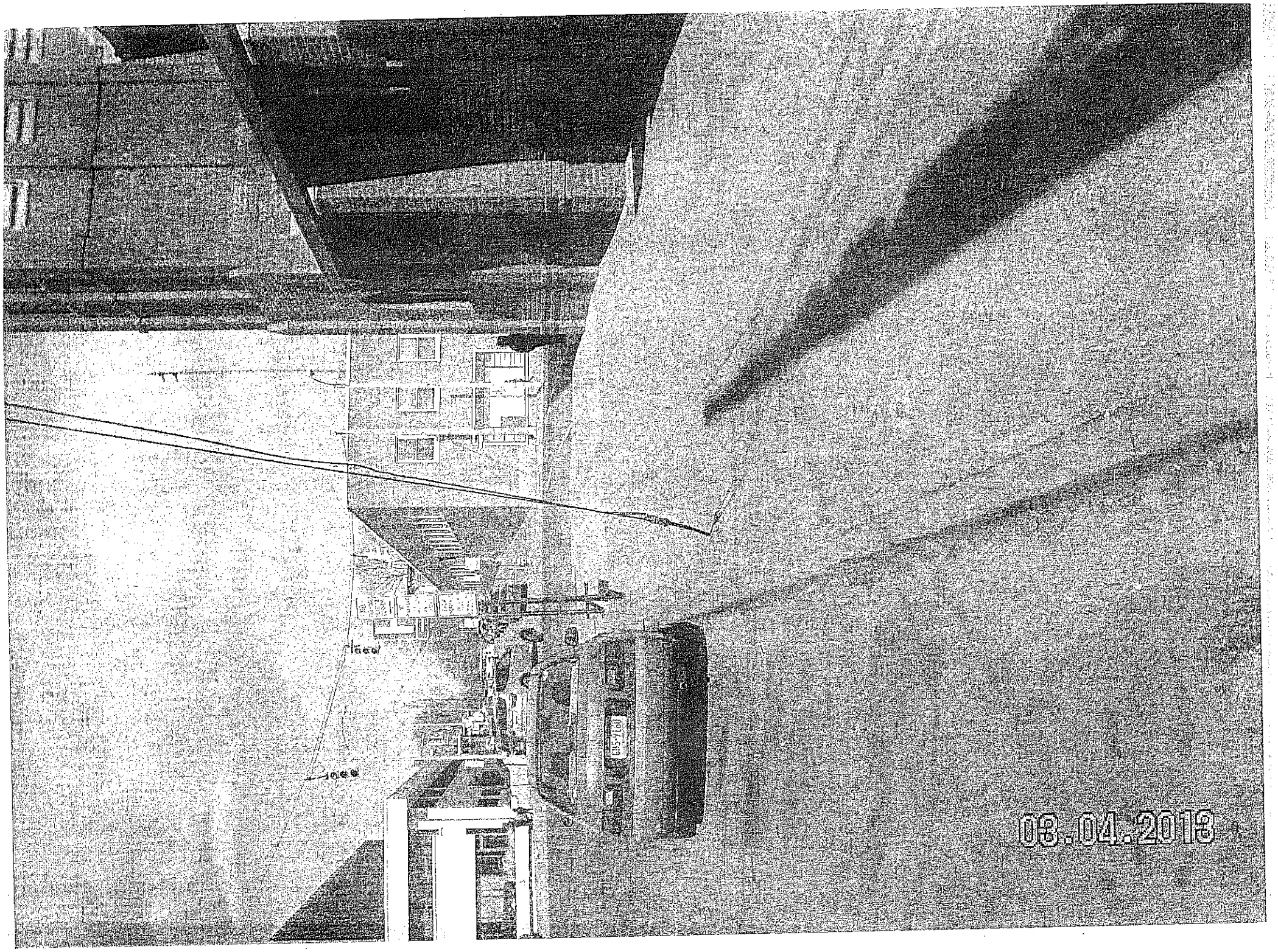
"X" _____
The name signed must be printed beneath

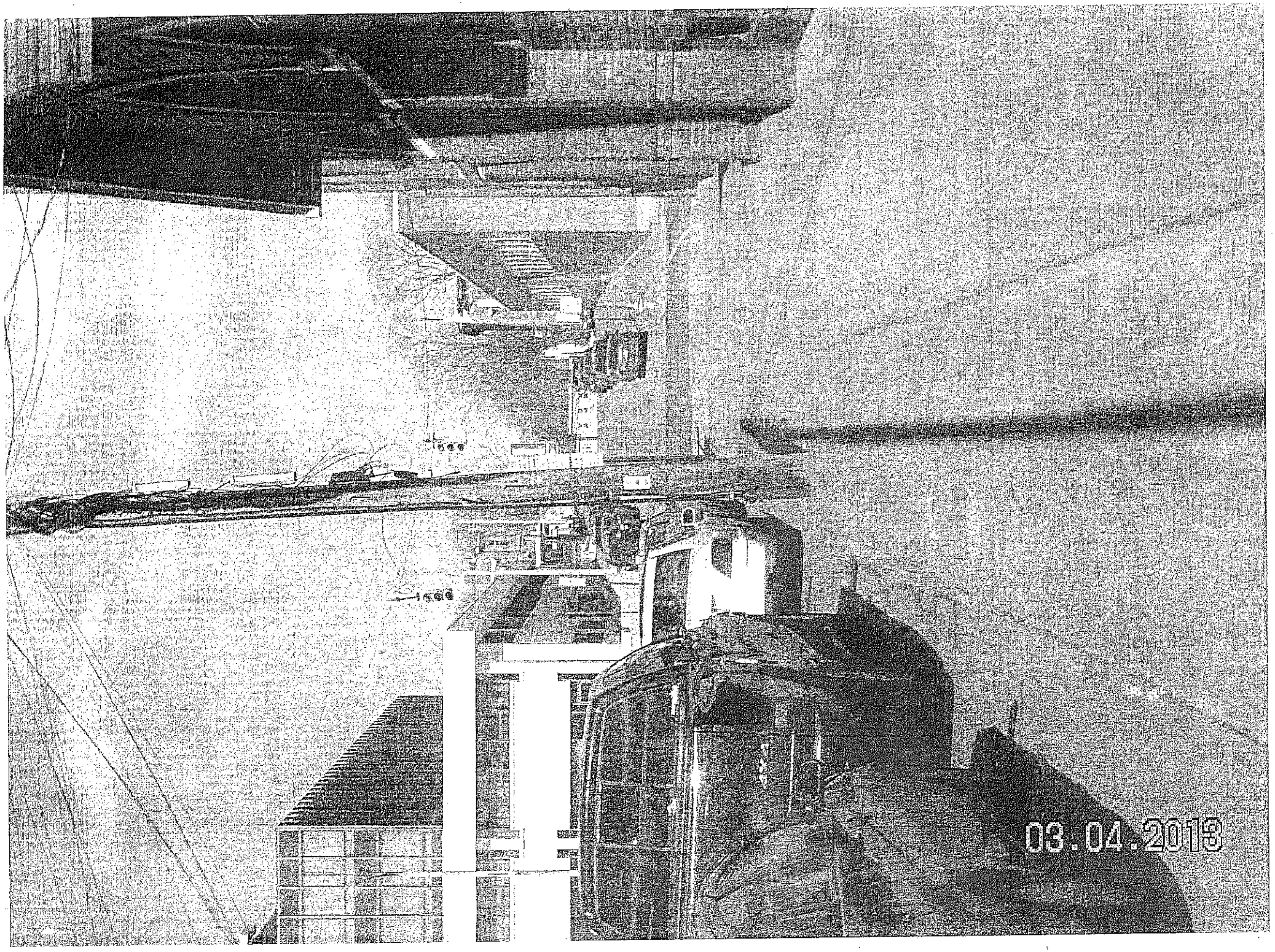
Sworn to before me, this
12 Day of February, 2013

John W. Breitfeller
NOTARY PUBLIC

JOHN W. BREITFELLER
Notary Public, State of New York
Qualified in Orange County
Registration #01BR6160428
Commission Expires February 5, 2015


GERACI'S MARKET
03.04.2013


03.04.2013


03.04.2013

CITY OF NEWBURGH

CITY CLERK'S OFFICE
83 BROADWAY
NEWBURGH, NEW YORK 12550
PHONE (845)569-7311
FAX (845)569-7314

LORENE VITEK
CITY CLERK

KATRINA COTTEN
LISETTE WILLIAMS
DEPUTY CLERKS

MEMORANDUM

TO: Michelle Kelson, Corporation Counsel

FROM: Lisette Acosta-Ramirez, Deputy City Clerk

RE: Summons & Verified Complaint:
Richard & Lynda Diasparra vs. City of Newburgh

DATE: April 30, 2013

Please find attached Summons & Verified Complaint regarding the above, which was hand delivered to our office on April 29, 2013.

Attachment

Cc City Manager
Mayor & Council

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ORANGE

2013 003016

----------X

RICHARD DIASPARRA and LYNDA DIASPARRA,

Plaintiff(s),

-against-

CITY OF NEWBURGH,

Defendant(s).

----------X

Index No. _____

Date Filed:

SUMMONS

Basis of Venue:
Place of occurrence

RECEIVED
APR 29 2013
CITY CLERK

To the above named Defendant(s):

YOU ARE HEREBY SUMMONED to answer the complaint in this action and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance, on the plaintiff's attorney within 20 days after the service of this summons, exclusive of the day of service (or within 30 days after the service is complete if this summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

Place of occurrence is: 343 Route 32 Newburgh, NY 12550

Dated: New York, New York
March 21, 2013

Yours, etc.

Hach & Rose, LLP
185 Madison Avenue, 14th Floor
New York, NY 10016
(212) 779-0057
(212) 779-0028

By: _____
Michael A. Rose

To: City of Newburgh
Office of Corporation Counsel
83 Broadway, 2nd Floor
Newburgh, NY 12550

FILED
ORANGE COUNTY CLERK
2013 APR 10 A 10:56

received
APR 29 2013

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ORANGE

----------X

RICHARD DIASPARRA and LYNDA DIASPARRA

Plaintiff(s),

-against-

CITY OF NEWBURGH

Defendant(s).

----------X

Index No:

VERIFIED COMPLAINT

2013 003016

FILED
ORANGE COUNTY CLERK
2013 APR 10 A 10:56

Plaintiff(s), RICHARD DIASPARRA and LYNDA DIASPARRA, by their attorneys, HACH & ROSE, LLP, as for a cause of action alleges, upon information and belief, as follows:

AS AND FOR A FIRST CAUSE OF ACTION ON BEHALF OF PLAINTIFF(s)

1. That at the time of the commencement of this action, Plaintiff(s) resided in the County of Putnam, State of New York;

2. That the cause of action alleged herein arose in the County of Orange in the State of New York;

3. That this action falls within one or more of the exemptions set forth in CPLR Section 1602;

4. That on and at all times mentioned, Defendant, CITY OF NEWBURGH, was and still is a domestic municipal corporation;

5. That on or about the Plaintiff served upon the Comptroller, a Notice of Claim, setting forth the time when, the place where, and the manner in which the claim arose: and that said Notice of Claim was served on February 8th, within ninety (90) days of the date of the occurrence herein;

6. That at least thirty (30) days have elapsed prior to the commencement of this action since the said service of the Notice of Claim as aforesaid, on the Corporation Counsel of the City of Newburgh, and payment thereof has been neglected and/or refused by the Defendant(s), CITY OF NEWBURGH;

7. That this action was commenced within one (1) year and ninety (90) days after the happening of the event upon which the claim herein sued upon is based;

8. That on November 26, 2012 and at all times herein mentioned, a public pedestrian walkway existed Town of Newburgh Water Supply Chadwick Lake Filter Plant 343 Route 32 Newburgh, NY 12550;

9. That at all times hereinafter mentioned, and on November 26, 2012, the defendant, CITY OF NEWBURGH, maintained a principal place of business in the State of New York.

10. That at all times mentioned herein, and on November 26, 2012, the defendant, CITY OF NEWBURGH, was the lessor of some land and structures thereon, at the Town of Newburgh Water Supply Chadwick Lake Filter Plant 343 Route 32 Newburgh, NY 12550.

11. That at all times mentioned herein, and on November 26, 2012, the defendant, CITY OF NEWBURGH, was the owner of some land and structures thereon, at the Town of Newburgh Water Supply Chadwick Lake Filter Plant 343 Route 32 Newburgh, NY 12550.

12. That at all times mentioned herein, and on November 26, 2012, the defendant, CITY OF NEWBURGH, was the managing agent of certain the land and structures thereon, at the Town of Newburgh Water Supply Chadwick Lake Filter Plant 343 Route 32 Newburgh, NY 12550.

13. That at all times mentioned herein, and on November 26, 2012, the defendant, CITY OF NEWBURGH, was the lessee of certain land and structures thereon, at the Town of Newburgh Water Supply Chadwick Lake Filter Plant 343 Route 32 Newburgh, NY 12550.

14. That at all times mentioned herein, and on or prior to November 26, 2012, the defendant, CITY OF NEWBURGH, had been retained to perform certain work, labor and/or services at

the Town of Newburgh Water Supply Chadwick Lake Filter Plant 343 Route 32 Newburgh, NY 12550.

15. That at all times mentioned herein, and on or prior to November 26, 2012, the defendant, CITY OF NEWBURGH, had been retained to perform certain work, labor and/or services at the Town of Newburgh Water Supply Chadwick Lake Filter Plant 343 Route 32 Newburgh, NY 12550, pursuant to a written contract.

16. That at all times mentioned herein, and on November 26, 2012, the defendant, CITY OF NEWBURGH, was performing its work, labor and/or services at the construction site as aforesaid, pursuant to a written contract.

17. That at all times mentioned herein, and on November 26, 2012, the defendant, CITY OF NEWBURGH, had present at the construction site as aforesaid its agents, servants, associates and/or employees.

18. That at all times mentioned herein, and on November 26, 2012, CITY OF NEWBURGH, was acting as the general contractor and/or construction manager at the construction site as aforesaid.

19. That on or prior to November 26, 2012, CITY OF NEWBURGH, retained plaintiff, RICHARD DIASPARRA's employer Wilken Construction Corp. to perform certain work, labor and/or services at the premises commonly known as structures thereon, commonly known as the Town of Newburgh Water Supply Chadwick Lake Filter Plant 343 Route 32 Newburgh, NY 12550.

20. That at all times mentioned herein the plaintiff, RICHARD DIASPARRA, was employed by Wilken Construction Corp., and was performing his work at the construction site as aforesaid.

21. That on or about, November 26, 2012 while acting within the scope of his employment at the construction site as aforesaid, the plaintiff was caused to sustain severe injuries as set forth more fully below.

22. That the above occurrence was caused solely by and through the negligence of the defendants herein, without any negligence on the part of the plaintiff contributing thereto.

23. That the defendants, and/or each of them had both actual and constructive notice of the dangerous and defective conditions and practices complained of herein.

24. Plaintiff asserts an exemption from the abolition of joint and several liability pursuant to Article 16 of the C.P.L.R.

25. That the defendant, CITY OF NEWBURGH, and/or each of them, and/or their agents, servants, associates and/or employees were negligent, careless and reckless, in that they:

a. Negligently, carelessly and recklessly, failed and omitted to properly construct, shore, equip, guard, arrange, operate and conduct the construction activities at the construction site as aforesaid, so as to provide reasonable and adequate protection and safety to the persons so employed therein, and more particularly to the plaintiff herein;

b. Failed and omitted to provide the plaintiff with a safe place to work;

c. Failed and omitted to insure that the working areas within the premises of the construction site as aforesaid were kept free of hazardous conditions;

d. Failed and omitted to provide the plaintiff with a hardhat;

e. Failed and omitted to properly inspect the construction site as aforesaid;

f. Failed and omitted to properly and adequately coordinate the construction activities at the construction site as aforesaid so as to prevent the various trades from interfering with one another;

g. Failed and omitted to construct and/or install barricades and/or other warnings so as to apprise workers, and more particularly the plaintiff herein, of the dangerous conditions existing thereat;

h. Failed and omitted to comply with Section 240 of the Labor Law of the State of New York;

i. Failed and omitted to comply with Section 241 of the Labor Law of the State of New York;

j. Failed and omitted to comply with Section 200 of the Labor Law of the State of New York;

k. Failed and omitted to comply with Rule 23 of the Industrial Code;

l. Failed and omitted to properly secure the work area so that plaintiff could perform his labor in a safe environment;

m. Allowed unqualified people to operate heavy equipment;

n. Failed and omitted to provide the Plaintiff with the proper and necessary equipment to perform his job;

o. Failed and omitted to provide the Plaintiff with adequate hoists or other lifting equipment.

26. That as a result of the negligence of the defendants, and/or each of them, the plaintiff, RICHARD DIASPARRA, became, still is and for a long time to come, will be sick, sore, lame, bruised, injured, disabled and wounded in and about the various parts of his head, limbs, body, blood vessels and surrounding tissues, and has suffered severe and extreme mental shock, anguish and psychic injuries, and that plaintiff was otherwise injured, and upon information and belief, said injuries are permanent. That by reason of the foregoing, the plaintiff was obligated to and did necessarily employ medical aid , hospital services, medicinals and medical supplies in an attempt to cure the aforesaid injuries, and has been prevented from his usual duties and will be so prevented for a long time to come.

27. That by reason of the foregoing, the plaintiff, RICHARD DIASPARRA, has been damaged in an amount exceeding the jurisdictional limits of all lower courts of the State of New York.

AS AND FOR A SECOND CAUSE OF ACTION
ON BEHALF OF THE PLAINTIFF, RICHARD DIASPARRA
BASED UPON A THEORY OF STATUTORY LIABILITY:

28. That the plaintiff, RICHARD DIASPARRA, repeats, reiterates and realleges each and every allegation of the complaint in paragraphs numbered "1" through "27", with the same force and effect as though each and every allegation were set forth more fully herein at length below.

29. That at all times mentioned herein, and on November 26, 2012, Section 200 of the Labor law of the State of New York was in full force and effect.

30. That at all times mentioned herein, and on November 26, 2012, the defendants, and/or each of them were subject to the provisions of the statute as cited herein above.

31. That on or about, November 26, 2012, the defendants, and/or each of them were in violation of the Statute as cited as herein above.

32. That as a result of the statutory violation as cited herein above, the plaintiff, RICHARD DIASPARRA, was caused to sustain the injuries as set forth herein above.

33. That as a result of the foregoing the plaintiff, RICHARD DIASPARRA, has been damaged in an amount exceeding the jurisdictional limits of all lower courts of the State of New York.

AS AND FOR A THIRD CAUSE OF ACTION
ON BEHALF OF THE PLAINTIFF, RICHARD DIASPARRA
BASED UPON A THEORY OF STATUTORY LIABILITY:

34. That the plaintiff, repeats, reiterates and realleges each and every allegation of the complaint in paragraphs numbered "1" through "33", with the same force and effect as though each and every allegation were set forth more fully herein at length below.

35. That at all times mentioned herein, and on November 26, 2012, Section 241 of the Labor law of the State of New York was in full force and effect.

36. That at all times mentioned herein, and on November 26, 2012, the defendants, and/or each of them were subject to the provisions of the statute as cited herein above.

37. That on or about, November 26, 2012, the defendants, and/or each of them were in violation of the Statute as cited as herein above.

38. That as a result of the statutory violation as cited herein above, the plaintiff, RICHARD DIASPARRA, was caused to sustain the injuries as set forth herein above.

39. That as a result of the foregoing the plaintiff, RICHARD DIASPARRA, has been damaged in an amount exceeding the jurisdictional limits of all lower courts of the State of New York.

AS AND FOR A FOURTH CAUSE OF ACTION ON BEHALF OF THE PLAINTIFF, RICHARD DIASPARRA BASED UPON A THEORY OF STATUTORY LIABILITY:

40. That the plaintiff, RICHARD DIASPARRA, repeats, reiterates and realleges each and every allegation of the complaint in paragraphs numbered "1" through "39", with the same force and effect as though each and every allegation were set forth more fully herein at length below.

41. That at all times mentioned herein, and on November 26, 2012, Section 240 of the Labor law of the State of New York was in full force and effect.

42. That at all times mentioned herein, and on November 26, 2012, the defendants, and/or each of them were subject to the provisions of the statute as cited herein above.

43. That on or about, November 26, 2012, the defendants, and/or each of them were in violation of the Statute as cited as herein above.

44. That as a result of the statutory violation as cited herein above, the plaintiff, RICHARD DIASPARRA, was caused to sustain the injuries as set forth herein above.

45. That as a result of the foregoing the plaintiff, RICHARD DIASPARRA, has been damaged in an amount exceeding the jurisdictional limits of all lower courts of the State of New York.

AS AND FOR A FIFTH CAUSE OF ACTION
ON BEHALF OF THE PLAINTIFF LYNDA DIASPARRA

46. That the plaintiff, LYNDA DIASPARRA, repeats, reiterates and realleges each and every allegation of the complaint in paragraphs numbered "1" through "45", with the same force and effect as though each and every allegation were set forth more fully herein at length below.

47. That at all times hereinafter mentioned, plaintiff, LYNDA DIASPARRA, was the lawful spouse of the plaintiff, RICHARD DIASPARRA, as such said plaintiff, LYNDA DIASPARRA, was entitled to the society, services and consortium of the said plaintiff, RICHARD DIASPARRA.

48. By reason of the afore-described negligence of the defendants, their agents, servants and/or employees, the plaintiff, LYNDA DIASPARRA, was deprived of the aforesaid society, services and consortium of the plaintiff, RICHARD DIASPARRA, and shall forever be deprived of said society, services and consortium.

49. That by reason of the foregoing negligence on the part of the defendants, the plaintiff, LYNDA DIASPARRA, has been damaged in an amount exceeding the jurisdictional limits of all lower courts of the State of New York, together with the costs and disbursements of this action.

WHEREFORE, the plaintiff, RICHARD DIASPARRA, demands judgment against the defendant(s), CITY OF NEWBURGH, in an amount exceeding the jurisdictional limits of all lower courts of the State of New York on the First Cause of Action together with interest, costs and disbursements of this action;

WHEREFORE, the plaintiff, RICHARD DIASPARRA, demands judgment against the defendant(s), CITY OF NEWBURGH, in an amount exceeding the jurisdictional limits of all lower courts of the State of New York on the Second Cause of Action together with interest, costs and disbursements of this action;

WHEREFORE, the plaintiff, RICHARD DIASPARRA, demands judgment against the defendant(s), CITY OF NEWBURGH, in an amount exceeding the jurisdictional limits of all lower courts of the State of New York on the Third Cause of Action together with interest, costs and disbursements of this action;

WHEREFORE, the plaintiff, RICHARD DIASPARRA, demands judgment against the defendant(s), CITY OF NEWBURGH, in an amount exceeding the jurisdictional limits of all lower courts of the State of New York on the Fourth Cause of Action together with interest, costs and disbursements of this action.

WHEREFORE, the plaintiff, LYNDA DIASPARRA, demands judgment against the defendant(s), CITY OF NEWBURGH, in an amount exceeding the jurisdictional limits of all lower courts of the State of New York on the Fifth Cause of Action together with interest, costs and disbursements of this action.

Dated: New York, New York
March 21, 2013

Yours, etc.,

Michael A. Rose
HACH & ROSE, LLP
Attorneys for Plaintiffs
RICHARD DIASPARRA and

LYNDA DIASPARRA
185 Madison Avenue, 14th Floor
New York, NY 10016
(212) 779-0057

STATE OF NEW YORK)
) ss.
COUNTY OF NEW YORK)

Michael A. Rose, being duly sworn, deposes and says:

That deponent is a member with HACH & ROSE, L.L.P., attorneys for Plaintiff(s), in the within action; that the deponent has read the foregoing **SUMMONS AND COMPLAINT** and knows the contents thereof, that the same is true to deponents knowledge except as to the matters therein stated to be alleged upon information and belief, and as to those matters deponent believes it to be true and the reasons that this verification is not made by the Plaintiff(s) and is made by deponent is that Plaintiff(s) does/do not reside in the county where the attorney for the Plaintiff(s) have their office.

Deponent further says that the source of deponent's information and the grounds of deponent's beliefs as to all matters not stated upon deponent's knowledge are from investigation made on behalf of Plaintiff(s).

DATED: NEW YORK, NEW YORK
March 21, 2013

Michael A. Rose
HACH & ROSE, LLP
185 Madison Avenue, 14th Floor
New York, NY 10016
(212) 779-0057

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ORANGE

RICHARD DIASPARRA and LYNDA DIASPARRA,

Plaintiff(s),

-against-

CITY OF NEWBURGH,

Defendant(s).

SUMMONS AND COMPLAINT

HACH & ROSE, LLP
Attorneys for Plaintiff(s)
RICHARD DIASPARRA and LYNDA DIASPARRA
185 Madison Avenue, 14th Floor
New York, NY 10016
Tel. (212) 779-0057
Fax. (212) 779-0028

RESOLUTION NO.: 92 - 2013

OF

MAY 13, 2013

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWBURGH
PROCLAIMING NEWBURGH, NEW YORK
A PURPLE HEART CITY

WHEREAS, on August 7, 1782 at his headquarters in Newburgh, New York, Commander in Chief General George Washington established the Badge of Military Merit, the precursor to the modern day Purple Heart, for singular meritorious action; and

WHEREAS, 150 years later on February 22, 1932 General Douglas MacArthur's General Order Number Three created the modern day Purple Heart; and

WHEREAS, on May 28, 1932, 138 World War I veterans were conferred their Purple Hearts at Temple Hill, New Windsor, New York in the County of Orange at the New Windsor Cantonment, final encampment of the Continental Army; and

WHEREAS, the National Purple Heart Hall of Honor was opened on this same site on November 10, 2006 and continues the tradition begun here in Newburgh in 1782 on honoring veterans who have earned the Purple Heart; and

WHEREAS, the people of the City of Newburgh have great admiration and the utmost gratitude for all the men and women who have selflessly served their country and this community in the Armed Forces; and

WHEREAS, veterans have paid the high price of freedom by leaving their families and communities and placing themselves in harm's way for the good of all; and

WHEREAS, the contributions and sacrifices of the men and women from Newburgh who served in the Armed Forces have been vital in maintaining the freedoms and way of life enjoyed by our citizens; and

WHEREAS, many men and women in uniform have given their lives while serving in the Armed Forces; and

WHEREAS, many citizens of our City have earned the Purple Heart Medal as a result of being wounded or killed while engaged in combat with an enemy force, construed as a singularly meritorious act of essential service; and

WHEREAS, August 7th has officially been designated as the day in Orange County to remember and recognize veterans who are recipients of the Purple Heart Medal; and

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Newburgh, New York hereby proclaims the City of Newburgh as New York's first Purple Heart City, honoring the service and sacrifice of our Nation's men and women in uniform wounded or killed by the enemy while serving to protect the freedoms enjoyed by all Americans.

RESOLUTION NO.: 93 - 2013

OF

MAY 13, 2013

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWBURGH
PROCLAIMING NEWBURGH ARMORY UNITY CENTER
AS A PURPLE HEART CITY CENTER

WHEREAS, on August 7, 1782 at his headquarters in Newburgh, New York, Commander in Chief General George Washington established the Badge of Military Merit, the precursor to the modern day Purple Heart, for singular meritorious action; and

WHEREAS, 150 years later on February 22, 1932 General Douglas MacArthur's General Order Number Three created the modern day Purple Heart; and

WHEREAS, on May 28, 1932, 138 World War I veterans were conferred their Purple Hearts at Temple Hill, New Windsor, New York in the County of Orange at the New Windsor Cantonment, final encampment of the Continental Army; and

WHEREAS, the National Purple Heart Hall of Honor was opened on this same site on November 10, 2006 and continues the tradition begun here in Newburgh in 1782 on honoring veterans who have earned the Purple Heart; and

WHEREAS, the people of the City of Newburgh have great admiration and the utmost gratitude for the nineteen men who died in the Battle of the Hindenburg Line on September 29, 1918 all members of Companies E and L of 107th Regiment who went to war from the Broadway Armory; and

WHEREAS, the Newburgh Armory was opened in 1932 as the home of the 156th Field Artillery Regiment the same year as the introduction of the modern day Purple Heart; and

WHEREAS, the Newburgh Armory Unity Center carries on the tradition of the City of Newburgh in the World War as a united center with patriotism, service and as a safe haven; and

WHEREAS, the Newburgh Armory Unity Center is a home for all our active duty military and our veterans who have paid the high price of freedom by leaving their families and communities and placing themselves in harm's way for the good of all; and

WHEREAS, the contributions and sacrifices of the men and women from Newburgh who served in the Armed Forces have been vital in maintaining the freedoms and way of life enjoyed by our citizens; and

WHEREAS, many citizens of our city have earned the Purple Heart Medal as a result of being wounded or killed while engaged in combat with an enemy force, construed as a singularly meritorious act of essential service; and

WHEREAS, August 7th has officially been designated as the day in Orange County to remember and recognize veterans who are recipients of the Purple Heart Medal; and

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Newburgh, New York hereby proclaims the Newburgh Armory Unity Center as New York's first Purple Heart City, honoring the service and sacrifice of our Nation's men and women in uniform wounded or killed by the enemy while serving to protect the freedoms enjoyed by all Americans.

RESOLUTION NO.: 94 - 2013

OF

MAY 13, 2013

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH THE COUNTY OF ORANGE FOR THE SUMMER YOUTH EMPLOYMENT AND TRAINING PROGRAM TO PROVIDE YOUNG PEOPLE TO WORK FOR THE CITY OF NEWBURGH FOR THE SUMMER OF 2013

WHEREAS, the County of Orange is once again offering a Summer Youth Employment and Training Program for the purpose of providing meaningful work experience for participants; and

WHEREAS, the City of Newburgh Youth Bureau and other City Departments have expressed an interest in using this program to provide summer jobs for young people and service to the City of Newburgh; and

WHEREAS, this Council finds that entering into an agreement with Orange County for this purpose is in the best interests of the City of Newburgh;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to execute an agreement and other necessary documents with the County of Orange in order to participate in the Summer Youth Employment and Training Program which provides young people to work in the City for the Summer of 2013.

RESOLUTION NO.: 95 - 2013

OF

MAY 13, 2013

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A LICENSE AGREEMENT WITH ST. LUKE'S CORNWALL HOSPITAL TO ALLOW USE OF CITY OWNED PROPERTY LOCATED IN THE CARTER STREET PEDESTRIAN WALKWAY KNOWN AS LARKIN PARK FOR A FARMERS MARKET

WHEREAS, the City of Newburgh is the owner of portion of lands now or formerly owned by the City of Newburgh, designated on the City of Newburgh Tax Maps as Carter Street between City Terrace an Dubois Street between City Terrace and Dubois Street, and more accurately described in Schedule "A" of the Carter Street Easement Agreement between the City Newburgh and St. Luke's Cornwall Hospital, dated October 25, 2007, hereinafter referred to as "Larkin Park"; and

WHEREAS, the St. Luke's Cornwall Hospital proposes to hold a Farmers Market in Larkin Park; and

WHEREAS, holding the Farmers Market in Larkin Park requires the parties to execute a license agreement, a copy of which is attached hereto and made a part of this resolution; and

WHEREAS, this Council has reviewed such license and has determined that entering into the same would be in the best interests of the City of Newburgh;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to enter into the attached license agreement, in substantially the same form with other provisions as Corporation Counsel may require, with St. Luke's Cornwall Hospital to allow access to and use of City-owned property for the purpose of holding a Farmers Market.

LICENSE AGREEMENT

This Agreement, made this _____ day of _____, two thousand and thirteen, by and between the SAINT LUKE'S CORNWALL HOSPITAL, with principal offices at 70 Dubois Street, Newburgh, New York 12550 as "LICENSEE; and the CITY OF NEWBURGH, a municipal corporation organized and existing under the laws of the State of New York with offices at 83 Broadway, City Hall, Newburgh, New York 12550 as "LICENSOR";

WITNESSETH THAT:

WHEREAS, Licensee desires the license or privilege of gaining access to the premises of Licensor and in substantially the location and position shown as set forth on the map or plan hereto attached and made a part hereof and bearing the following address:

All that portion of lands now or formerly owned by the City of Newburgh, designated on the City of Newburgh Tax Maps as Carter Street between City Terrace an Dubois Street, and more accurately described in Schedule "A" of the Carter Street Easement Agreement between the City Newburgh and St. Luke's Cornwall Hospital, dated October 25, 2007, hereinafter referred to as "Larkin Park".

AND WHEREAS, Licensor is willing to give said license or privilege on the following terms and conditions:

NOW, THEREFORE, in consideration of the premises and of the mutual covenants and conditions hereinafter contained, it is hereby agreed as follows:

First: Licensor hereby gives to Licensee, upon the conditions hereinafter stated, the license or privilege of entering upon Licensor's property located at , in the City of Newburgh, New York, and taking thereupon such vehicles, equipment, tools, tables, chairs and other materials as may be necessary; for the purposes of hosting a farmer's market, including but not limited to the sale of farm products, produce and other general information and demonstrations by Orange County agencies on property owned by Licensor. No permanent improvements may be erected on the premises.

Second: Licensee agrees to use and maintain said facilities in such manner as will comply fully with the provisions of any laws, ordinances or other lawful authority obtaining any and all permits required thereby.

Third: Licensor acknowledges that the use of the subject property shall inure to the benefit of both parties, and shall be satisfactory, adequate and sufficient consideration for the Licensee granted hereunder.

Fourth: Licensee hereby agrees to defend, indemnify and hold Licensor harmless against any claims, actions and proceedings brought against Licensor arising out of, in connection with and/or relating to Licensee's use of the premises. Licensee has posted evidence of and shall maintain throughout the term of this License public liability insurance naming the Licensor as additional insured in a minimum coverage amount of One Million ($1,000,000.00) Dollars.

Fifth: This Agreement and the license or privilege term is from June 1, 2013 to October 31, 2013.

Seventh: It is understood and agreed that no vested right in said premises is hereby granted or conveyed from either party to the other, and that the privileges hereby given are subject to any and all encumbrances, conditions, restrictions and reservations upon or under which the parties hold said premises.

Eighth: Without limitation to the general provisions of this Agreement, it is understood and agreed that said facilities shall be installed in substantially the location and position shown in the attachments hereto, and in accordance with details and specifications as set forth on map or plan hereto attached and hereby made a part hereof.

WITNESSETH:

THE CITY OF NEWBURGH

LICENSOR

By: _____
Richard F. Herbek, City Manager

ST. LUKE'S CORNWALL HOSPITAL

LICENSEE

By: _____

RESOLUTION NO.: 96 - 2013

OF

May 13, 2013

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWBURGH ADOPTING AN ENVIRONMENTAL ASSESSMENT FORM (EAF) AND ISSUING A NEGATIVE DECLARATION UNDER THE STATE ENVIRONMENTAL QUALITY REVIEW ACT (SEQRA) CONCERNING AN AMENDMENT OF ARTICLE VII, ENTITLED "SPECIAL USE PERMITS" OF THE ZONING ORDINANCE OF THE CITY OF NEWBURGH

WHEREAS, by Resolution No. 194-2012 of October 22, 2012, the City Council of the City of Newburgh, New York authorized the City Manager to execute a Development and Land Disposition Agreement with Mill Street Partners, LLC (the "Development Agreement") for the redevelopment of the Mid-Broadway site, which obligates the City to adopt modifications to the Zoning Code to permit the proposed development; and

WHEREAS, by Resolution No. 73-2013 of April 8, 2013, the City Council of the City of Newburgh declared itself as the Lead Agency for the environmental review of "An Ordinance to Amend Article VII, entitled "Special Use Permits" of Chapter 300 entitled "Zoning" of the Code of Ordinances of the City of Newburgh to Add Section 300-38 entitled "Large-Scale Mixed-Use Development Special Use Permit" ("the Ordinance") pursuant to 6 NYCRR 617.6; classified the adoption of the proposed ordinance as an Unlisted Action; proposed to accept as complete the Environmental Assessment Form ("EAF"); referred the proposed legislation to the Orange County Planning Department as required by General Municipal Law Section 239; and scheduled a public hearing to receive comments regarding the proposed ordinance; and

WHEREAS, in compliance with SEQRA, the City Council of the City of Newburgh now wishes to approve and adopt the EAF; and

WHEREAS, the City of Newburgh has taken a hard look at the environmental impacts of adopting the ordinance and has determined that there will be no negative environmental impacts regarding same; and

WHEREAS, the City Council finds that the adoption of the ordinance is in the best interests of the City of Newburgh;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York hereby adopts the EAF and issues a Negative Declaration pursuant to the SEQRA.

ADOPTION OF AMENDMENTS TO THE TC-1 ZONING DISTRICT TO ALLOW A LARGE-SCALE MIXED-USE DEVELOPMENT SPECIAL USE PERMIT

City of Newburgh, New York

ENVIRONMENTAL ASSESSMENT FORM – Part 1

March 25, 2013

BFJ Planning

ADOPTION OF AMENDMENTS TO THE TC-1 ZONING DISTRICT TO ALLOW A LARGE-SCALE MIXED-USE DEVELOPMENT SPECIAL USE PERMIT

City of Newburgh, New York

ENVIRONMENTAL ASSESSMENT FORM PART 1

Prepared on behalf of:
City of Newburgh City Council
City Hall
83 Broadway
Newburgh, NY 12550-5617

Prepared by:
BFJ Planning
115 Fifth Avenue
New York, NY 10003

Prepared: March 25, 2013

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Appendix A: Proposed Zoning Text Amendments

1.0 INTRODUCTION: LOCATION, PROJECT COMPATIBILITY AND DESCRIPTION OF THE PROPOSED ACTION

Pursuant to the New York State Environmental Quality Review Act [6 NYCRR Part 617 (SEQR)], the proposed action discussed in this Full Environmental Assessment Form (EAF) is the adoption of text amendments to the City of Newburgh Zoning Code to create a Large-Scale Mixed-Use Development Special Use Permit within the City's Tourist Commercial (TC-1) District.

1.1 Project Location

The City of Newburgh is located on the western shore of the Hudson River in Orange County, approximately 60 miles north of New York City. The City is bordered by the Town of Newburgh to the west and north, the Hudson River to the east and the Town of New Windsor to the south (see Figure 1). Newburgh is a small, densely settled community, comprising 3.9 square miles.

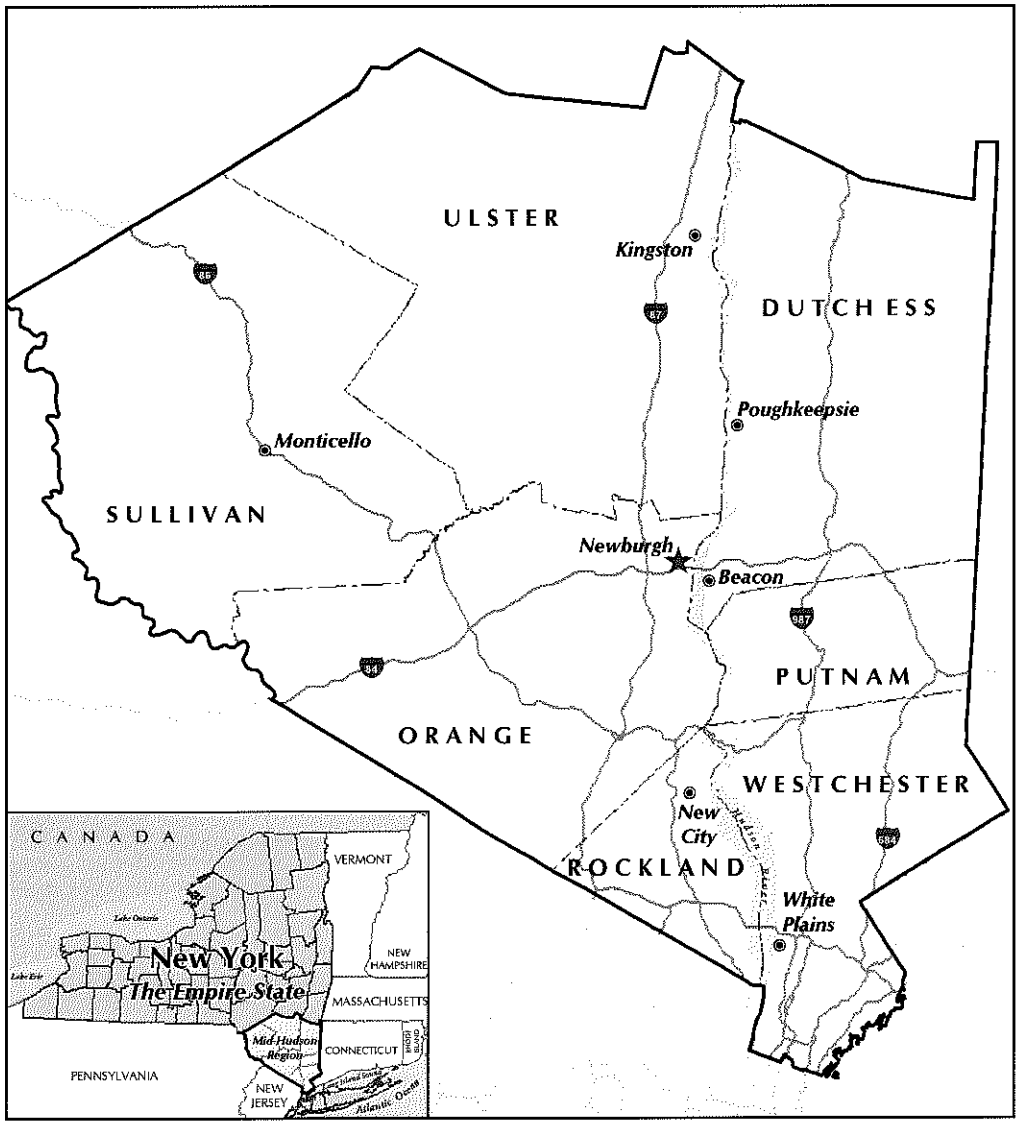
The proposed zoning text amendments will only apply within the City's TC-1 Zoning District and only to parcels located within the TC-1 District that have frontage along Broadway (see Figure 2: Existing Zoning Map). Of the 310-acres of land zoned TC-1 the proposed new large-scale mixed-use special use permit would only apply within the 13.8 acres of TC-1 land fronting Broadway located between Concord Street to the east and Colden Street to the west (see Figure 3:).

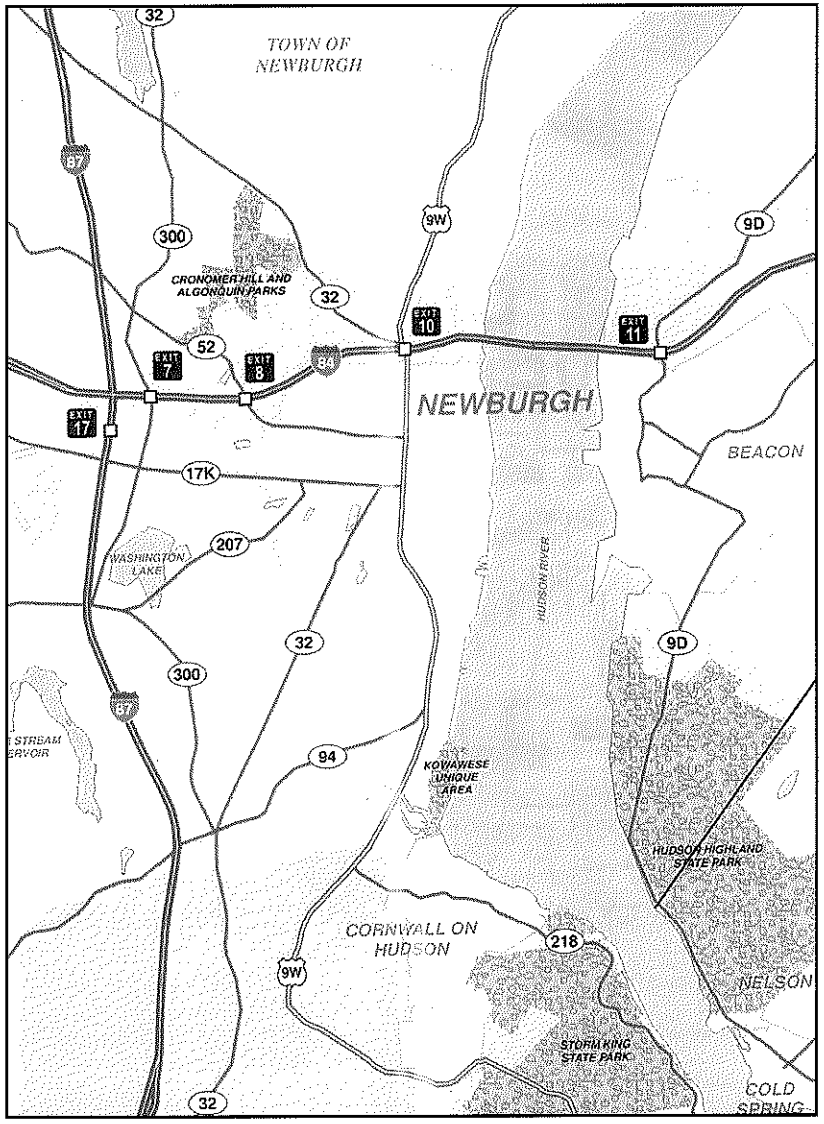
1.2 Project Compatibility

The proposed action is consistent with the recommendations made in the 2008 *"Plan-It Newburgh"* Sustainable Master Plan and the 2011 City of Newburgh Future Land Use Plan which was adopted as an addendum to the 2008 Master Plan.

"Plan-It Newburgh" Sustainable Master Plan

The *"Plan-It Newburgh"* Sustainable Master Plan, adopted December 8, 2008, describes the "visions and hopes of the city regarding future growth and development." Goals, targets and strategies in the Master Plan outline how the City of Newburgh will accommodate growth and development until the target date 2040. The objective of the Master Plan is to direct and guide public and private decisions and actions in a consistent and logical manner (pg. 8). Specifically, the Master Plan included targets to provide balance in the City's zoning districts to accommodate all types of land use, including mixed-use development and directing that a future land use plan be prepared to assess where residential development can be accommodated at increased densities in appropriate areas (Housing Goal 2, pg. 61-62). In addition, the Master Plan called for a





LARGE-SCALE MIXED-USE DEVELOPMENT SPECIAL USE PERMIT EAF

FIGURE 1: REGIONAL LOCATION MAP

NEWBURGH, NY

SOURCE: PLAN-IT-NEWBURGH MASTER PLAN, 2008

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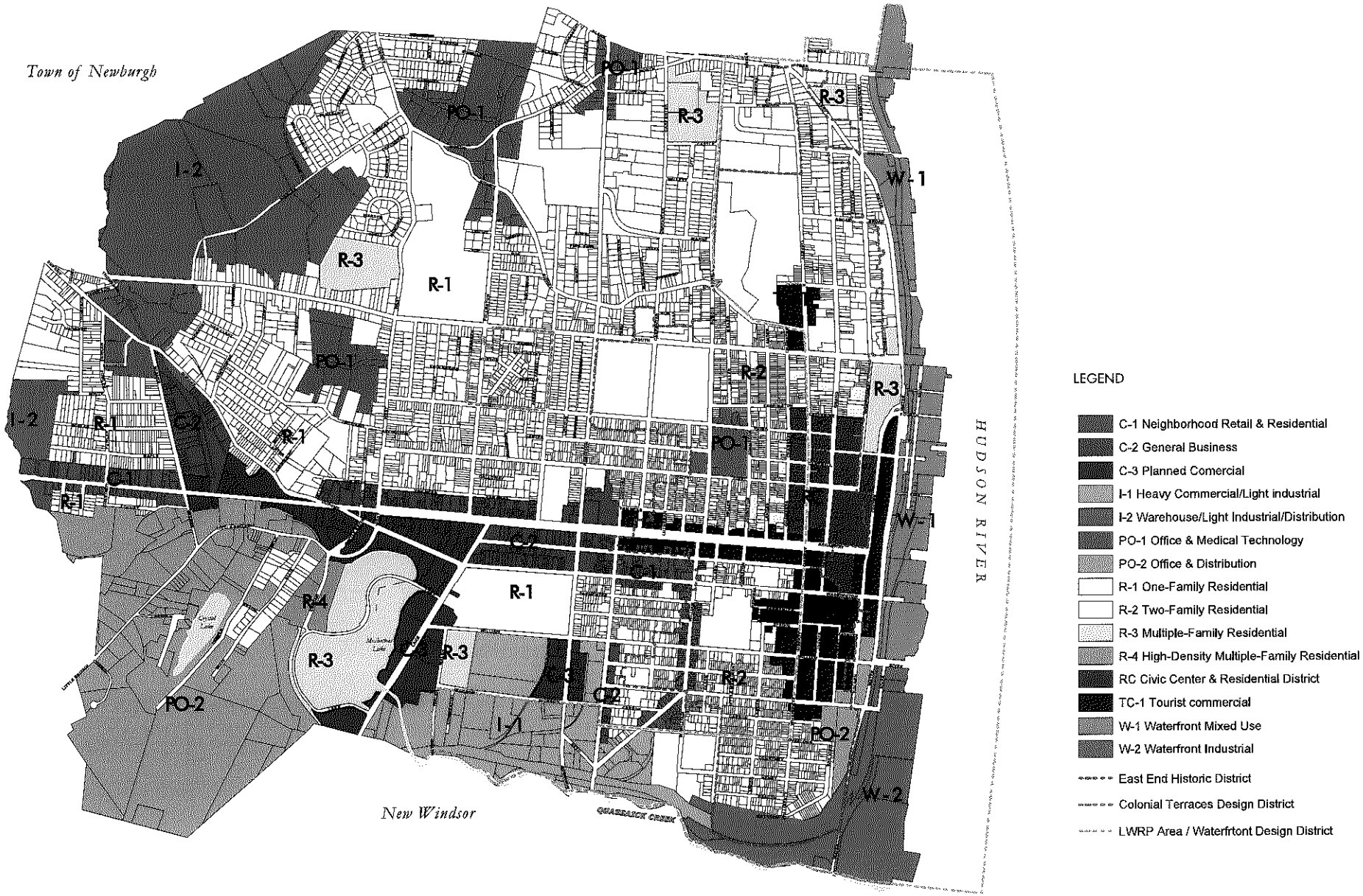

LARGE-SCALE MIXED-USE DEVELOPMENT SPECIAL USE PERMIT EAF

FIGURE 2: CITY OF NEWBURGH EXISTING ZONING MAP

NEWBURGH, NY

SOURCE: BFJ PLANNING

0 1,000 ft

BFJ Planning

LARGE-SCALE MIXED-USE DEVELOPMENT SPECIAL USE PERMIT EAF

FIGURE 3: TC-1 PARCELS FRONTING BROADWAY

NEWBURGH, NY

SOURCE: BFJ PLANNING

BFJ Planning

reduction in off-street parking requirements in traditional mixed-use and business/retail corridors where adequate off-street parking is within walking distance (Economic Development Goal 2, pg. 88) as well as a reduction or elimination of front yard setback requirements to allow for traditional neighborhood design (Economic Development Goal 4, pg. 90). The proposed zoning text amendments are consistent and compatible with the recommendations of the 2008 Master Plan and seek to implement, on a limited scale, the Plan recommendations outlined above.

Future Land Use Plan

Although the Master Plan identified and described issues regarding land use planning, the document did not specifically contain a future land use component, which provides a framework for potential future zoning changes. The proposed Future Land Use Plan, adopted September 12, 2011, supports the goals enumerated in the 2008 Master Plan and was prepared as an addendum to the plan, pursuant to the New York State General City Law §28. The proposed Future Land Use Plan serves as the land use component of the Master Plan. All land use regulations adopted in the City must be in accordance with the proposed Future Land Use Plan.

Specifically, the Future Land Use Plan calls for higher density mixed-use development in the Lower Broadway corridor [See Figure 4: Future Land Use Plan (Opportunity Area I, pg. 15]. The Future Land Use Plan states that "there is a significant opportunity in this area to promote the re/development of a traditional urban/city neighborhood that has a mix of uses; is pedestrian oriented; and provides for a diverse public to live, learn, work and play" (pg. 15). Further, the plan recommends that an increase in mixed-use development in the Lower Broadway area will promote an urban lifestyle typical of thriving urban areas where residences, related commercial and entertainment uses support one another and that by promoting mixed-use development and increasing residential density in this area, the City will re-establish a physical and walkable connection between the Broadway corridor and the waterfront.

The Future Land Use Plan also included revisions to the Zoning Code are proposed to include "building coverage" standards and Floor Area Ratios (FAR), where appropriate, to the existing schedules of area and bulk controls. When combined with a height control, building coverage and FAR control density on any given site. Recommended revisions to the City's parking standards and use group definitions as well as to the City's administrative and enforcement aspects of the Zoning Code are also proposed.

LARGE-SCALE MIXED-USE DEVELOPMENT SPECIAL USE PERMIT EAF

FIGURE 4: FUTURE LAND USE MAP

NEWBURGH, NY

SOURCE: NEWBURGH FUTURE LAND USE PLAN, 2011

0 1,000 ft

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The Plan recommends zoning changes that support the goal of increasing opportunities for mixed-use development at increased densities. In the Broadway portion of the existing TC-1 District, the Plan recommends zoning changes that would permit heights ranging from 6-8 stories and significant increases in residential densities. The proposed zoning text amendments are a first step in implementing the land use and zoning recommendations contained in the Future Land Use Plan. The proposed action is consistent and compatible with the Future Land Use Plan.

2.0 DESCRIPTION OF THE PROPOSED ACTION

The Newburgh City Council, through the adoption of the proposed action seeks to support the recommendations to provide opportunities for mixed-use development of an increased scale and density along the Lower Broadway Corridor expressed in both the 2008 Master Plan and 2011 Future Land Use Plan. The proposed zoning text amendments are compatible with both the Master Plan and Future Land Use Plan. Specifically, the City Council is proposing amendments to the City Zoning Code (§300-38 and §300 Attachment 8) adding a new special use permit subject to review and approval by the City Council to permit new large-scale mixed-use developments within the TC-1 District.

The proposed zoning text amendments would create a new "Large-Scale Mixed-Use Development" Special Use Permit within the City's existing TC-1 District. The purpose of this special use permit is to facilitate the redevelopment of vacant or underutilized properties along the Lower Broadway Corridor with a mix of vibrant residential and commercial uses. This new special use permit would be added to the *Schedule of Use and Bulk Regulations* for the TC-1 District (§300 Attachment 8). In order to apply for a large-scale mixed-use development special use permit an applicant would have to meet the following area and bulk requirements:

- Only applicable to TC-1 zoned lots with frontage on Broadway;
- Projects may extend from Broadway through the length of the block to the next public street, irrespective of the zone, provided that the portion outside the TC-1 zone is part of a unified development parcel with frontage on Broadway;
- 20,000 square foot minimum lot size;
- 100 foot minimum lot width;
- 15 foot minimum front yard and up to a 5 foot side yard, subject to reduction or elimination at the discretion of the City Council;
- 20 foot minimum rear yard; and
- Maximum building height of 65 feet/6 stories within 200 feet of Broadway and 45 feet/4 stories beyond 200 feet.

In addition, a new special use permit section (§300-38) has been added within the Zoning Code to allow large-scale mixed-use developments within the TC-1 District. This section sets forth the power, applicability, conditions to be fulfilled and the standards that must be met in order to qualify for a large-scale mixed-use development special use permit. The conditions and standards set forth in this section are similar to other special permit uses in the City, except that this special use permit can only be granted by the City Council; all other special permit uses in the City are subject to review and approval by the Planning Board. The approval authority for this special permit use has been placed with the City Council in recognition of the importance of the Lower Broadway Corridor to the City as a whole, as well as the potential benefits these types of large-scale projects could have on the City. The proposed zoning text also includes provisions for shared parking and grants the City Council the authority to modify parking requirements based on a parking analysis that demonstrates that the parking demands of a proposed development can be met through the provision of fewer spaces than those required by the City's off-street parking regulations. Finally, the City Council may also allow up to 25% of the required parking spaces to be provided at an off-site location within 300 feet of the project site.

See Appendix A for the proposed Zoning Text Amendments.

3.0 ANALYSIS OF DEVELOPMENT POTENTIAL

Based on a review of the TC-1 zoned lots with frontage along Broadway, it is projected that only two potential development sites exist that are likely to be developed under the proposed special use permit. These two sites, shown on Figure 5, are both currently vacant and meet all of the dimensional requirements set forth in the proposed zoning text amendments. Additional large-scale mixed-use development sites may exist, but due to current ownership constraints, their redevelopment would require assembling numerous parcels from multiple property owners which would most likely serve to hinder this type of large-scale development. Small scale mixed-use developments are currently permitted within the TC-1 District as-of-right.

Since the special use permit process for a large-scale mixed-use development will be discretionary and based on a review of site specific development plan, the exact number of future potential residential units and commercial square footage cannot be determined with certainty at this time. However, based on a cursory review of the two potential development sites illustrated in Figure 5, which total approximately 105,600 square feet, it is estimated that redevelopment of these parcels could result in approximately 144 residential units and 19,500 square feet of commercial space. This estimate assumes a 30% building coverage and groundfloor retail uses fronting Broadway. In addition, this estimate assumes a 6-story building within 200 feet of Broadway tapering down to a 4-story building beyond 200 feet of Broadway.

LARGE-SCALE MIXED-USE DEVELOPMENT SPECIAL USE PERMIT EAF

FIGURE 5: POTENTIAL LARGE-SCALE MIXED-USE DEVELOPMENT SITES

NEWBURGH, NY

SOURCE: BFJ PLANNING

BFJ Planning

This potential increase in density along the Broadway Corridor and the resultant potential increase in population, could result in impacts to the City's infrastructure, including water, sewer, and transportation systems. Given that special use permits are not granted as-of-right, any site specific proposal for a large-scale mixed-use development would be required to comply with the special use permit standards set forth in the proposed zoning text amendments as well as all existing standards set forth in the City's Zoning Code, including site plan review as well site specific review under SEQR. Therefore, the exact number and unit type of residential units and associated parking requirements, the projected future population, and breakdown of commercial space cannot be determined. However, when testing the implications of new zoning, a realistic market based approach and demographic based projection of what the likely population that could result is an important benchmark.

Within this context, it is important to look at Newburgh's population over time, as well as to project anticipated future growth within the City over the next 10 years. Table 1 below, presents the City's population, as reported by the US Census, since 1940. As this table demonstrates, the City's population peaked in 1950 and steadily declined by 27% over the following 30 years. Since the 1980s the City's population has grown, but is still 9.7% lower than the 1950 historic high.

Table 1: City of Newburgh Population

Year	Population	% Change from Previous 10-year period
1940	31,883	--
1950	31,956	2.3%
1960	30,979	-3.1%
1970	26,219	-15.1%
1980	23,438	-10.6%
1990	26,454	12.9%
2000	28,259	6.8%
2010	28,866	2.1%
		% Change 1950 – 2010: -9.7%

Source: US Bureau of the Census. http://www.census.gov/prod/www/abs/decennial

Using population growth projections generated by Orange County[1], and adjusting for the actual 2010 US Census data, the City of Newburgh is only projected to grow to 29,410

[1]The Orange County Planning Department generated population projections using four different methodologies for each of the County's municipalities. For Newburgh, depending on the methodology used, the County projected growth rates of -0.03%, 0.07%, 0.09%, and 0.17%. To be conservative, the highest projected growth rate of 0.17% has been used in this analysis. http://www.orangecountygov.com/filestorage/124/1362/3210/Municipal_Population_Projections_Comparison_Sheet.pdf

residents by 202, an increase of only 1.9% over the next 10 years and still 8.0% below the 1950 population high. The City's overall infrastructure is able to reasonably sustain the small impact of the proposed zoning text amendments as any increase in population reasonably anticipated to occur over the next 10 years would be below the peak 1950 numbers.

However, in part, the purpose of the zoning text amendments is to foster development along the Lower Broadway Corridor that could in turn result in related increases in population density. This possible increase in density could result in impacts to the City's infrastructure as discussed below[2].

Water

The City of Newburgh's water supply is from the Washington Lake reservoir, located at the intersection of Route 300 and Little Britain Road, in the Town of New Windsor. The Washington Lake Reservoir was constructed in 1907 and holds approximately 1.5 billion gallons of water. An emergency water supply source from the NYC Catskill Aqueduct is also available. Raw water from the reservoir is conveyed to the City's water filtration plant through a 30-inch diameter water main. The City's water filtration plant has the ability to treat approximately 9 million gallons of water per day (MGD) and its current average daily demand is 4.2 MGD. The plant employs a series of mechanical and chemical treatments to remove color, odor, and tastes along with organic material, dirt, and particles. The water then passes through a series of sand filters; chlorine is added for disinfection; fluoride is added to help promote sound dental health; and corrosion inhibitors are added to reduce the corrosive effects of water on pipes and plumbing. Once treated, the water is pumped to the distribution system.

The City water system is comprised of two zones, the high service zone, which services properties north of Broadway and west of Lake Street, and the low service zone, which services the remainder of the City, including Lower Broadway. The high service district is serviced by two water storage tanks, a one (I) million gallon tank located on Brady Avenue and a one and one half (1.5) million gallon tank located on Marne Avenue. A small pumping station is located on Marne Avenue to boost the pressure for residence located around the base of the tank (University Heights neighborhood in the vicinity of Mount St. Mary's College). The two tanks are fed by the Marne Avenue/Carter Street Pumping Station, which draws water from the low service district.

[2] The analysis in this section is based in part on the analysis contained in the June 2008 Preliminary DEIS for "The Newburgh Waterfront Redevelopment Project Preliminary DEIS," prepared by Saccardi & Schiff, Inc. as well as on an October 15, 2010 meeting between BFJ Planning and Craig Marti, Newburgh City Engineer.

The low service district is serviced by two (2) water storage tanks. The first tank is a two (2) million gallon tank located near the water treatment plant on Little Britain Road. A second two (2) million gallon tank is located on Ellis Avenue. The high water level of the tanks is at approximately 275 ft.

Water distribution for the City is through approximately 80 miles of water mains ranging from 4 inches to 30 inches in diameter. The mains within the City are, for the most part, interconnected for improved hydraulic characteristics and decrease of minor losses. The distribution system provides domestic water and fire demand for residents within the water district.

As demonstrated there is not a significant constraint on serving the entire City with water. The water demand of the City would have to more than double (a 100% increase in demand) before any constraints to the design capacity of the City's water filtration plant would occur. As the population of Newburgh is only projected to grow by approximately 1.9% over the next ten years, even if the zoning text amendments result in an increase in density along Lower Broadway, no impact to the City's water supply are anticipated.

According to the Newburgh City Engineer, the issue with water is not one of capacity, but rather has to do with water pressure in certain parts of the City, in particular the University Heights section. Water pressure is not an issue for areas along Lower Broadway which may increase in density as a result of proposed zoning text amendments.

Sanitary Sewer

The City of Newburgh is serviced by the City of Newburgh wastewater treatment plant (WWTP), located in the southern portion of the waterfront, off of Martin Luther King Boulevard. The WWTP has a dry weather capacity of nine (9) million gallons per day (MGD); 3.8 MGD are reserved for the Town of Newburgh and 5.2 MGD are available for the City of Newburgh. The plant currently operates at an average daily flow rate of approximately six (6) MGD, of which 1.6 MGD is generated by the Town of Newburgh. Based on the current flow rates, approximately 3 MGD of remaining plant capacity is available for use by the City of Newburgh and available to meet the needs of any future population generated by the proposed zoning text amendments; a 68% increase in demand would need to occur before the WWTP would reach dry weather capacity.

Traffic and Parking

The adoption of the proposed zoning text amendments does not appear to result in significant traffic issues along Broadway. Localized impacts at specific intersections may occur as part of implementation of future projects seeking the proposed special use permit, but these would be addressed during site specific review of future actions under

SEQR. The Newburgh Waterfront Redevelopment Project proposed the development of approximately 1,170 residential units, a 150-room hotel, 100,000 square feet of office space, and 140,000 of retail space to be located in the area just west of the TC-1 District parcels with frontage along Broadway.

The traffic study, prepared by Saccardi & Schiff, Inc. as part of the Preliminary Draft Environmental Impact Statement (DEIS) for the Waterfront Redevelopment Project found that the proposed development program outlined above would have an impact on the operation of the road network in the area, including slight changes in the level of service at the intersections of Broadway and Robinson Avenue, Robinson Avenue and South Street, Robinson Avenue and Plank Road, and North Street and Balmville Road. The DEIS did provide mitigation measures for these localized intersection impacts; these measures should be considered, and implemented, if deemed appropriate, as part of the SEQR review of future development projects seeking the large-scale mixed-use development special use permit, if deemed applicable.

In addition to on-street metered parking that is available on most of the streets located within the vicinity of the Lower Broadway Corridor, the City of Newburgh currently has a significant amount of off-street parking. Much of the off-street parking is located in close proximity to Broadway and Martin Luther King Jr. Boulevard. Currently there is approximately 22 acres of parking east of Route 9W, roughly 13 acres of which is located east of Liberty Street within close proximity to Broadway and the TC-1 District.

As demonstrated above, Newburgh has the water capacity, sewer capacity and street network capacity to sustain a substantial amount of growth. In the case of Newburgh, the population has slightly increased over the last 30 years, but is still 9.7% below its 1950 historic peak. In addition, using the most aggressive growth rate provided by the County, the population is only projected to grow by 1.9% over the next 10 years; which is still 8.0% below the historic peak. Therefore, the limited growth that might realistically be expected to occur can be accommodated by the City's existing infrastructure.

Further, as special use permits are not granted as-of-right, any site specific large-scale mixed-use development proposal would be required to comply with the special use permit standards set forth in the proposed zoning text amendments as well as all existing standards set forth in the City's Zoning Code, including site plan review as well site specific review under SEQR.

4.0 FULL ENVIRONMENTAL ASSESSMENT FORM

This EAF evaluates the potential for environmental impacts to be created by the adoption of amendments to the City of Newburgh Zoning Code to create a Large-Scale Mixed-Use Development Special Use Permit within the City's Tourist Commercial (TC-1) District. This legislative action is generic in nature, not site-specific, and does not directly result in any physical changes to the environment. Part 1 of the Full EAF is designed for a site specific action rather than area-wide or generic proposals. As a result, many of the questions in Part 1 are not relevant to the proposed action and have been answered "not applicable" or "NA."

PART 1--PROJECT INFORMATION
Prepared by Project Sponsor

NOTICE: This document is designed to assist in determining whether the action proposed may have a significant effect on the environment. Please complete the entire form, Parts A through E. Answers to these questions will be considered as part of the application for approval and may be subject to further verification and public review. Provide any additional information you believe will be needed to complete Parts 2 and 3.

It is expected that completion of the full EAF will be dependent on information currently available and will not involve new studies, research or investigation. If information requiring such additional work is unavailable, so indicate and specify each instance.

Name of Action Adoption of Amendments to the TC-1 Zoning District to allow a Large-Scale Mixed-Use Development Special Use Permit

Location of Action (include Street Address, Municipality and County)

Broadway between Concord Street and Grand Street, City of Newburgh, Orange County, NY 12550

Name of Applicant/Sponsor City of Newburgh City Council

Address City Hall, 83 Broadway

City / PO Newburgh State NY Zip Code 12550-5617

Business Telephone (845) 569-7301

Name of Owner (if different) N/A

Address

City / PO State Zip Code

Business Telephone

Description of Action:

Pursuant to the New York State Environmental Quality Review Act [6 NYCRR Part 617 (SEQR)], the proposed action discussed in this Full Environmental Assessment Form (EAF) is the adoption of text amendments to the City of Newburgh Zoning Code to create a Large-Scale Mixed-Use Development Special Use Permit within the City's Tourist Commercial (TC-1) District. The purpose of this special use permit is to facilitate the redevelopment of vacant or underutilized properties along the Lower Broadway Corridor with a mix of vibrant residential and commercial uses. This new special use permit would be added to the Schedule of Use and Bulk Regulations for the TC-1 District (§300 Attachment 8). Please see the attached project description for a detailed discussion of the proposed action.

Please Complete Each Question--Indicate N.A. if not applicable

A. SITE DESCRIPTION

Physical setting of overall project, both developed and undeveloped areas.

1. Present Land Use: [✓] Urban [ ] Industrial [✓] Commercial [ ] Residential (suburban) [ ] Rural (non-farm)
   [ ] Forest [ ] Agriculture [✓] Other mixed-use, vacant

2. Total acreage of project area: 13.8 acres.

APPROXIMATE ACREAGE	PRESENTLY	AFTER COMPLETION
Meadow or Brushland (Non-agricultural)	N/A acres	N/A acres
Forested	N/A acres	N/A acres
Agricultural (Includes orchards, cropland, pasture, etc.)	N/A acres	N/A acres
Wetland (Freshwater or tidal as per Articles 24,25 of ECL)	N/A acres	N/A acres
Water Surface Area	N/A acres	N/A acres
Unvegetated (Rock, earth or fill)	N/A acres	N/A acres
Roads, buildings and other paved surfaces	N/A acres	N/A acres
Other (Indicate type) vacant	N/A acres	N/A acres

3. What is predominant soil type(s) on project site? Urban Land

   a. Soil drainage: [ ] Well drained ____% of site [ ] Moderately well drained ____% of site.
   N/A [ ] Poorly drained ____% of site

   b. If any agricultural land is involved, how many acres of soil are classified within soil group 1 through 4 of the NYS Land Classification System? N/A acres (see 1 NYCRR 370).

4. Are there bedrock outcroppings on project site? [ ] Yes [■] No

   a. What is depth to bedrock N/A (in feet)

5. Approximate percentage of proposed project site with slopes: N/A

   [✓] 0-10% ____% [✓] 10- 15% ____% [✓] 15% or greater ____%

6. Is project substantially contiguous to, or contain a building, site, or district, listed on the State or National Registers of Historic Places? [■] Yes [ ] No

7. Is project substantially contiguous to a site listed on the Register of National Natural Landmarks? [ ] Yes [■] No

8. What is the depth of the water table? >6.5 (in feet)

9. Is site located over a primary, principal, or sole source aquifer? [ ] Yes [■] No

10. Do hunting, fishing or shell fishing opportunities presently exist in the project area? [ ] Yes [■] No

11. Does project site contain any species of plant or animal life that is identified as threatened or endangered? ☐ Yes ☐ No

According to:

Not known. The proposed action is generic in nature and will not result in any direct impacts to plant or animal species; however, the TC-1 District is predominantly comprised of urban developed land and formerly developed vacant land. The potential for threatened or endangered species limited.

Identify each species:

There are no state-designated Significant Coastal Fish and Wildlife Habitats located within Newburgh.

12. Are there any unique or unusual land forms on the project site? (i.e., cliffs, dunes, other geological formations?

☐ Yes ■ No

Describe:

N/A

13. Is the project site presently used by the community or neighborhood as an open space or recreation area?

☐ Yes ■ No

If yes, explain:

14. Does the present site include scenic views known to be important to the community? ■ Yes ☐ No

Newburgh's View Preservation District regulations identify the following view planes for protection: Grand and Washington Streets, Washington's Headquarters, Broadway and Colden Street, Grand and Second Streets, Public Library, First and Grand Streets.

15. Streams within or contiguous to project area:

None.

a. Name of Stream and name of River to which it is tributary

16. Lakes, ponds, wetland areas within or contiguous to project area:

None.

b. Size (in acres):

17. Is the site served by existing public utilities? ☒ Yes ☐ No

a. If **YES,** does sufficient capacity exist to allow connection? ☐ Yes ☐ No N/A

b. If **YES**, will improvements be necessary to allow connection? ☐ Yes ☐ No N/A

18. Is the site located in an agricultural district certified pursuant to Agriculture and Markets Law, Article 25-AA, Section 303 and 304? ☐ Yes ☒ No

19. Is the site located in or substantially contiguous to a Critical Environmental Area designated pursuant to Article 8 of the ECL, and 6 NYCRR 617? ☐ Yes ☒ No

20. Has the site ever been used for the disposal of solid or hazardous wastes? ☐ Yes ☒ No

B. Project Description N/A*

1. Physical dimensions and scale of project (fill in dimensions as appropriate).

a. Total contiguous acreage owned or controlled by project sponsor: N/A acres.

b. Project acreage to be developed: N/A acres initially; N/A acres ultimately.

c. Project acreage to remain undeveloped: N/A acres.

d. Length of project, in miles: N/A (if appropriate)

e. If the project is an expansion, indicate percent of expansion proposed. N/A %

f. Number of off-street parking spaces existing N/A ; proposed N/A

g. Maximum vehicular trips generated per hour: N/A (upon completion of project)?

h. If residential: Number and type of housing units: N/A

	One Family	Two Family	Multiple Family	Condominium
Initially				
Ultimately				

i. Dimensions (in feet) of largest proposed structure: N/A height; N/A width; N/A length.

j. Linear feet of frontage along a public thoroughfare project will occupy is? N/A ft.

2. How much natural material (i.e. rock, earth, etc.) will be removed from the site? N/A tons/cubic yards.

3. Will disturbed areas be reclaimed ☐ Yes ☐ No ☒ N/A

a. If yes, for what intended purpose is the site being reclaimed?

b. Will topsoil be stockpiled for reclamation? ☐ Yes ☐ No

c. Will upper subsoil be stockpiled for reclamation? ☐ Yes ☐ No

4. How many acres of vegetation (trees, shrubs, ground covers) will be removed from site? N/A acres.

*The proposed action is the adoption of a Zoning Text Amendments to the City's TC-1 District to allow a new special use permit with respect to large-scale mixed-use developments. This legislative action is generic in nature, not site-specific, and does does not directly result in physical changes to the environment. Thus, project-related impacts assumed by the EAF are generally not applicable or variable dependent on location within the City.

5. Will any mature forest (over 100 years old) or other locally-important vegetation be removed by this project?

☐ Yes ■ No

6. If single phase project: Anticipated period of construction: N/A months, (including demolition)

7. If multi-phased:

   a. Total number of phases anticipated _____ (number)

   b. Anticipated date of commencement phase 1: _____ month _____ year, (including demolition)

   c. Approximate completion date of final phase: _____ month _____ year.

   d. Is phase 1 functionally dependent on subsequent phases? ☐ Yes ☐ No

8. Will blasting occur during construction? ☐ Yes ☐ No N/A

9. Number of jobs generated: during construction N/A ; after project is complete N/A

10. Number of jobs eliminated by this project None .

11. Will project require relocation of any projects or facilities? ☐ Yes ☐ No N/A

    If yes, explain:

12. Is surface liquid waste disposal involved? ☐ Yes ☐ No N/A

    a. If yes, indicate type of waste (sewage, industrial, etc) and amount _____

    b. Name of water body into which effluent will be discharged _____

13. Is subsurface liquid waste disposal involved? ☐ Yes ■ No Type _____

14. Will surface area of an existing water body increase or decrease by proposal? ☐ Yes ■ No

    If yes, explain:

15. Is project or any portion of project located in a 100 year flood plain? ☐ Yes ■ No

16. Will the project generate solid waste? ☐ Yes ☐ No N/A

    a. If yes, what is the amount per month? _____ tons

    b. If yes, will an existing solid waste facility be used? ☐ Yes ☐ No

    c. If yes, give name _____ ; location _____

    d. Will any wastes not go into a sewage disposal system or into a sanitary landfill? ☐ Yes ☐ No

e. If yes, explain:

17. Will the project involve the disposal of solid waste? ☐ Yes ■ No

a. If yes, what is the anticipated rate of disposal? _____ tons/month.

b. If yes, what is the anticipated site life? _____ years.

18. Will project use herbicides or pesticides? ☐ Yes ☐ No N/A

19. Will project routinely produce odors (more than one hour per day)? ☐ Yes ☐ No N/A

20. Will project produce operating noise exceeding the local ambient noise levels? ☐ Yes ☐ No N/A

21. Will project result in an increase in energy use? ☐ Yes ☐ No N/A

If yes, indicate type(s)

22. If water supply is from wells, indicate pumping capacity N/A gallons/minute.

23. Total anticipated water usage per day N/A gallons/day.

24. Does project involve Local, State or Federal funding? ☐ Yes ■ No

If yes, explain:

25. Approvals Required:

			Type	Submittal Date
City, Town, Village Board	☒ Yes	☐ No	City Council - Resolution to Amend Zoning Text	
City, Town, Village Planning Board	☐ Yes	☒ No	Referral to Newburgh Planning Board	
			Referrals to adjoining municipalities: Town of Newburgh, Town of New Windsor	
City, Town Zoning Board	☐ Yes	☒ No		
City, County Health Department	☐ Yes	☒ No		
Other Local Agencies	☐ Yes	☒ No	Referral to County Planning Department	
Other Regional Agencies	☐ Yes	☒ No		
State Agencies	☐ Yes	☒ No		
Federal Agencies	☐ Yes	☒ No		

C. Zoning and Planning Information

1. Does proposed action involve a planning or zoning decision? ☒ Yes ☐ No

If Yes, indicate decision required:

☒ Zoning amendment ☐ Zoning variance ☒ New/revision of master plan ☐ Subdivision

☐ Site plan ☐ Special use permit ☐ Resource management plan ☐ Other

2. What is the zoning classification(s) of the site?

TC-1 Tourist Commercial

3. What is the maximum potential development of the site if developed as permitted by the present zoning?

Approximately 937,759 square feet.

4. What is the proposed zoning of the site?

N/A.

5. What is the maximum potential development of the site if developed as permitted by the proposed zoning?

N/A.

6. Is the proposed action consistent with the recommended uses in adopted local land use plans? ■ Yes ☐ No

The Propose Zoning Text Amendments are consistent with both the 2011 Future Land Use Plan and the 2008 Sustainable Master Plan.

7. What are the predominant land use(s) and zoning classifications within a ¼ mile radius of proposed action?

Uses within a 1/4-mile include residential, office, commercial and institutional zones.

Zoning districts include: C-1 Neighborhood Retail and Residential, C-2 General Business, RC Civic Center and Residential District, R-2 Two-family Residential, PO-1 Office and Medical Technology, and R-1 One-Family Residential.

8. Is the proposed action compatible with adjoining/surrounding land uses with a ¼ mile? _____ ■ Yes ☐ No

9. If the proposed action is the subdivision of land, how many lots are proposed? No

   a. What is the minimum lot size proposed? _____

10. Will proposed action require any authorization(s) for the formation of sewer or water districts? ☐ Yes ■ No

11. Will the proposed action create a demand for any community provided services (recreation, education, police, fire protection?

☐ Yes ■ No

a. If yes, is existing capacity sufficient to handle projected demand? ☐ Yes ☐ No

12. Will the proposed action result in the generation of traffic significantly above present levels? ☐ Yes ■ No

a. If yes, is the existing road network adequate to handle the additional traffic. ☐ Yes ☐ No

D. Informational Details

Attach any additional information as may be needed to clarify your project. If there are or may be any adverse impacts associated with your proposal, please discuss such impacts and the measures which you propose to mitigate or avoid them.

E. Verification

I certify that the information provided above is true to the best of my knowledge.

Applicant/Sponsor Name Sarah K. Yackel Date March 25, 2013

Signature Sarah K. Yackel

Title Associate Principal, BFJ Planning

If the action is in the Coastal Area, and you are a state agency, complete the Coastal Assessment Form before proceeding with this assessment.

Appendix A

Proposed Zoning Text Amendments

Article VII. SPECIAL USE PERMITS

§ 300-35. Special uses.
§ 300-36. Procedures.
§ 300-37. Standards for individual special uses.
§ 300-38. Large-Scale Mixed-Use Development Special Use Permit
~~and~~ § 300-39. (Reserved)

§ 300-35. Special uses.

A. Power. The Planning Board shall have the power to hear and decide on applications to permit the proper integration into the community of uses which may be suitable only in specific locations in a zone or only if such uses are designed and laid out on the site in a particular manner, provided that this chapter otherwise permits such uses subject to the validation of the Planning Board.

B. Conditions to be fulfilled. In applying for a special use permit, the applicant need not demonstrate hardship, since the basis for the action is general benefit to the City as a whole. In granting a special use permit, the Planning Board, with due regard to the nature and condition of all adjacent structures and uses, the zone within which the same is located, the Master Plan, the Local Waterfront Revitalization Program (LWRP) and any relevant urban renewal plans, shall find all of the following general conditions to be fulfilled:

(1) The use requested is listed among the special uses in the zone for which application is made.

(2) The special use is essential or desirable to the public convenience or welfare.

(3) The special use will not impair the integrity or character of the zone or adjoining zones nor be detrimental to the health, morals or welfare.

(4) The special use will be in conformity with the Master Plan.

(5) Consistency with policies.

(a) The special use, if undertaken within the waterfront area, will be consistent with the LWRP policies, standards and conditions, which are derived from and further explained and described in Section III of the City of Newburgh LWRP.

[1] To revitalize deteriorated and underutilized waterfront areas (Policies 1, 1A, 1B, 1C, 1D and 1E).

[2] To retain and promote commercial and recreational water-dependent uses (Policy 2).

[3] To strengthen the economic base of smaller harbor areas by encouraging traditional uses and activities (Policies 4 and 4A).

[4] To ensure that development occurs where adequate public infrastructure is available to reduce health and pollution hazards (Policy 5).

[5] To protect significant and locally important fish and wildlife habitats from human disruption and chemical contamination (Policies 7, 7A, 8 and 8A).

[6] To maintain and expand commercial fishing facilities to promote commercial and recreational fishing opportunities (Policies 9, 9A and 10).

[7] To minimize flooding and erosion hazards through nonstructural means, carefully selecting long-term structural measures and appropriate siting of structures (Policies 11, 11A, 12, 13, 14, 16, 17 and 28).

[8] To safeguard economic, social and environmental interests in the coastal area when major actions are undertaken (Policies 18 and 18A).

[9] To maintain and improve public access to the shoreline and to water-related recreational facilities while protecting the environment (Policies 2, 19, 19A, 20, 20A, 21, 21A, 21B, 22 and 22A).

[10] To protect and restore historic and archaeological resources (Policies 23 and 23A).

[11] To protect and upgrade scenic resources (Policy 25).

[12] To site and construct energy facilities in a manner which will be compatible with the environment and contingent upon the need for a waterfront or water location (Policies 27, 29 and 40).

[13] To prevent ice management practices which could damage significant fish and wildlife and their habitat (Policy 28).

[14] To protect surface and groundwater from direct and indirect discharge of pollutants and from overuse (Policies 30, 31, 33, 34, 35, 36, 36A, 37 and 38).

[15] To perform dredging and dredge spoil in a manner protective of natural resources (Policies 15 and 35).

[16] To handle and dispose of solid and hazardous wastes and effluents in a manner which will not adversely affect the environment nor expand existing landfills (Policies 39 and 39A).

[17] To protect air quality (Policies 41, 42 and 43).

[18] To protect freshwater wetlands (Policy 44).

(b) The Planning Board will consider the recommendations of the Waterfront Advisory Committee when determining consistency with the above policies.

C. Factors to be considered. In making such determination, the Planning Board shall give consideration to any or all of the following as they may be appropriate:

(1) The character of the existing uses and the probable development of uses in the district and the peculiar suitability of such district for the location of any of such permissive uses.

(2) The conservation of property values and the encouragement of the most appropriate uses of land.

(3) The effect that the location of the proposed use may have upon the creation of or undue increase of vehicular traffic congestion on public street or highways.

(4) The availability of adequate and proper public or private facilities for the treatment, removal or discharge of sewage, refuse or other effluent, whether liquid, solid, gaseous or otherwise, that may be caused or created by or as a result of the use.

(5) Whether the use or materials incidental thereto or produced thereby may give off obnoxious gases, odors, smoke or soot.

(6) Whether the use will cause disturbing emission of electrical discharges, dust, light, vibration, noise or radioactivity.

(7) Whether the operations in pursuance of the use will cause undue interference with the orderly enjoyment by the public of parking or of recreational facilities, if existing, or if proposed by the City or by other competent governmental agency.

(8) The necessity for bituminous-surfaced space for the purpose of off-street parking of vehicles incidental to the use and whether such space is reasonably adequate and appropriate in area and design and can be furnished by the owner of the plot sought to be used within or adjacent to the plot wherein the use shall be had.

(9) Whether a hazard to life, limb or property because of fire, flood, erosion or panic may be created by reason of or as a result of the use, by the structures to be used therefor, by the inaccessibility of the property or structure thereon for the convenient entry and operation of fire and other emergency apparatus or by the undue concentration or assemblage of persons upon such plot.

(10) Whether the use of the structures to be used therefor will cause an overcrowding of land or undue concentration of population.

(11) Whether the plot area is sufficient, appropriate and adequate for the use and the reasonably anticipated operation and expansion thereof.

(12) Whether the use to be operated is unreasonably near to a church, school, theater, recreational area or other place of public assembly.

D. Planning Board action. The Board may approve, approve with modifications, or disapprove any application for a special use permit. The Planning Board shall have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed special use permit and may be necessary in the Board's opinion to meet the objectives herein set forth. Upon its granting of said special use permit, any such conditions must be met in connection with the issuance of permits by applicable enforcement agents or officers of the City.

(1) Such conditions may include a time limitation.

(2) Conditions may be imposed which require that one or more improvements be done before the use requested can be initiated; for example, that a solid board fence be erected entirely around the site to a height of six feet before the use requested is initiated.

(3) Conditions of a continuing nature may be imposed. For example, exterior loudspeakers shall not be used between the hours of 10:00 p.m. and 9:00 a.m.

(4) The Planning Board may establish a schedule of inspection to be conducted by the Building Inspector to determine continued compliance with this chapter and any conditions of the special use permit.

E. Reversion to permitted use. Whenever all the conditions required are of such type that they can be completely and permanently satisfied, the administrative official, upon request of the applicant, may, if the facts warrant, make a determination that the conditions have been satisfied and enter said determination on the file copy of the special use permit. Thereafter, said special use, provided that it continues to meet the other requirements of the chapter, will be treated as a permitted use.

F. Compliance with other codes. Granting of a special use permit does not exempt the applicant from complying with all of the requirements of building codes and other ordinances.

G. Revocation. In any case where the conditions of a special use permit have not been or are not being complied with, the administrative official shall give the permittee notice of intention to revoke such permit at least 10 days prior to a Planning Board review thereon. After conclusion of the review, the Planning Board may authorize the administrative official to revoke such permit.

H. Expiration. In any case where a special use permit has not been exercised within the time limit set by the Planning Board, or within one year if no specific time limit has been set, then, without further action, the permit shall be null and void. "Exercised," as set forth in this section, shall mean that binding contracts for the construction of the main building have been let or, in the absence of contracts, that the main building is under construction to a substantial degree or that prerequisite conditions involving substantial investment are contracted for, in substantial development, or completed (sewage, drainage, etc.). When construction is not a part of the use, "exercised" shall mean that the use is in operation in compliance with the conditions set forth in the permit.

§ 300-36. Procedures.

The powers and duties of the Planning Board shall be exercised in accordance with the procedures set forth in this article plus the following additional procedures:

A. Strict compliance. The Planning Board shall act in strict accordance with the procedures specified by law and by this chapter.

B. Fees. All applications made to the Planning Board shall be accompanied by the fee established by the City Council as provided for in § **300-83**. The Board may, in its discretion, return to the applicant part or all of the fee paid by him in the event that his appeal is under § **300-78** hereof and is partially or wholly successful. The fees filed in connection with applications under § **300-35** shall not be returnable regardless of the disposition of the case by the Planning Board.

C. Submission. An application for a special use permit shall be submitted to the Planning Board office on the last business day of the month preceding the month in which the application is to be heard.

D. Contents of applications. Each application shall fully set forth the circumstances of the case. Every application shall refer to the specific provision of the chapter involved.

E. Site plan required. Application for a special use permit shall require site plan approval in accordance with the site plan regulations contained in this chapter, except that the Planning Board may waive site plan approval for a special use permit application that will involve no physical alteration or disturbance to a site. At a minimum, the application for a special permit use shall be accompanied by a plan showing the size and location of the lot, and the location of all buildings and proposed facilities, including access drives, parking areas, and all streets within 200 feet of the lot lines.

F. Public hearings. The Planning Board shall conduct a public hearing within 62 days from the day a complete application is received by the Planning Board. At least 10 days prior to such hearing the Secretary of the Board shall mail, by regular mail, at the applicant's expense, a notice of such hearing and of the substance of the application to the owners of all properties within 300 feet of the exterior boundaries of the property affected by the application. At least 10 days prior to such hearing, the Secretary of the Planning Board, at the expense of the applicant, to be paid in advance, shall cause to be published in the official newspaper of the City a notice of such hearing and of the substance of the appeal or application. Prior to said hearing, the applicant shall submit to the Board affidavits of the Secretary of the Board swearing that the required mailings and publication have been performed, which documents shall become part of the application. For the purpose of the mailings required by this section, the term "owner" shall be construed to mean the owner as indicated on the assessment roll of the City of Newburgh.

G. Notice to the applicant and the Orange County Planning Department. At least 10 days prior to the public hearing, the Planning Board shall mail notices thereof to the applicant and to the Orange County Planning Department, as required by § 239-m of the General Municipal Law, which shall be accompanied by a full statement of the matter under consideration, as defined therein.

H. Architectural Review Commission advisory opinion. The Planning Board shall, within 10 days of its submission, refer any special use permit application within historic districts or architectural design districts to the Architectural Review Commission for review and recommendations. The Planning Board shall defer any decision on these matters pending the receipt of a report from the Architectural Review Commission.

I. Waterfront Advisory Committee. Whenever a request for a special use permit involves a use to be located within the City's waterfront districts, the Planning Board shall refer a copy of a completed coastal assessment form (CAF) to the Waterfront Advisory Committee within 10 days of its submission and, prior to making its determination, shall consider the recommendation of the Waterfront Advisory Committee with reference to the consistency of the proposed action as set forth in Chapter **296** of the Code of the City of Newburgh, known as the "City of Newburgh Waterfront Consistency Review Law." In the event that the Waterfront Advisory Committee recommendation is not forthcoming within 30 days following referral of the CAF, the Planning Board shall make its decision without the benefit of the Waterfront Advisory Committee recommendation.

J. Decision. The Planning Board shall decide upon an application within 62 days after the public hearing is closed. The time within which the Planning Board must render its decision may be extended by mutual consent of the applicant and the Planning Board.

K. Filing. The decision of the Planning Board shall be filed in the office of the City Clerk within five business days after such decision is rendered and a copy thereof mailed to the applicant.

L. Existing violations. No special use permit shall be issued for property where the Building Inspector has found a violation of this chapter, and where such violation has not been corrected, unless the granting of such special use permit and site plan approval will result in a correction of said violation.

M. Area variance. Where a proposed special use permit would require an area variance, an application may be made to the Zoning Board of Appeals without the necessity of a denial of an administrative official charged with enforcement of this chapter.

§ 300-37. Standards for individual special uses.

The following individual standards are hereby established for special uses:

A. Garages, filling stations, auto repair shops, used car lots, automobile painting, automobile rebuilding or reconditioning, tire retreading or recapping, and taxi and limousine service shall be subject to the following:

(1) Notwithstanding any grant of authority contained elsewhere in this chapter, no special permit or variance shall be granted for a use enumerated herein to be located within a designed historic district or architectural design district unless the Architectural Review Commission shall certify to the Planning Board that said use will not be out of keeping with the architectural character of the district and will not be out of harmony with the style, materials, colors, line and details of the buildings in the district and that said use will not detrimentally affect the preservation of the beauty and character of the district. Said certification must be reviewed by the Planning Board prior to its acceptance of any application for a special use permit.

(2) Any special use permit granted shall be granted only for an initial period of six months, after which the Planning Board shall review the compliance with the permit conditions and may vote to permanently grant the permit or to continue the special permit for an additional limited time period, in the absence of which said special permit shall lapse and become null and void.

(3) Sufficient off-street parking is to be provided for all cars brought for repair; a minimum of five off-street parking spaces are to be provided.

(4) No repair or storage of vehicles shall be on the public street.

(5) The property must be maintained in a neat and orderly manner with no accumulation of junk vehicles, tires, auto parts, garbage, refuse or debris on the property.

(6) Hours of operation are to be established by the Planning Board so as to limit the effect of noise and traffic on the neighborhood.

(7) All facilities are to conform to the New York State Uniform Fire Prevention and Building Code, environmental regulations and sewer use regulations and ordinances, particularly in regard to prevention of the discharge of oil, grease, or other petroleum products into the public sewers.

(8) All surfaces for vehicle travel or storage are to be provided with a desirable dustless surface to be approved by the Planning Board and an adequate system of storm drainage.

(9) All lighting is to be installed in accordance with a plan to be submitted to and approved by the City Engineer and the Building Inspector and so designed as to prevent light from being thrown onto neighboring properties.

(10) All parking, vehicle storage areas and driveways must be constructed so as to meet the requirements of Article **VIII** of this chapter.

(11) The use shall be screened from all abutting residences or residential districts in accordance with § **300-12** of this chapter, except that the Planning Board may permit the substitution of an eight-foot-high wooden fence or masonry wall as a substitute for or in addition to the plantings provided in § **300-12**. The screening strips of 10 feet in width must be measured entirely within the property lines of the parcel to be devoted to the use.

(12) The Planning Board shall have the power to impose such additional conditions as it may deem required in accordance with the standards established by § **300-35** of this chapter. However, the Planning Board shall not have the power to delete or modify any of the conditions required by Subsection **A(1)** through **(11)** of this section.

(13) Where the Zoning Board of Appeals has approved a special use permit and said permit is subject to renewal, the Planning Board shall be responsible for renewing said special use permit.

B. Home occupation or professional office. Customary home occupations are deemed to be accessory uses to a single-family detached dwelling subject to the requirements contained herein. A home occupation shall not require full site development plan submission. However, an applicant shall be required to submit a lot survey indicating the location of the home and the area of the home to be used for purposes of the home occupation.

(1) The minimum lot size shall be 7,500 square feet.

(2) Such occupation is carried on in an area not exceeding 25% of the gross floor area of the principal building.

(3) At no time shall any premises be used in such a manner to cause the emanation therefrom of offensive or noxious odors, vapors, fumes, glare, dust, smoke, gas, vibration, noise or radiation or be used in such a manner as to cause injury, annoyance or disturbance to any of the surrounding properties and to their owners and occupants.

(4) Equipment capable of causing interference with radio or television reception in the neighborhood shall be prohibited unless also equipped with means to prevent such interference.

(5) There shall be no outdoor storage of materials, supplies, or equipment associated with the home occupation.

(6) Such occupation is incidental to the residential use of the premises and is carried on in the principal building by a resident therein with not more than two nonresident assistants.

(7) A studio where dancing or music instruction is offered is permitted, provided only up to a maximum of four pupils at any one time are instructed. Concerts or recitals are prohibited.

(8) The Planning Board may restrict the number of deliveries of materials or supplies associated with the home occupation.

(9) The Planning Board may approve the operation of a home occupation subject to any condition it deems necessary to ensure that the use does not diminish or impact the peace, security and the overall residential quality of the neighborhood.

C. Day-care center. The standards for a day-care center shall be as follows:

(1) The application shall describe the anticipated occupancy of the facility by age group, i.e., infant, toddler, and school age, and the hours of operation of the facility.

(2) A floor plan of the day-care center shall be submitted.

(3) In addition to the parking space requirements contained in Article **VIII**, Table 1, *Editor's Note: See* ***§ 300-45***. additional parking spaces shall be provided for dropoff and pickup of children at a rate of one parking space per 15 children. Said spaces shall be provided directly in front of the facility along an internal driveway or in an approved parking area. The most appropriate location for dropoff parking shall include a consideration of emergency access and shall be determined by the Planning Board during site plan review. The dropoff location shall be clearly posted with appropriate signage or pavement markings. Fire lanes shall not be used for dropoff areas.

(4) A minimum outdoor play area of 125 square feet per child under three years of age, or per child three and over, whichever is greater, shall be provided. Said outdoor play area shall be located at a minimum distance of 25 feet from any lot line or from any parking area and 50 feet from any public right-of-way. Outdoor play areas shall be directly accessible from the principal structure and shall not require crossing any street, driveway, or parking area for access. The Planning Board may, as part of site plan review and in consultation with the prospective operator, modify the area requirement to apply only to the largest age group enrollment scheduled to use the outdoor play area at one time.

(5) A six-foot-high solid fence or opaque fence combined with hedge or tree plantings shall be provided to screen the outdoor play area where it abuts a residential zoning district.

(6) Said facility shall provide a minimum of two exits.

(7) Day-care centers shall adhere to the requirements of the New York State Uniform Fire Prevention and Building Code and all other applicable state guidelines that govern said uses.

(8) If included as part of a professional office building, said day-care center shall occupy the ground floor only.

(9) Hallways with a length of 20 feet or greater between the building exterior and the day-care center shall be prohibited.

D. Bed-and-breakfasts shall be subject to the following:

(1) Applicability. A bed-and-breakfast is permitted as an accessory use to a single-family residence. A single-family residence must be in existence at the date of adoption of these regulations to

become eligible to be a bed-and-breakfast. Except as otherwise specified herein, the single-family residence shall be required to meet the bulk requirements for single-family residences within the applicable zoning district.

(2) Application submission. In addition to the general requirements for special use permit approval, the applicant shall also submit:

(a) A sketch showing the floor plan of the home and the location of proposed guest rooms.

(b) A site plan delineating the location of the residence on the tax parcel, minimum setback distances, proposed parking areas, proposed screening, and any other information applicable.

(c) If a sign is proposed, a sign plan, including type and location of illumination, if proposed.

(d) A certification that the owner resides and will continue to reside within the residence while the special use permit is in effect. A change in owner occupancy shall require renewal of the special use permit.

(e) Proof of insurance to operate a bed-and-breakfast.

(3) Requirements and conditions of operation.

(a) The bed-and-breakfast shall be the primary residence of the owner.

(b) The number of paying guests accommodated per night shall not exceed 10 guests, and no guest shall stay for a period exceeding 15 days. The bed-and-breakfast shall maintain a guest registry identifying the arrival and departure dates of guests.

(c) A maximum of two adult guests and accompanying minor children shall be allowed to occupy each guest bedroom, subject to fire safety standards.

(d) There shall be no more than five bedrooms occupied by paying guests. Said rooms shall not be equipped with a kitchenette or other cooking devices.

(e) As a minimum, one bathroom shall be provided for each two guest rooms. In addition, a separate bathroom shall be maintained for the owners of the single-family residence.

(f) Each guest bedroom shall be equipped with a smoke detector alarm installed and maintained in a functional condition on or near the ceiling.

(g) A bed-and-breakfast is permitted one sign, not to exceed two square feet, identifying the name of the facility. Illumination may be permitted, subject to Planning Board approval. The Planning Board shall take into consideration the proximity of adjoining residences and potential nighttime disturbance. Said sign shall not be illuminated between 9:00 p.m. and sunrise.

(h) No parking space shall be located within the front yard. Parking spaces shall be set back a minimum distance of 15 feet from any side or rear lot line. A minimum of two spaces shall be provided for the single-family dwelling, plus a minimum of one off-street parking space shall be provided for each guest bedroom. Each space shall measure not less than nine feet by 18 feet in

size. New parking areas required to meet these requirements shall limit the introduction of impervious surfaces.

(i) The Planning Board shall consider the need for landscaping to screen views from adjoining residences.

(j) The dwelling shall not be altered in a manner which would cause the premises to differ from its residential character, nor shall any extensions or additions to the dwelling be made for the purpose of renting such space for overnight accommodations. Accessory buildings detached from the principal dwelling shall not be used for the purpose of a bed-and-breakfast.

(k) There shall be no more than two employees in addition to the owner.

(l) Each facility shall be operated and maintained so as to preserve the character and integrity of the surrounding residential neighborhood.

(4) Approval. A special use permit to operate a bed-and-breakfast shall be valid for one year from the date of issuance, subject to continuing compliance with the conditions of the special use permit and subject to continuing compliance with the New York State Uniform Fire Prevention and Building Code.

(5) Permit renewal. The applicant may renew the permit for additional two-year time periods, subject to approval by the Planning Board and any fees applicable to the review of special use permit applications. The Planning Board shall notify the Building Inspector, 15 days prior to the meeting at which the renewal is being considered, who shall provide a description, in writing, of any changes that have occurred in the floor or site plan since the time the special use permit was approved or last renewed and a list of violations or complaints, if applicable. The Planning Board shall take the Building Inspector's report into consideration when rendering a decision.

(6) Enforcement. The Building Inspector shall be given access to the premises for the purpose of making inspections as deemed necessary from time to time to ensure compliance with these regulations and with the New York State Uniform Fire Prevention and Building Code. Such inspections shall be conducted in accordance with procedures set forth in this chapter. Any facility operated in violation of this chapter shall have its permit suspended on a first violation and revoked for a second violation. No permit shall be reinstated until the owner fully complies with the provisions of this chapter.

(7) Registry. The Planning Board Secretary shall maintain a record of bed-and-breakfasts, including the name of the owner, the address, the maximum occupancy of the establishment, and the date of special use permit approval.

E. Community parking area. Community parking areas shall be subject to the following:

(1) A plan shall be submitted detailing the parking lot layout. Parking lots shall be macadam and parking spaces shall be appropriately striped. The City Engineer, in consultation with the Building Inspector, shall be responsible for reviewing and shall favorably recommend the layout prior to Planning Board approval of the special use permit.

(2) Adequate drainage shall be provided.

(3) The owner shall be responsible for keeping said parking area clean and debris-free.

(4) The community parking area shall be screened from abutting residential uses in accordance with § **300-12**.

(5) Mature trees in excess of eight inches dbh (diameter breast height) shall be identified on the site plan. The parking layout shall incorporate mature trees into the design of the parking area to the maximum extent practicable.

(6) No more than one curb cut shall be permitted per each street frontage.

F. Planned residential development shall be subject to the following:

(1) A planned residential development may consist of a mix of multiple-family dwellings or single-family attached (townhome) dwellings.

(2) The site plan shall be accompanied by building elevations and a landscape plan.

(3) The maximum density shall be 12 units per acre for multiple-family dwellings. The maximum density for townhomes shall be eight units per acre. A minimum of 25% of the site shall be maintained as open space.

(4) No building shall exceed 120 feet in length.

(5) Principal buildings shall be separated a minimum distance equal to the height of the taller of adjoining buildings, but in no case shall a building be located closer than 30 feet to any other principal building.

(6) Accessory buildings, including recreational facilities, shall be located a minimum of 25 feet from principal buildings or from any lot line.

(7) To the maximum extent practicable, buildings shall be situated in a manner so that the front facade and the main entry point to the dwellings face to the street line.

(8) Off-street parking is prohibited in the front yard or adjacent to a street bounding the lot when the other side of the street is zoned residential. Parking shall be located to the rear of the principal buildings. The Planning Board may allow parking in a side yard, provided that said parking area shall be screened from the street and pedestrian traffic by means of a planted strip or fence of a height of at least three feet. Parking areas shall not be located closer than 10 feet to a principal building or outside deck or recreational space and shall be suitably screened from said buildings and spaces with appropriate landscape materials.

(9) The applicant shall make provisions for the maintenance of any open space or common areas in a manner that is satisfactory to the Planning Board and the City Council of the City of Newburgh.

(10) All off-street parking areas shall be attractively landscaped. A minimum of 20% of the parking area shall be landscaped.

(11) Where provided, dumpsters shall be located in a fenced enclosure which shall be suitably screened with appropriate landscape materials.

(12) Each dwelling unit shall be provided with an outdoor deck or space consisting of a minimum of 25 square feet.

(13) On-site lighting shall not spill over onto adjoining residential properties.

G. Adaptive reuse of an existing building for residential use in the W-1 District shall be subject to the following:

(1) The ground floor of said structure shall be used for nonresidential uses permitted or allowed by special use permit in the W-1 District.

(2) Each dwelling unit shall contain a minimum of 1,000 square feet in area.

(3) On-site indoor or outdoor accessory recreational facilities are permitted, e.g., swimming pools or tennis or squash courts. The Planning Board may impose restrictions on the type and operation of lighting associated with outdoor recreational facilities in order to protect the "night sky" of the Hudson River.

(4) A landscape plan shall be submitted with the site plan.

(5) Off-street parking shall be provided in accordance with the standards for multifamily dwellings.

(6) The applicant shall make provisions for the maintenance of any open space or common areas in a manner that is satisfactory to the Planning Board and the City Council of the City of Newburgh.

H. Boarding homes shall be subject to the following:

(1) In the R-4 District, up to three nontransient roomers or boarders may be accommodated for remuneration by the resident owner of the dwelling.

(2) The owner of the dwelling shall occupy the dwelling and shall constitute the principal use thereof.

(3) Kitchen and dining facilities shall be limited to use by the resident owner, roomers or boarders and bona fide guests but shall not be open to the general public. There shall be no individual kitchen or dining facilities for any sleeping room.

(4) There shall be no more than one rented sleeping room for each 2,000 square feet of lot area, with a maximum of three rooms being permitted.

(5) Each sleeping room for rent to a roomer or boarder shall be at least 100 square feet in area.

(6) One off-street parking space shall be provided for each rented sleeping room. The Planning Board may require landscaping or screening around the parking area.

(7) In order to preserve the residential character of the neighborhood, there shall be no exterior alteration or expansion of the structure to allow the use of the dwelling for boarders and roomers, except for parking.

I. Colleges or universities shall be subject to the following:

(1) All buildings shall be located at least 100 feet from the street lot line and 50 feet from all other property lines. Grandstands, gymnasiums, central heating plants and similar buildings shall be located at least 200 feet from all property lines. The distance between principal buildings shall be at least equal to the height of the taller building. Total building coverage of the site shall be limited to 30%. On-campus housing, dormitory buildings or single-family detached dwellings shall be permitted as accessory buildings, provided that the minimum lot area for the entire site shall be increased by at least 1,000 square feet for each dormitory bed and by at least the minimum lot area of the applicable zoning district for each single-family dwelling. Use of such dormitories or dwellings shall be limited exclusively to students, teachers, or other members of the staff of the college or university, and a dormitory or dwelling shall not subsequently be sold or rented as a private residence or for any other legal use unless the building and any required lot surrounding it shall meet all regulations of the district in which it is located.

(2) Multiple-family dwellings for the exclusive use of teachers and other members of the staff of the school shall be permitted as accessory buildings, provided that, in addition to all other site requirements, there shall be land set aside for each such dwelling of an area at least equal to the minimum residential lot size of the district in which such school site is located times the number of dwelling units in such dwelling and provided that each multifamily dwelling shall be at least 100 feet from any property line and be so located with respect to the required additional land that a lot could be separated from the balance of the school site and meet these area requirements. No such dwellings shall subsequently be rented or sold unless the above-mentioned lot shall be created with frontage on an approved street and unless the Planning Board shall find that the school to which such dwellings are accessory has ceased to operate or that the type of school has changed to one which no longer requires staff housing.

(3) The minimum area that shall be dedicated to playgrounds and playfields shall be three acres, plus an additional two acres per 100 students.

(4) Suitable fencing, landscaping and screening shall be provided to prevent any nuisance to surrounding properties and to protect students attending the school.

(5) The college shall comply with any standards established for schools by the New York State Commissioner of Education.

(6) The Planning Board may approve the design of a parking area to serve more than one use, provided that such uses will require parking facilities at different times. Parking areas shall be located at least 50 feet from all property lines, except that in the case of a property line adjacent to permanently reserved open space, parking areas may be located no closer than 25 feet therefrom. Access and interior drives shall be located so as to prevent unnecessary traffic on local residential streets and to avoid unsafe conditions and traffic congestion.

J. Used car lots shall be subject to the following:

(1) All existing used car lots shall have a paved surface constructed in accordance with specifications of the City Engineer, an adequate system of storm drainage, screening in accordance with § **300-12** of this chapter to protect adjacent residential properties or residential-zoned areas and provision for lighting that is satisfactory to the City Building Inspector.

§ 300-38. ~~and~~Large-Scale Mixed-Use Development Special Use Permit

A. Power. The City Council -shall have the power to hear and decide on applications for a large-scale mixed-use development special use permit.

B. Applicability. The Large-Scale Mixed-Use Development Special Use Permit shall apply in the Tourist Commercial (TC-1) zoning district only, and only to parcels with frontage on Broadway. However, said project may extend from Broadway through the length of the block to the next public street, irrespective of the zone, provided that the portion outside of the TC-1 zone is part of a unified development parcel with frontage on Broadway.

C. Conditions to be fulfilled. In applying for a large-scale mixed-use development special use permit, the applicant need not demonstrate hardship, since the basis for the action is general benefit to the City as a whole. In granting a large scale mixed-use development special permit, the City Council, with due regard to the nature and condition of all adjacent structures and uses, shall consider the requirements of the zone within which the same is located, the Master Plan, the Future Land Use Plan, the Local Waterfront Revitalization Program (LWRP) and any relevant urban renewal plans and shall find all of the general conditions set forth in §300-35B.(1) through (5) fulfilled.

D. Factors to be considered. In making a determination that the conditions specified above have been fulfilled, the City Council shall give consideration to any or all of the factors set forth in §300-35C.(1) through (12).

E. City Council action. The City Council may approve, approve with modifications, or disapprove any application for a large-scale mixed-use development special use permit. The Council shall have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed large-scale mixed-use development special use permit and may be necessary in the Council's opinion to meet the objectives herein set forth. Upon the granting of said large-scale mixed-use development special use permit, any such conditions must be met in connection with the issuance of permits by applicable enforcement agents or officers of the City. Such conditions include those set forth in §300-35D.(1) through (4), or any that the Council determines reasonable and necessary.

F. Other conditions for approval. The application for a large-scale mixed-use development special use permit shall meet the conditions and provisions set forth in §300-35E. through (H).

G. Standards for large-scale mixed-use development special use permits.

The following individual standards are hereby established for large-scale mixed-use development special use permits:

(1) Area standards. The proposed development shall meet the minimum lot area, width and depth; yard; and maximum building height requirements for large-scale mixed-use development as set forth in the Schedule of Use and Bulk Regulations for the TC-1 District.

(2) In the case that the proposed large-scale mixed-use development contains any use which would be individually subject to a special permit from the Planning Board, the standards for such use, as provided in in §300-37., shall apply, unless the City Council determines that the application of said standards is unreasonably or unnecessary or impractical due to the unique characteristics of the site, mix of uses or other factors.

(3) At a minimum, the special use permit application must be accompanied by a site plan prepared in accordance with §300-52.

(4) To the maximum extent practicable, buildings shall be situated in a manner so that the front façade and the main entry face to the street line.

(5) Off-street parking.

(a) The City Council may modify the area requirements (length and width) of off-street parking spaces as set forth in §300-44. provided that in no case shall the width be decreased by more than 6 inches and the length by no more than one foot. In granting such reductions, the City Council shall consider such benefits as increased landscaping and screening within and adjacent to off-street parking areas;

(b) When based on a Parking Analysis, the City Council may reduce the off-street parking space and loading berth requirements as set forth in §300-45 provided that the parking capacity to be provided will substantially meet the intent of this Article. The Parking Analysis shall be prepared assuming peak-hour utilization and demonstrate that sufficient parking spaces will exist so that no overflow parking is likely to occur in any public street; and

(c) The City Council may permit a portion, not to exceed 25%, of the total required spaces, the total number of which shall be determined pursuant to §300-38.G.(5)(b) above, to be located at an off-site location no further than 300 feet from the premises to which they are appurtenant.

(6) Shared parking. The use or uses proposed for the large-scale mixed-use development shall provide the required number of off-street parking spaces pursuant to §300-45., except that the number of required spaces may be reduced if the City Council finds that the parking capacity to be provided will substantially meet the intent of this Article by reason of variation in the probable time of maximum use by patrons, employees or residents of such establishments, provided that:

(a) The City Council shall base its finding upon a Shared Parking Analysis to be prepared, assuming peak-hour utilization, to demonstrate that sufficient parking spaces will exist so that no overflow parking is likely to occur in any public street; and

(b) In the event that any establishment changes use, the applicant seeking approval for the new use or uses shall adequately demonstrate, based upon a Shared Parking Analysis, that the new use configuration will continue to allow for sufficient parking capacity, or alternatively, that additional off-street parking spaces will be provided to ensure such capacity.

(7) Off-street parking is prohibited in the front yard. Parking shall be located to the rear of the principal buildings. The City Council may allow parking in a side yard, provided that said parking area shall be screened from the street and pedestrian traffic by means of a planted strip or

fence. Parking areas shall be located a reasonable distance from principal buildings or outside decks or recreational spaces and shall be suitably screened from said buildings and spaces with appropriate landscape materials.

(8) When abutting a residential district, off-street parking areas must be appropriately landscaped and screened.

(9) The applicant shall make provisions for the maintenance of any open space or common areas in a manner that is satisfactory to the City Council.

(10) Mature trees in excess of eight inches dbh (diameter breast height) shall be identified on the site plan. The proposed development shall incorporate such mature trees into the plan to the maximum extent practicable.

(11) Where provided, dumpsters shall be located in a fenced enclosure which shall be suitably screened with appropriate fencing and/or landscaping materials.

(12) On-site lighting shall be designed and situated so that it does not spill over onto adjoining residential properties or create potential driving hazards. The City Council may require a lighting plan to verify that the proposed lighting will not present such adverse impacts.

H. Procedures. The powers and duties of the City Council in considering large-scale mixed-use development special permits shall be exercised in accordance with the procedures set forth in this article and in §300-36., except that, where relevant, said procedures shall apply to the City Council and not to the Planning Board.

§ 300-39. (Reserved)

300 Attachment 8

City of Newburgh
Schedule of Use and Bulk Regulations
TC-1 Tourist Commercial District[1]

Use	Use Type	Minimum Lot Area (feet)	Minimum Lot Width (feet)	Minimum Lot Depth (feet)	Minimum Front Yard (feet)	Minimum Side Yard Each (feet)	Minimum Rear Yard (feet)	Maximum Building Height	
								Stories	Feet
One-family detached dwelling	P	7,500	50	100	15	10	20	2.5	35
One-family attached (duplex, town home)	P	2,500**	25	100	15	0/10*	20	3	45
Two-family dwelling	P	10,000	75	100	15	10	20	2.5	35
Mixed use: residential on upper floors only****	P	2,500	25	100	15	0/5*	20	3	45
Professional and business office	P	2,500	25	100	15	0/5*	20	3	45
Government office	P	2,500	25	100	15	0/5*	20	3	45
Tourist-related retail use	P	2,500	25	100	15	0/5*	20	3	45
Art and antique gallery	P	2,500	25	100	15	0/5*	20	3	45
Museum	P	2,500	25	100	15	0/5*	20	3	45
Church and similar place of worship	P	7,500	75	100	15	15	20	3	45
Assembly hall	SP	2,500	25	100	15	0/5*	20	3	45
Craft shop	SP	2,500	25	100	15	0/5*	20	3	45
Restaurant; bar	SP	2,500	25	100	15	0/5*	20	3	45
Fast-food restaurant, without drive-through facility	SP	2,500	25	100	15	0/5*	20	3	45
Laundromat	SP	2,500	25	100	15	0/5*	20	3	45
Conference center	SP	10,000	100	100	25	15	25	3	45
Hotel	SP	10,000	100	100	25	15	25	3	45
Theater	SP	10,000	100	100	25	15	25	3	45
Large-scale mixed use development*****	SP	20,000	100	100	15******	0/5******	20	6/4*******	65/45*******
Swimming pools accessory to one-family detached	A								
Other customary accessory uses and buildings, provided that such use is clearly incidental to the principal use	A								

P = Permitted SP = Special Permit Use A = Accessory Use

NOTES:

[1]In the TC-1 District, residential uses are not permitted east of Washington Place and Colden Street

* Where existing buildings share common wall, no side yard is required. All other buildings require five-foot side yard.

** Minimum area is per unit.

*** One dwelling unit is permitted for each 1,000 square feet of gross floor area per upper story floor.

*****Only applicable to lots with frontage on Broadway pursuant to Section 300-38.

******Front and side yard requirements may be waived, reduced or otherwise modified at the discretion of the City Council as part of the Special Use Permit process.

*******Six stories (65 feet) are permitted within 200 feet of Broadway; four stories (45 feet) are permitted beyond 200 feet pursuant to Section 300-38.

Edward A. Diana
County Executive

ORANGE COUNTY DEPARTMENT OF PLANNING

DAVID CHURCH, AICP
COMMISSIONER

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County Reply – Mandatory Review of Local Planning Action as per NYS General Municipal Law §239-l, m, &n

Local Referring Board:	*Newburgh City Council*	**County ID #:**	*NBC02-13M*
Applicant:	*City of Newburgh*	**Tax Map #:**	*City-wide*
Project Name:	*Mid Broadway Housing Project*	**Local File #:**	*N/A*
Proposed Action:	*Zoning amendment to the TC-1 district to allow a large-scale mixed-use development special use permit*		
Reason for County Review:	*Zoning amendment*		
Date of Full Statement:	*April 8, 2013*		

Comments: Based on the additional information received at the April 22, 2013 public comment hearing, our review has been revised to reflect this new material. This review letter supersedes any previous review.

The Department has received the above referenced zoning amendment and has determined that the proposed action has the potential to cause intermunicipal or countywide impacts. We therefore recommend that the local referring board address the **binding comments** outlined below. The local referring board may not act contrary to such recommendations except by a vote of a majority plus one of all the members thereof or by disapproving the action.

1. Currently and historically all special permits are awarded by the Planning Board in Newburgh. Indeed, this is most common in Orange County and NYS for many reasons, notably for consistency and efficiency of procedures. The Planning Board also, by design, offers the depth of experience and knowledge relevant to the nature of special permit applications. The proposed amendment would deviate from common, uniform procedure and have only this one type of permit to be reviewed by the City Council. No explanation is provided why this deviated process is necessary. As such, it may further add confusion to code procedures the City has acknowledged need to be updated and "streamlined". We recommend such review stay with the Planning Board.

Additionally, this Department offers the following **advisory comments** for your consideration.

This Department believes that this important block-long site is crucial to the vibrancy of Broadway. As such we applaud and support the City Council for their leadership on this issue and on all efforts for redevelopment of the Broadway corridor. However, adoption of the amendments to the TC-1 zoning district as proposed and at this time to allow a large-scale mixed-use development may be perceived as "spot zoning" since the proposed new standards, by our analysis, may only apply to two viable parcels City-wide. Additionally, the City is actively working on two more comprehensive zoning evaluations – the code streamlining initiative being researched by Pace Land Use Law Center, and the fuller zoning update in partnership with the Greater Newburgh Partnership and others, including this Department. As such, this isolated proposal appears out of synch with these more comprehensive and important efforts. The City should provide clear record that this proposal is consistent with adopted land use policy including your recently adopted Land Use Plan. We also recommend provision of clear record that these specific amendments are time sensitive and necessary separate from the other initiatives noted above.

County Recommendation:

Date: May 2, 2013
Prepared by: Kate Schmidt

Local Determination

David Church, AICP
Commissioner of Planning

As per NYS General Municipal Law 239-m & n, within 30 days of municipal final action on the above referred project, the referring board must file a report of the final action taken with the County Planning Department. For such filing, please use the final action report form attached to this review or available on-line at www.orangecountygov.com/planning.

ORDINANCE NO.: _____ - 2013

OF

_____, 2013

AN ORDINANCE TO AMEND ARTICLE VII, ENTITLED "SPECIAL USE PERMITS" OF CHAPTER 300 OF THE CODE OF ORDINANCES OF THE CITY OF NEWBURGH ENTITLED "ZONING" BY ADDING SECTION 300-38 ENTITLED "LARGE-SCALE MIXED-USE DEVELOPMENT SPECIAL PERMIT"

BE IT ORDAINED, by the Council of the City of Newburgh, New York that Chapter 300 of the Code of Ordinances shall be amended as follows:

Article VII. SPECIAL USE PERMITS

§ 300-35. Special uses.
§ 300-36. Procedures.
§ 300-37. Standards for individual special uses.
§ 300-38. Large-Scale Mixed-Use Development Special Use Permit
§ 300-39. (Reserved)

§ 300-35. Special uses.

A. Power. The Planning Board shall have the power to hear and decide on applications to permit the proper integration into the community of uses which may be suitable only in specific locations in a zone or only if such uses are designed and laid out on the site in a particular manner, provided that this chapter otherwise permits such uses subject to the validation of the Planning Board.

B. Conditions to be fulfilled. In applying for a special use permit, the applicant need not demonstrate hardship, since the basis for the action is general benefit to the City as a whole. In granting a special use permit, the Planning Board, with due regard to the nature and condition of all adjacent structures and uses, the zone within which the same is located, the Master Plan,

the Local Waterfront Revitalization Program (LWRP) and any relevant urban renewal plans, shall find all of the following general conditions to be fulfilled:

(1) The use requested is listed among the special uses in the zone for which application is made.

(2) The special use is essential or desirable to the public convenience or welfare.

(3) The special use will not impair the integrity or character of the zone or adjoining zones nor be detrimental to the health, morals or welfare.

(4) The special use will be in conformity with the Master Plan.

(5) Consistency with policies.

(a) The special use, if undertaken within the waterfront area, will be consistent with the LWRP policies, standards and conditions, which are derived from and further explained and described in Section III of the City of Newburgh LWRP.

[1] To revitalize deteriorated and underutilized waterfront areas (Policies 1, 1A, 1B, 1C, 1D and 1E).

[2] To retain and promote commercial and recreational water-dependent uses (Policy 2).

[3] To strengthen the economic base of smaller harbor areas by encouraging traditional uses and activities (Policies 4 and 4A).

[4] To ensure that development occurs where adequate public infrastructure is available to reduce health and pollution hazards (Policy 5).

[5] To protect significant and locally important fish and wildlife habitats from human disruption and chemical contamination (Policies 7, 7A, 8 and 8A).

[6] To maintain and expand commercial fishing facilities to promote commercial and recreational fishing opportunities (Policies 9, 9A and 10).

[7] To minimize flooding and erosion hazards through nonstructural means, carefully selecting long-term structural measures and appropriate siting of structures (Policies 11, 11A, 12, 13, 14, 16, 17 and 28).

[8] To safeguard economic, social and environmental interests in the coastal area when major actions are undertaken (Policies 18 and 18A).

[9] To maintain and improve public access to the shoreline and to water-related recreational facilities while protecting the environment (Policies 2, 19, 19A, 20, 20A, 21, 21A, 21B, 22 and 22A).

[10] To protect and restore historic and archaeological resources (Policies 23 and 23A).

[11] To protect and upgrade scenic resources (Policy 25).

[12] To site and construct energy facilities in a manner which will be compatible with the environment and contingent upon the need for a waterfront or water location (Policies 27, 29 and 40).

[13] To prevent ice management practices which could damage significant fish and wildlife and their habitat (Policy 28).

[14] To protect surface and groundwater from direct and indirect discharge of pollutants and from overuse (Policies 30, 31, 33, 34, 35, 36, 36A, 37 and 38).

[15] To perform dredging and dredge spoil in a manner protective of natural resources (Policies 15 and 35).

[16] To handle and dispose of solid and hazardous wastes and effluents in a manner which will not adversely affect the environment nor expand existing landfills (Policies 39 and 39A).

[17] To protect air quality (Policies 41, 42 and 43).

[18] To protect freshwater wetlands (Policy 44).

(b) The Planning Board will consider the recommendations of the Waterfront Advisory Committee when determining consistency with the above policies.

C. Factors to be considered. In making such determination, the Planning Board shall give consideration to any or all of the following as they may be appropriate:

(1) The character of the existing uses and the probable development of uses in the district and the peculiar suitability of such district for the location of any of such permissive uses.

(2) The conservation of property values and the encouragement of the most appropriate uses of land.

(3) The effect that the location of the proposed use may have upon the creation of or undue increase of vehicular traffic congestion on public street or highways.

(4) The availability of adequate and proper public or private facilities for the treatment, removal or discharge of sewage, refuse or other effluent, whether liquid, solid, gaseous or otherwise, that may be caused or created by or as a result of the use.

(5) Whether the use or materials incidental thereto or produced thereby may give off obnoxious gases, odors, smoke or soot.

(6) Whether the use will cause disturbing emission of electrical discharges, dust, light, vibration, noise or radioactivity.

(7) Whether the operations in pursuance of the use will cause undue interference with the orderly enjoyment by the public of parking or of recreational facilities, if existing, or if proposed by the City or by other competent governmental agency.

(8) The necessity for bituminous-surfaced space for the purpose of off-street parking of vehicles incidental to the use and whether such space is reasonably adequate and appropriate in area and design and can be furnished by the owner of the plot sought to be used within or adjacent to the plot wherein the use shall be had.

(9) Whether a hazard to life, limb or property because of fire, flood, erosion or panic may be created by reason of or as a result of the use, by the structures to be used therefor, by the inaccessibility of the property or structure thereon for the convenient entry and operation of fire and other emergency apparatus or by the undue concentration or assemblage of persons upon such plot.

(10) Whether the use of the structures to be used therefor will cause an overcrowding of land or undue concentration of population.

(11) Whether the plot area is sufficient, appropriate and adequate for the use and the reasonably anticipated operation and expansion thereof.

(12) Whether the use to be operated is unreasonably near to a church, school, theater, recreational area or other place of public assembly.

D. Planning Board action. The Board may approve, approve with modifications, or disapprove any application for a special use permit. The Planning Board shall have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed special use permit and may be necessary in the Board's opinion to meet the objectives herein set forth. Upon its granting of said special use permit, any such conditions must be met in connection with the issuance of permits by applicable enforcement agents or officers of the City.

(1) Such conditions may include a time limitation.

(2) Conditions may be imposed which require that one or more improvements be done before the use requested can be initiated; for example, that a solid board fence be erected entirely around the site to a height of six feet before the use requested is initiated.

(3) Conditions of a continuing nature may be imposed. For example, exterior loudspeakers shall not be used between the hours of 10:00 p.m. and 9:00 a.m.

(4) The Planning Board may establish a schedule of inspection to be conducted by the Building Inspector to determine continued compliance with this chapter and any conditions of the special use permit.

E. Reversion to permitted use. Whenever all the conditions required are of such type that they can be completely and permanently satisfied, the administrative official, upon request of the applicant, may, if the facts warrant, make a determination that the conditions have been satisfied and enter said determination on the file copy of the special use permit. Thereafter, said special use, provided that it continues to meet the other requirements of the chapter, will be treated as a permitted use.

F. Compliance with other codes. Granting of a special use permit does not exempt the applicant from complying with all of the requirements of building codes and other ordinances.

G. Revocation. In any case where the conditions of a special use permit have not been or are not being complied with, the administrative official shall give the permittee notice of intention to revoke such permit at least 10 days prior to a Planning Board review thereon. After conclusion of the review, the Planning Board may authorize the administrative official to revoke such permit.

H. Expiration. In any case where a special use permit has not been exercised within the time limit set by the Planning Board, or within one year if no specific time limit has been set, then, without further action, the permit shall be null and void. "Exercised," as set forth in this section, shall mean that binding contracts for the construction of the main building have been let or, in the absence of contracts, that the main building is under construction to a substantial degree or that prerequisite conditions involving substantial investment are contracted for, in substantial development, or completed (sewage, drainage, etc.). When construction is not a part of the use, "exercised" shall mean that the use is in operation in compliance with the conditions set forth in the permit.

§ 300-36. Procedures.

The powers and duties of the Planning Board shall be exercised in accordance with the procedures set forth in this article plus the following additional procedures:

A. Strict compliance. The Planning Board shall act in strict accordance with the procedures specified by law and by this chapter.

B. Fees. All applications made to the Planning Board shall be accompanied by the fee established by the City Council as provided for in § 300-83. The Board may, in its discretion, return to the applicant part or all of the fee paid by him in the event that his appeal is under § 300-78 hereof and is partially or wholly successful. The fees filed in connection with applications under § 300-35 shall not be returnable regardless of the disposition of the case by the Planning Board.

C. Submission. An application for a special use permit shall be submitted to the Planning Board office on the last business day of the month preceding the month in which the application is to be heard.

D. Contents of applications. Each application shall fully set forth the circumstances of the case. Every application shall refer to the specific provision of the chapter involved.

E. Site plan required. Application for a special use permit shall require site plan approval in accordance with the site plan regulations contained in this chapter, except that the Planning Board may waive site plan approval for a special use permit application that will involve no physical alteration or disturbance to a site. At a minimum, the application for a special permit use shall be accompanied by a plan showing the size and location of the lot, and the location of all buildings and proposed facilities, including access drives, parking areas, and all streets within 200 feet of the lot lines.

F. Public hearings. The Planning Board shall conduct a public hearing within 62 days from the day a complete application is received by the Planning Board. At least 10 days prior to such hearing the Secretary of the Board shall mail, by regular mail, at the applicant's expense, a notice of such hearing and of the substance of the application to the owners of all properties within 300 feet of the exterior boundaries of the property affected by the application. At least 10 days prior to such hearing, the Secretary of the Planning Board, at the expense of the applicant, to be paid in advance, shall cause to be published in the official newspaper of the City a notice of such hearing and of the substance of the appeal or application. Prior to said hearing, the applicant shall submit to the Board affidavits of the Secretary of the Board swearing that the required mailings and publication have been performed, which documents shall become part of the application. For the purpose of the mailings required by this section, the term "owner" shall be construed to mean the owner as indicated on the assessment roll of the City of Newburgh.

G. Notice to the applicant and the Orange County Planning Department. At least 10 days prior to the public hearing, the Planning Board shall mail notices thereof to the applicant and to the Orange County Planning Department, as required by § 239-m of the General Municipal Law, which shall be accompanied by a full statement of the matter under consideration, as defined therein.

H. Architectural Review Commission advisory opinion. The Planning Board shall, within 10 days of its submission, refer any special use permit application within historic districts or architectural design districts to the Architectural Review Commission for review and

recommendations. The Planning Board shall defer any decision on these matters pending the receipt of a report from the Architectural Review Commission.

I. Waterfront Advisory Committee. Whenever a request for a special use permit involves a use to be located within the City's waterfront districts, the Planning Board shall refer a copy of a completed coastal assessment form (CAF) to the Waterfront Advisory Committee within 10 days of its submission and, prior to making its determination, shall consider the recommendation of the Waterfront Advisory Committee with reference to the consistency of the proposed action as set forth in Chapter 296 of the Code of the City of Newburgh, known as the "City of Newburgh Waterfront Consistency Review Law." In the event that the Waterfront Advisory Committee recommendation is not forthcoming within 30 days following referral of the CAF, the Planning Board shall make its decision without the benefit of the Waterfront Advisory Committee recommendation.

J. Decision. The Planning Board shall decide upon an application within 62 days after the public hearing is closed. The time within which the Planning Board must render its decision may be extended by mutual consent of the applicant and the Planning Board.

K. Filing. The decision of the Planning Board shall be filed in the office of the City Clerk within five business days after such decision is rendered and a copy thereof mailed to the applicant.

L. Existing violations. No special use permit shall be issued for property where the Building Inspector has found a violation of this chapter, and where such violation has not been corrected, unless the granting of such special use permit and site plan approval will result in a correction of said violation.

M. Area variance. Where a proposed special use permit would require an area variance, an application may be made to the Zoning Board of Appeals without the necessity of a denial of an administrative official charged with enforcement of this chapter.

§ 300-37. Standards for individual special uses.

The following individual standards are hereby established for special uses:

A. Garages, filling stations, auto repair shops, used car lots, automobile painting, automobile rebuilding or reconditioning, tire retreading or recapping, and taxi and limousine service shall be subject to the following:

(1) Notwithstanding any grant of authority contained elsewhere in this chapter, no special permit or variance shall be granted for a use enumerated herein to be located within a designed historic district or architectural design district unless the Architectural Review Commission shall certify to the Planning Board that said use will not be out of keeping with the architectural character of the district and will not be out of harmony with the style, materials, colors, line and details of the buildings in the district and that said use will not detrimentally

affect the preservation of the beauty and character of the district. Said certification must be reviewed by the Planning Board prior to its acceptance of any application for a special use permit.

(2) Any special use permit granted shall be granted only for an initial period of six months, after which the Planning Board shall review the compliance with the permit conditions and may vote to permanently grant the permit or to continue the special permit for an additional limited time period, in the absence of which said special permit shall lapse and become null and void.

(3) Sufficient off-street parking is to be provided for all cars brought for repair; a minimum of five off-street parking spaces are to be provided.

(4) No repair or storage of vehicles shall be on the public street.

(5) The property must be maintained in a neat and orderly manner with no accumulation of junk vehicles, tires, auto parts, garbage, refuse or debris on the property.

(6) Hours of operation are to be established by the Planning Board so as to limit the effect of noise and traffic on the neighborhood.

(7) All facilities are to conform to the New York State Uniform Fire Prevention and Building Code, environmental regulations and sewer use regulations and ordinances, particularly in regard to prevention of the discharge of oil, grease, or other petroleum products into the public sewers.

(8) All surfaces for vehicle travel or storage are to be provided with a desirable dustless surface to be approved by the Planning Board and an adequate system of storm drainage.

(9) All lighting is to be installed in accordance with a plan to be submitted to and approved by the City Engineer and the Building Inspector and so designed as to prevent light from being thrown onto neighboring properties.

(10) All parking, vehicle storage areas and driveways must be constructed so as to meet the requirements of Article VIII of this chapter.

(11) The use shall be screened from all abutting residences or residential districts in accordance with § 300-12 of this chapter, except that the Planning Board may permit the substitution of an eight-foot-high wooden fence or masonry wall as a substitute for or in addition to the plantings provided in § 300-12. The screening strips of 10 feet in width must be measured entirely within the property lines of the parcel to be devoted to the use.

(12) The Planning Board shall have the power to impose such additional conditions as it may deem required in accordance with the standards established by § 300-35 of this chapter. However, the Planning Board shall not have the power to delete or modify any of the conditions required by Subsection A(1) through (11) of this section.

(13) Where the Zoning Board of Appeals has approved a special use permit and said permit is subject to renewal, the Planning Board shall be responsible for renewing said special use permit.

B. Home occupation or professional office. Customary home occupations are deemed to be accessory uses to a single-family detached dwelling subject to the requirements contained herein. A home occupation shall not require full site development plan submission. However, an applicant shall be required to submit a lot survey indicating the location of the home and the area of the home to be used for purposes of the home occupation.

(1) The minimum lot size shall be 7,500 square feet.

(2) Such occupation is carried on in an area not exceeding 25% of the gross floor area of the principal building.

(3) At no time shall any premises be used in such a manner to cause the emanation therefrom of offensive or noxious odors, vapors, fumes, glare, dust, smoke, gas, vibration, noise or radiation or be used in such a manner as to cause injury, annoyance or disturbance to any of the surrounding properties and to their owners and occupants.

(4) Equipment capable of causing interference with radio or television reception in the neighborhood shall be prohibited unless also equipped with means to prevent such interference.

(5) There shall be no outdoor storage of materials, supplies, or equipment associated with the home occupation.

(6) Such occupation is incidental to the residential use of the premises and is carried on in the principal building by a resident therein with not more than two nonresident assistants.

(7) A studio where dancing or music instruction is offered is permitted, provided only up to a maximum of four pupils at any one time are instructed. Concerts or recitals are prohibited.

(8) The Planning Board may restrict the number of deliveries of materials or supplies associated with the home occupation.

(9) The Planning Board may approve the operation of a home occupation subject to any condition it deems necessary to ensure that the use does not diminish or impact the peace, security and the overall residential quality of the neighborhood.

C. Day-care center. The standards for a day-care center shall be as follows:

(1) The application shall describe the anticipated occupancy of the facility by age group, i.e., infant, toddler, and school age, and the hours of operation of the facility.

(2) A floor plan of the day-care center shall be submitted.

(3) In addition to the parking space requirements contained in Article VIII, Table 1, *Editor's Note: See § 300-45.* additional parking spaces shall be provided for dropoff and pickup of children at a rate of one parking space per 15 children. Said spaces shall be provided directly in front of the facility along an internal driveway or in an approved parking area. The most appropriate location for dropoff parking shall include a consideration of emergency access and shall be determined by the Planning Board during site plan review. The dropoff location shall be clearly posted with appropriate signage or pavement markings. Fire lanes shall not be used for dropoff areas.

(4) A minimum outdoor play area of 125 square feet per child under three years of age, or per child three and over, whichever is greater, shall be provided. Said outdoor play area shall be located at a minimum distance of 25 feet from any lot line or from any parking area and 50 feet from any public right-of-way. Outdoor play areas shall be directly accessible from the principal structure and shall not require crossing any street, driveway, or parking area for access. The Planning Board may, as part of site plan review and in consultation with the prospective operator, modify the area requirement to apply only to the largest age group enrollment scheduled to use the outdoor play area at one time.

(5) A six-foot-high solid fence or opaque fence combined with hedge or tree plantings shall be provided to screen the outdoor play area where it abuts a residential zoning district.

(6) Said facility shall provide a minimum of two exits.

(7) Day-care centers shall adhere to the requirements of the New York State Uniform Fire Prevention and Building Code and all other applicable state guidelines that govern said uses.

(8) If included as part of a professional office building, said day-care center shall occupy the ground floor only.

(9) Hallways with a length of 20 feet or greater between the building exterior and the day-care center shall be prohibited.

D. Bed-and-breakfasts shall be subject to the following:

(1) Applicability. A bed-and-breakfast is permitted as an accessory use to a single-family residence. A single-family residence must be in existence at the date of adoption of these regulations to become eligible to be a bed-and-breakfast. Except as otherwise specified herein, the single-family residence shall be required to meet the bulk requirements for single-family residences within the applicable zoning district.

(2) Application submission. In addition to the general requirements for special use permit approval, the applicant shall also submit:

(a) A sketch showing the floor plan of the home and the location of proposed guest rooms.

(b) A site plan delineating the location of the residence on the tax parcel, minimum setback distances, proposed parking areas, proposed screening, and any other information applicable.

(c) If a sign is proposed, a sign plan, including type and location of illumination, if proposed.

(d) A certification that the owner resides and will continue to reside within the residence while the special use permit is in effect. A change in owner occupancy shall require renewal of the special use permit.

(e) Proof of insurance to operate a bed-and-breakfast.

(3) Requirements and conditions of operation.

(a) The bed-and-breakfast shall be the primary residence of the owner.

(b) The number of paying guests accommodated per night shall not exceed 10 guests, and no guest shall stay for a period exceeding 15 days. The bed-and-breakfast shall maintain a guest registry identifying the arrival and departure dates of guests.

(c) A maximum of two adult guests and accompanying minor children shall be allowed to occupy each guest bedroom, subject to fire safety standards.

(d) There shall be no more than five bedrooms occupied by paying guests. Said rooms shall not be equipped with a kitchenette or other cooking devices.

(e) As a minimum, one bathroom shall be provided for each two guest rooms. In addition, a separate bathroom shall be maintained for the owners of the single-family residence.

(f) Each guest bedroom shall be equipped with a smoke detector alarm installed and maintained in a functional condition on or near the ceiling.

(g) A bed-and-breakfast is permitted one sign, not to exceed two square feet, identifying the name of the facility. Illumination may be permitted, subject to Planning Board approval. The Planning Board shall take into consideration the proximity of adjoining residences and potential nighttime disturbance. Said sign shall not be illuminated between 9:00 p.m. and sunrise.

(h) No parking space shall be located within the front yard. Parking spaces shall be set back a minimum distance of 15 feet from any side or rear lot line. A minimum of two spaces shall be provided for the single-family dwelling, plus a minimum of one off-street parking space shall be provided for each guest bedroom. Each space shall measure not less than nine feet by 18 feet in size. New parking areas required to meet these requirements shall limit the introduction of impervious surfaces.

(i) The Planning Board shall consider the need for landscaping to screen views from adjoining residences.

(j) The dwelling shall not be altered in a manner which would cause the premises to differ from its residential character, nor shall any extensions or additions to the dwelling be made for the purpose of renting such space for overnight accommodations. Accessory buildings detached from the principal dwelling shall not be used for the purpose of a bed-and-breakfast.

(k) There shall be no more than two employees in addition to the owner.

(l) Each facility shall be operated and maintained so as to preserve the character and integrity of the surrounding residential neighborhood.

(4) Approval. A special use permit to operate a bed-and-breakfast shall be valid for one year from the date of issuance, subject to continuing compliance with the conditions of the special use permit and subject to continuing compliance with the New York State Uniform Fire Prevention and Building Code.

(5) Permit renewal. The applicant may renew the permit for additional two-year time periods, subject to approval by the Planning Board and any fees applicable to the review of special use permit applications. The Planning Board shall notify the Building Inspector, 15 days prior to the meeting at which the renewal is being considered, who shall provide a description, in writing, of any changes that have occurred in the floor or site plan since the time the special use permit was approved or last renewed and a list of violations or complaints, if applicable. The Planning Board shall take the Building Inspector's report into consideration when rendering a decision.

(6) Enforcement. The Building Inspector shall be given access to the premises for the purpose of making inspections as deemed necessary from time to time to ensure compliance with these

regulations and with the New York State Uniform Fire Prevention and Building Code. Such inspections shall be conducted in accordance with procedures set forth in this chapter. Any facility operated in violation of this chapter shall have its permit suspended on a first violation and revoked for a second violation. No permit shall be reinstated until the owner fully complies with the provisions of this chapter.

(7) Registry. The Planning Board Secretary shall maintain a record of bed-and-breakfasts, including the name of the owner, the address, the maximum occupancy of the establishment, and the date of special use permit approval.

E. Community parking area. Community parking areas shall be subject to the following:

(1) A plan shall be submitted detailing the parking lot layout. Parking lots shall be macadam and parking spaces shall be appropriately striped. The City Engineer, in consultation with the Building Inspector, shall be responsible for reviewing and shall favorably recommend the layout prior to Planning Board approval of the special use permit.

(2) Adequate drainage shall be provided.

(3) The owner shall be responsible for keeping said parking area clean and debris-free.

(4) The community parking area shall be screened from abutting residential uses in accordance with § 300-12.

(5) Mature trees in excess of eight inches dbh (diameter breast height) shall be identified on the site plan. The parking layout shall incorporate mature trees into the design of the parking area to the maximum extent practicable.

(6) No more than one curb cut shall be permitted per each street frontage.

F. Planned residential development shall be subject to the following:

(1) A planned residential development may consist of a mix of multiple-family dwellings or single-family attached (townhome) dwellings.

(2) The site plan shall be accompanied by building elevations and a landscape plan.

(3) The maximum density shall be 12 units per acre for multiple-family dwellings. The maximum density for townhomes shall be eight units per acre. A minimum of 25% of the site shall be maintained as open space.

(4) No building shall exceed 120 feet in length.

(5) Principal buildings shall be separated a minimum distance equal to the height of the taller of adjoining buildings, but in no case shall a building be located closer than 30 feet to any other principal building.

(6) Accessory buildings, including recreational facilities, shall be located a minimum of 25 feet from principal buildings or from any lot line.

(7) To the maximum extent practicable, buildings shall be situated in a manner so that the front facade and the main entry point to the dwellings face to the street line.

(8) Off-street parking is prohibited in the front yard or adjacent to a street bounding the lot when the other side of the street is zoned residential. Parking shall be located to the rear of the principal buildings. The Planning Board may allow parking in a side yard, provided that said parking area shall be screened from the street and pedestrian traffic by means of a planted strip or fence of a height of at least three feet. Parking areas shall not be located closer than 10 feet to a principal building or outside deck or recreational space and shall be suitably screened from said buildings and spaces with appropriate landscape materials.

(9) The applicant shall make provisions for the maintenance of any open space or common areas in a manner that is satisfactory to the Planning Board and the City Council of the City of Newburgh.

(10) All off-street parking areas shall be attractively landscaped. A minimum of 20% of the parking area shall be landscaped.

(11) Where provided, dumpsters shall be located in a fenced enclosure which shall be suitably screened with appropriate landscape materials.

(12) Each dwelling unit shall be provided with an outdoor deck or space consisting of a minimum of 25 square feet.

(13) On-site lighting shall not spill over onto adjoining residential properties.

G. Adaptive reuse of an existing building for residential use in the W-1 District shall be subject to the following:

(1) The ground floor of said structure shall be used for nonresidential uses permitted or allowed by special use permit in the W-1 District.

(2) Each dwelling unit shall contain a minimum of 1,000 square feet in area.

(3) On-site indoor or outdoor accessory recreational facilities are permitted, e.g., swimming pools or tennis or squash courts. The Planning Board may impose restrictions on the type and

operation of lighting associated with outdoor recreational facilities in order to protect the "night sky" of the Hudson River.

(4) A landscape plan shall be submitted with the site plan.

(5) Off-street parking shall be provided in accordance with the standards for multifamily dwellings.

(6) The applicant shall make provisions for the maintenance of any open space or common areas in a manner that is satisfactory to the Planning Board and the City Council of the City of Newburgh.

H. Boarding homes shall be subject to the following:

(1) In the R-4 District, up to three nontransient roomers or boarders may be accommodated for remuneration by the resident owner of the dwelling.

(2) The owner of the dwelling shall occupy the dwelling and shall constitute the principal use thereof.

(3) Kitchen and dining facilities shall be limited to use by the resident owner, roomers or boarders and bona fide guests but shall not be open to the general public. There shall be no individual kitchen or dining facilities for any sleeping room.

(4) There shall be no more than one rented sleeping room for each 2,000 square feet of lot area, with a maximum of three rooms being permitted.

(5) Each sleeping room for rent to a roomer or boarder shall be at least 100 square feet in area.

(6) One off-street parking space shall be provided for each rented sleeping room. The Planning Board may require landscaping or screening around the parking area.

(7) In order to preserve the residential character of the neighborhood, there shall be no exterior alteration or expansion of the structure to allow the use of the dwelling for boarders and roomers, except for parking.

I. Colleges or universities shall be subject to the following:

(1) All buildings shall be located at least 100 feet from the street lot line and 50 feet from all other property lines. Grandstands, gymnasiums, central heating plants and similar buildings shall be located at least 200 feet from all property lines. The distance between principal buildings shall be at least equal to the height of the taller building. Total building coverage of the site shall be limited to 30%. On-campus housing, dormitory buildings or single-family detached dwellings shall be permitted as accessory buildings, provided that the minimum lot area for

the entire site shall be increased by at least 1,000 square feet for each dormitory bed and by at least the minimum lot area of the applicable zoning district for each single-family dwelling. Use of such dormitories or dwellings shall be limited exclusively to students, teachers, or other members of the staff of the college or university, and a dormitory or dwelling shall not subsequently be sold or rented as a private residence or for any other legal use unless the building and any required lot surrounding it shall meet all regulations of the district in which it is located.

(2) Multiple-family dwellings for the exclusive use of teachers and other members of the staff of the school shall be permitted as accessory buildings, provided that, in addition to all other site requirements, there shall be land set aside for each such dwelling of an area at least equal to the minimum residential lot size of the district in which such school site is located times the number of dwelling units in such dwelling and provided that each multifamily dwelling shall be at least 100 feet from any property line and be so located with respect to the required additional land that a lot could be separated from the balance of the school site and meet these area requirements. No such dwellings shall subsequently be rented or sold unless the above-mentioned lot shall be created with frontage on an approved street and unless the Planning Board shall find that the school to which such dwellings are accessory has ceased to operate or that the type of school has changed to one which no longer requires staff housing.

(3) The minimum area that shall be dedicated to playgrounds and playfields shall be three acres, plus an additional two acres per 100 students.

(4) Suitable fencing, landscaping and screening shall be provided to prevent any nuisance to surrounding properties and to protect students attending the school.

(5) The college shall comply with any standards established for schools by the New York State Commissioner of Education.

(6) The Planning Board may approve the design of a parking area to serve more than one use, provided that such uses will require parking facilities at different times. Parking areas shall be located at least 50 feet from all property lines, except that in the case of a property line adjacent to permanently reserved open space, parking areas may be located no closer than 25 feet therefrom. Access and interior drives shall be located so as to prevent unnecessary traffic on local residential streets and to avoid unsafe conditions and traffic congestion.

J. Used car lots shall be subject to the following:

(1) All existing used car lots shall have a paved surface constructed in accordance with specifications of the City Engineer, an adequate system of storm drainage, screening in accordance with § 300-12 of this chapter to protect adjacent residential properties or residential-zoned areas and provision for lighting that is satisfactory to the City Building Inspector.

§ 300-38. Large-Scale Mixed-Use Development Special Use Permit

A. Power. The City Council –shall have the power to hear and decide on applications for a large-scale mixed-use development special use permit.

B. Applicability. The Large-Scale Mixed-Use Development Special Use Permit shall apply in the Tourist Commercial (TC-1) zoning district only, and only to parcels with frontage on Broadway. However, said project may extend from Broadway through the length of the block to the next public street, irrespective of the zone, provided that the portion outside of the TC-1 zone is part of a unified development parcel with frontage on Broadway.

C. Conditions to be fulfilled. In applying for a large-scale mixed-use development special use permit, the applicant need not demonstrate hardship, since the basis for the action is general benefit to the City as a whole. In granting a large scale mixed-use development special permit, the City Council, with due regard to the nature and condition of all adjacent structures and uses, shall consider the requirements of the zone within which the same is located, the Master Plan, the Future Land Use Plan, the Local Waterfront Revitalization Program (LWRP) and any relevant urban renewal plans and shall find all of the general conditions set forth in §300-35B.(1) through (5) fulfilled.

D. Factors to be considered. In making a determination that the conditions specified above have been fulfilled, the City Council shall give consideration to any or all of the factors set forth in §300-35C.(1) through (12).

E. City Council action. The City Council may approve, approve with modifications, or disapprove any application for a large-scale mixed-use development special use permit. The Council shall have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed large-scale mixed-use development special use permit and may be necessary in the Council's opinion to meet the objectives herein set forth. Upon the granting of said large-scale mixed-use development special use permit, any such conditions must be met in connection with the issuance of permits by applicable enforcement agents or officers of the City. Such conditions include those set forth in §300-35D.(1) through (4), or any that the Council determines reasonable and necessary.

F. Other conditions for approval. The application for a large-scale mixed-use development special use permit shall meet the conditions and provisions set forth in §300-35E. through (H).

G. Standards for large-scale mixed-use development special use permits.

The following individual standards are hereby established for large-scale mixed-use development special use permits:

(1) Area standards. The proposed development shall meet the minimum lot area, width and depth; yard; and maximum building height requirements for large-scale mixed-use development as set forth in the Schedule of Use and Bulk Regulations for the TC-1 District.

(2) In the case that the proposed large-scale mixed-use development contains any use which would be individually subject to a special permit from the Planning Board, the standards for such use, as provided in in §300-37., shall apply, unless the City Council determines that the application of said standards is unreasonably or unnecessary or impractical due to the unique characteristics of the site, mix of uses or other factors.

(3) At a minimum, the special use permit application must be accompanied by a site plan prepared in accordance with §300-52.

(4) To the maximum extent practicable, buildings shall be situated in a manner so that the front façade and the main entry face to the street line.

(5) Off-street parking.

(a) The City Council may modify the area requirements (length and width) of off-street parking spaces as set forth in §300-44. provided that in no case shall the width be decreased by more than 6 inches and the length by no more than one foot. In granting such reductions, the City Council shall consider such benefits as increased landscaping and screening within and adjacent to off-street parking areas;

(b) When based on a Parking Analysis, the City Council may reduce the off-street parking space and loading berth requirements as set forth in §300-45 provided that the parking capacity to be provided will substantially meet the intent of this Article. The Parking Analysis shall be prepared assuming peak-hour utilization and demonstrate that sufficient parking spaces will exist so that no overflow parking is likely to occur in any public street; and

(c) The City Council may permit a portion, not to exceed 25%, of the total required spaces, the total number of which shall be determined pursuant to §300-38.G.(5)(b) above, to be located at an off-site location no further than 300 feet from the premises to which they are appurtenant.

(6) Shared parking. The use or uses proposed for the large-scale mixed-use development shall provide the required number of off-street parking spaces pursuant to §300-45., except that the number of required spaces may be reduced if the City Council finds that the parking capacity to be provided will substantially meet the intent of this Article by reason of

variation in the probable time of maximum use by patrons, employees or residents of such establishments, provided that:

(a) The City Council shall base its finding upon a Shared Parking Analysis to be prepared, assuming peak-hour utilization, to demonstrate that sufficient parking spaces will exist so that no overflow parking is likely to occur in any public street; and

(b) In the event that any establishment changes use, the applicant seeking approval for the new use or uses shall adequately demonstrate, based upon a Shared Parking Analysis, that the new use configuration will continue to allow for sufficient parking capacity, or alternatively, that additional off-street parking spaces will be provided to ensure such capacity.

(7) Off-street parking is prohibited in the front yard. Parking shall be located to the rear of the principal buildings. The City Council may allow parking in a side yard, provided that said parking area shall be screened from the street and pedestrian traffic by means of a planted strip or fence. Parking areas shall be located a reasonable distance from principal buildings or outside decks or recreational spaces and shall be suitably screened from said buildings and spaces with appropriate landscape materials.

(8) When abutting a residential district, off-street parking areas must be appropriately landscaped and screened.

(9) The applicant shall make provisions for the maintenance of any open space or common areas in a manner that is satisfactory to the City Council.

(10) Mature trees in excess of eight inches dbh (diameter breast height) shall be identified on the site plan. The proposed development shall incorporate such mature trees into the plan to the maximum extent practicable.

(11) Where provided, dumpsters shall be located in a fenced enclosure which shall be suitably screened with appropriate fencing and/or landscaping materials.

(12) On-site lighting shall be designed and situated so that it does not spill over onto adjoining residential properties or create potential driving hazards. The City Council may require a lighting plan to verify that the proposed lighting will not present such adverse impacts.

H. Procedures. The powers and duties of the City Council in considering large-scale mixed-use development special permits shall be exercised in accordance with the procedures set forth in this

article and in §300-36., except that, where relevant, said procedures shall apply to the City Council and not to the Planning Board.

§ 300-39. (Reserved)

300 Attachment 8

City of Newburgh
Schedule of Use and Bulk Regulations
TC-1 Tourist Commercial District[1]

Use	Use Type	Minimum Lot Area (feet)	Minimum Lot Width (feet)	Minimum Lot Depth (feet)	Minimum Front Yard (feet)	Minimum Side Yard Each (feet)	Minimum Rear Yard (feet)	Maximum Building Height	
								Stories	Feet
One-family detached dwelling	P	7,500	50	100	15	10	20	2.5	35
One-family attached (duplex, town home)	P	2,500**	25	100	15	0/10*	20	3	45
Two-family dwelling	P	10,000	75	100	15	10	20	2.5	35
Mixed use: residential on upper floors only***	P	2,500	25	100	15	0/5*	20	3	45
Professional and business office	P	2,500	25	100	15	0/5*	20	3	45
Government office	P	2,500	25	100	15	0/5*	20	3	45
Tourist-related retail use	P	2,500	25	100	15	0/5*	20	3	45
Art and antique gallery	P	2,500	25	100	15	0/5*	20	3	45
Museum	P	2,500	25	100	15	0/5*	20	3	45
Church and similar place of worship	P	7,500	75	100	15	15	20	3	45
Assembly hall	SP	2,500	25	100	15	0/5*	20	3	45
Craft shop	SP	2,500	25	100	15	0/5*	20	3	45
Restaurant; bar	SP	2,500	25	100	15	0/5*	20	3	45
Fast-food restaurant, without drive-through facility	SP	2,500	25	100	15	0/5*	20	3	45
Laundromat	SP	2,500	25	100	15	0/5*	20	3	45
Conference center	SP	10,000	100	100	25	15	25	3	45
Hotel	SP	10,000	100	100	25	15	25	3	45
Theater	SP	10,000	100	100	25	15	25	3	45
Large-scale mixed use development****	SP	20,000	100	100	15*****	0/5*****	20	6/4******	65/45*******
Swimming pools accessory to one-family detached	A								
Other customary accessory uses and buildings, provided that such use is clearly incidental to the principal use	A								

P = Permitted SP = Special Permit Use A = Accessory Use

NOTES:

[1]In the TC-1 District, residential uses are not permitted east of Washington Place and Colden Street

* Where existing buildings share common wall, no side yard is required. All other buildings require five-foot side yard.

** Minimum area is per unit.

*** One dwelling unit is permitted for each 1,000 square feet of gross floor area per upper story floor.

****Only applicable to lots with frontage on Broadway pursuant to Section 300-38.

*****Front and side yard requirements may be waived, reduced or otherwise modified at the discretion of the City Council as part of the Special Use Permit process.

******Six stories (65 feet) are permitted within 200 feet of Broadway; four stories (45 feet) are permitted beyond 200 feet pursuant to Section 300-38.

RESOLUTION NO. 97 - 2013

OF

MAY 13, 2013

A RESOLUTION AUTHORIZING THE CITY MANAGER TO GRANT AN EXTENSION OF TIME TO REHABILITATE THE PREMISES KNOWN AS 44 HASBROUCK STREET (SECTION 38, BLOCK 3, LOT 50) IN THE CITY OF NEWBURGH

WHEREAS, the City of Newburgh did convey the premises located at 44 Hasbrouck Street, more accurately described as Section 38, Lot 3, Block 50 on the Official Tax Map of the City of Newburgh, by deed dated June 17, 2011; and

WHEREAS, said deed included a provision requiring rehabilitation of the conveyed premises to be completed on or about December 17, 2012; and

WHEREAS, Araceli Mendoza, the owner of property located at 44 Hasbrouck Street in the City of Newburgh, has been unable to comply with the deadline, but has attempted a good faith effort and intent to complete the rehabilitation; and

WHEREAS, this Council has determined that it would be in the best interests of the City of Newburgh and its future development to grant said extension;

NOW, THEREFORE, BE IT RESOLVED, that the City Manager be and he hereby is authorized to grant Araceli Mendoza a six (6) month extension to rehabilitate the premises known as 44 Hasbrouck Street in the City of Newburgh, until October 13, 2014, that being six (6) months from the date of this Resolution.

RESOLUTION NO. 98 - 2013

OF

MAY 13, 2013

A RESOLUTION AUTHORIZING THE CITY MANAGER TO GRANT AN EXTENSION OF TIME TO REHABILITATE THE PREMISES KNOWN AS 128 DUBOIS STREET (SECTION 18, BLOCK 1, LOT 27) IN THE CITY OF NEWBURGH

WHEREAS, the City of Newburgh did convey the premises located at 128 Dubois Street, more accurately described as Section 18, Lot 1, Block 27 on the Official Tax Map of the City of Newburgh, by deed dated June 17, 2011; and

WHEREAS, said deed included a provision requiring rehabilitation of the conveyed premises to be completed on or about December 17, 2012; and

WHEREAS, Araceli Mendoza, the owner of property located at 128 Dubois Street in the City of Newburgh, has been unable to comply with the deadline, but has attempted a good faith effort and intent to complete the rehabilitation; and

WHEREAS, this Council has determined that it would be in the best interests of the City of Newburgh and its future development to grant said extension;

NOW, THEREFORE, BE IT RESOLVED, that the City Manager be and he hereby is authorized to grant Araceli Mendoza a six (6) month extension to rehabilitate the premises known as 128 Dubois Street in the City of Newburgh, until October 13, 2014, that being six (6) months from the date of this Resolution.

RESOLUTION NO.: 99 -2013

OF

MAY 13, 2013

A RESOLUTION AUTHORIZING THE EXECUTION
OF A RELEASE OF RESTRICTIVE COVENANTS AND RIGHT OF RE-ENTRY
FROM A DEED ISSUED TO DAVID L. JADIDIAN
TO THE PREMISES KNOWN AS 83 NICOLL STREET
(SECTION 9, BLOCK 1, LOT 3)

WHEREAS, on December 9 , 2009, the City of Newburgh conveyed property located at 83 Nicoll Street, being more accurately described on the official Tax Map of the City of Newburgh as Section 9, Block 1, Lot 3, to David L. Jadidian; and

WHEREAS, Mr. Jadidian has requested a release of the restrictive covenants contained in said deed; and

WHEREAS, the appropriate departments have reviewed their files and advised that the covenants have been complied with, and recommends such release be granted; and

WHEREAS, this Council believes it is in the best interest of the City of Newburgh to grant such request;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to execute the release, annexed hereto and made a part of this resolution, of restrictive covenants numbered 1, 2, 3, 4 and 5 of the aforementioned deed.

RELEASE OF COVENANTS AND RIGHT OF RE-ENTRY

KNOWN ALL PERSONS BY THESE PRESENTS, that the City of Newburgh, a municipal corporation organized and existing under the Laws of the State of New York, and having its principal office at City Hall, 83 Broadway, Newburgh, New York 12550, in consideration of TEN ($10.00) DOLLARS lawful money of the United States and other good and valuable consideration, receipt of which is hereby acknowledged, does hereby release and forever quitclaim the premises described as 83 Nicoll Street, Section 9, Block 1, Lot 3, on the Official Tax Map of the City of Newburgh, from those restrictive covenants numbered 1, 2, 3, 4 and 5 in a deed dated December 9, 2009, from the CITY OF NEWBURGH to DAVID L. JADIDIAN, recorded in the Orange County Clerk's Office on December 22, 2009, in Liber 12943 of Deeds at Page 1376 and does further release said premises from the right of re-entry reserved in favor of the City of Newburgh as set forth in said deed.

Dated: _____, 2013

THE CITY OF NEWBURGH

By: _____
RICHARD F. HERBEK,
City Manager

STATE OF NEW YORK)
)ss.:
COUNTY OF ORANGE)

On the _____ day of May in the year 2013, before me, the undersigned, a Commissioner of Deeds in and for said State, personally appeared RICHARD F. HERBEK, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted; executed the instrument.

_____

RESOLUTION NO.: 100 - 2013

OF

MAY 13, 2013

A RESOLUTION TO AUTHORIZE A CHANGE ORDER TO THE CONTRACT WITH RITTER & PARATORE CONTRACTING INC. IN CONNECTION WITH THE JOHNES STREET BUILDING DEMOLITION PROJECT IN AN AMOUNT NOT TO EXCEED $38,530.00

WHEREAS, by Resolution No. 155-2012 of September 10, 2012, the City Council awarded a bid for the demolition of the building located at 7-11 Johnes Street and authorized the City Manager to enter into a contract with Ritter & Paratore Contracting Inc. for the bid amount of $118,470.00; and

WHEREAS, the actual costs associated with the removal of debris exceeded the pre-demolition estimates increasing the actual cost of the project from $118,470.00 to $157,000.00; and

WHEREAS, a change order to the contract with Ritter & Paratore Contracting Inc. in the amount of $38,530.00 is required; and

WHEREAS, as said property is part of the ERP the City will be reimbursed for 50% of building demolition costs, including 50 % of costs in the change order, by the Department of Environmental Conservation; and

WHEREAS, funding for such project shall be derived from the budget line H1.1440.0215.5403.2010; and

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager, the City Engineer and the Comptroller be and they hereby are authorized to prepare and execute a change order to the demolition contract with Ritter & Paratore Contracting Inc. in an amount not to exceed Thirty-Eight Thousand Five Hundred Thirty ($38,530.00) Dollars for the costs associated with the removal of debris in connection with demolition of 7-11 Johnes Street.

RESOLUTION NO.: 101 - 2013

OF

MAY 13, 2013

A RESOLUTION REDUCING THE FIXED AMOUNT TO BE PROVIDED IN THE FORM OF A PUBLIC IMPROVEMENT PERFORMANCE SECURITY TO BE POSTED BY THE OWNER/SPONSOR OF THE SUNSET RIDGE SUBDIVISION PROJECT

WHEREAS, by Resolution No. 142-2005 of July 11, 2005, the City Council of the City of Newburgh declared that the sum of One Million One Hundred Fifty Thousand Six Hundred Forty Five and zero/one-hundredths ($1,153,645.00) Dollars was to be established and accepted as the amount estimated as the cost of infrastructure and improvements required by the Planning Board, and therefore, as the sum to be covered by such Public Improvement Performance Security to be posted by the owner/sponsor of the Sunset Ridge Subdivision in order to sufficiently safeguard the interests of the City of Newburgh and to secure the installation of the public improvements and infrastructure necessarily involved in said project; and

WHEREAS, the original developer partially completed the installation of the infrastructure and improvements; and

WHEREAS, Iconic Properties, LLC is in contract to purchase the Sunset Ridge Subdivision from TD Bank and is requesting a reduction in the amount of the Public Improvement Security to be posted based on a review by a licensed engineer; and

WHEREAS, the City Engineer has reviewed the developer's submission and completed his own survey of the subdivision and the existing infrastructure and recommends that the performance bond for the infrastructure improvements be reduced from One Million One Hundred Fifty Thousand Six Hundred Forty Five and zero/one-hundredths ($1,153,645.00) Dollars to Five Hundred Seventy Five Thousand Five Hundred and zero/one-hundredths ($575,500.00) Dollars; and

WHEREAS, this Council finds that the reduction in the performance bond, as recommended by the City Engineer, is in the best interests of the City of Newburgh and its further development;

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Newburgh, New York that the Public Improvement Performance Security to be posted by the owner/sponsor of the Sunset Ridge Subdivision be and hereby is reduced from One Million One Hundred Fifty Thousand Six Hundred Forty Five and zero/one-hundredths ($1,153,645.00) Dollars to Five

Hundred Seventy Five Thousand Five Hundred and zero/one-hundredths ($575,500.00) Dollars as the amount sufficient to secure the installation of the remaining public improvements and infrastructure required by said project.; and

BE IT FURTHER RESOLVED, that pursuant to Code Section 266-6, such Public Improvement Performance Security shall be posted with the City Manager by the owner/sponsor of the Sunset Ridge Subdivision and in a form acceptable to the Corporation Counsel.