

ANDREW J. ZARUTSKIE
Town Clerk
Town of Newburgh
1496 Route 300
Newburgh NY 12550
Tel.(845) 564-4554

AGENDA
PUBLIC TOWN COUNCIL MEETING
Monday, March 19, 2012
7:00 p.m.

1. ROLL CALL
2. PLEDGE OF ALLEGIANCE TO THE FLAG
3. MOMENT OF SILENCE
4. CHANGES TO AGENDA
5. COMMENTS ON AGENDA ITEMS
6. ZONING:
 - a. Parke Lane
 - b. SEQRA Resolution of Determination
 - c. Resolution to Amend Comprehensive Plan
 - d. Motion to Approve Developers Agreement
 - e. Resolution to Approve Local Law Amending Chapter 185 entitled Zoning
7. ENGINEERING:
 - a. Lakeside Road Culvert:-Approval for purchase
 - b. Waring Road Culvert:- Recommendation for Award of contract
8. TOWN CLERK:
 - a. Carnival Application at Newburgh Mall
9. ANNOUNCEMENTS
10. PUBLIC COMMENTS
11. ADJOURNMENT

6. ZONING:

- a. Parke Lane**
- b. SEQRA Resolution of Determination**
- c. Resolution to Amend Comprehensive Plan**
- d. Motion to Approve Developers Agreement**
- e. Resolution to Approve Local Law Amending
Chapter 185 entitled Zoning**

MAR 19 2012

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RIDER, WEINER & FRANKEL, P.C.

ATTORNEYS & COUNSELLORS AT LAW

DAVID L. RIDER
CHARLES E. FRANKEL
MICHAEL J. MATSLER
MAUREEN CRUSH
MARK C. TAYLOR
RODERICK E. DE RAMON
DONNA M. BADURA
M. JUSTIN RIDER (NY AND FL)
SHAY A. HUMPHREY
JEFFREY S.E. SCULLY (NY AND IL)
DARREN H. FAIRLIE
VIKAS VARMA (NY AND INDIA)
DEBORAH WEISMAN-ESTIS (NY AND NJ)

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MEMORANDUM

TO: HON. WAYNE C. BOOTH, SUPERVISOR
TOWN BOARD MEMBERS

FROM: MARK C. TAYLOR, ATTORNEY FOR THE TOWN

RE: COMPREHENSIVE PLAN AMENDMENT AND REZONING IB TO R-3
OF TWO LOTS NEAR STEWART AVENUE AND I-84
PARKE LANE AT NEWBURGH, LLC
OUR FILE NOS. 800.1(B)(1)(2011), 800.1(B)(21)(2011)

DATE: MARCH 16, 2012

Enclosed please find for your review and consideration the following resolution scheduling a second hearing on the Amendment to the Comprehensive Plan, as required by New York State Town Law:

1. Resolution of the Town Board SEQR Lead Agency Determination: Amendment to Comprehensive Plan Update, Adoption of Local Law Amending Chapter 185 Entitled "Zoning" of the Code of the Town of Newburgh and the Zoning Map of the Town of Newburgh Rezoning of Two Lots Near Stewart Avenue and Interstate 84 from IB to the Adjacent R-3 Zoning District and Approval of a Related Developer's Agreement;
2. Resolution of Town Board in the Matter of the Adoption of that Part of the Proposed Amendment to the Comprehensive Plan Update of the Town of Newburgh Pertaining to the Rezoning of Two Lots Near Stewart Avenue and Interstate 84 from IB to the Adjacent R-3 Zoning District
3. Resolution of Adoption of Local Law No. 1 of 2012 Amending Chapter 185 Entitled "Zoning" of the Code of the Town of Newburgh and the Zoning Map of the Town of Newburgh to Rezone Two Lots Near Stewart Avenue and Interstate 84 from IB to the Adjacent R-3 Zoning District

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Also enclosed is the Developer's Agreement which you discussed at the work session, which I understand the Board will authorize to be executed. The developer's attorney, Dominic Cardisco, Esq., advised me that he would have a counterpart signed by the property owner and the applicant/developer to me on Monday.

Should you have any questions or concerns, please do not hesitate to contact me.

MCT:kac

Enclosure

cc: Andrew J. Zarutskie, Town Clerk
James Osborne, Town Engineer (via e-mail)
Gerald Canfield, Code Compliance Supervisor (via e-mail)
David Smith, AICP (informational via e-mail)

DRAFT

At a meeting of the Town Board of the Town of Newburgh, held at the Town Hall, 1496 Route 300, in the Town of Newburgh, Orange County, New York on the 19th day of March, 2012 at 7:00 o'clock p.m.

PRESENT:

Wayne C. Booth, Supervisor

George Woolsey, Councilman

Gilbert J. Piaquadio, Councilman

Elizabeth J. Greene, Councilwoman

Ernest C. Bello, Jr., Councilman

RESOLUTION OF TOWN BOARD SEQR LEAD AGENCY DETERMINATION:
AMENDMENT TO COMPREHENSIVE PLAN UPDATE, ADOPTION OF LOCAL LAW AMENDING CHAPTER 185 ENTITLED 'ZONING' OF THE CODE OF THE TOWN OF NEWBURGH AND THE ZONING MAP OF THE TOWN OF NEWBURGH:
REZONING OF TWO LOTS NEAR STEWART AVENUE AND INTERSTATE 84 FROM IB TO THE ADJACENT R-3 ZONING DISTRICT AND APPROVAL OF A RELATED DEVELOPERS AGREEMENT

Councilman/woman _____ presented the following resolution which was seconded by Councilman/woman _____.

WHEREAS, having received requests from the property owners for Zoning Map changes to their properties, pursuant to Town Law Section 272-a, the Town Board has prepared an amendment to the adopted Comprehensive Plan Update of the Town of Newburgh providing for the rezoning of certain properties near Stewart Avenue, NYS Route 300 and Interstate 84, from IB (Interchange Business) to the adjacent R-3 (Residential) District Zoning and on both sides of Patton Road at its intersection with Old South Plank Road (NYS Route 52) from B (Business) District to the adjacent R-2 (Residential) District Zoning; and

WHEREAS, the Town Board has additionally prepared two local laws amending the Zoning Code and Zoning Map of the Town of Newburgh which will implement the proposed Comprehensive Plan Update Amendment; and

WHEREAS, the Town Board of the Town of Newburgh recognizes the importance of sound planning as a means of promoting responsible development and protecting the health, safety and general welfare of the citizens of the Town of Newburgh and otherwise fulfilling the legislative findings and intent set forth in Town Law Section 272-a; and

WHEREAS, the Town Board of the Town of Newburgh has caused an Environmental Assessment Form (the "EAF") to be prepared for the proposed adoptions of the Amendment to the Comprehensive Plan Update, the Local Law Amending Chapter 185 Entitled 'Zoning' of the Code of the Town of Newburgh and the Zoning Map of the Town of Newburgh to Rezone Two Lots Near Stewart Avenue and Interstate 84 from IB to the Adjacent R-3 Zoning District and the Local Law Amending Chapter 185 entitled 'Zoning' of the Code of the Town of Newburgh and the Zoning Map of the Town of Newburgh to Rezone Property Bounded by Patton Road and

WHEREAS, the Town Board has determined that the proposed adoption of the aforesaid Amendment to the Comprehensive Plan Update and local laws should be reviewed as an action (the "Action") under Part 617 of the General Regulations ("Part 617") adopted pursuant to Article 8 of the Environmental Conservation Law ("SEQR") and Chapter 100 entitled "Environmental Quality Review" of the Town of Newburgh Municipal Code; and

WHEREAS, the Town Board proposed to undertake, fund and approve the Action and wishes to assume Lead Agency status in connection with the review of the Action pursuant to the State Environmental Quality Review Act; and

WHEREAS, the Town Board, using all due diligence, has identified no other involved agencies, but has identified the following agencies as potentially interested agencies for the Action:

the Orange County Planning Department,

the Town of Newburgh Planning Board

the Town of Newburgh Zoning Board of Appeals; and

; and

WHEREAS, copies of the EAF have been forwarded to all interested agencies for review and comment; and

WHEREAS, pursuant to Section 617.6(b)(1) of Part 617, "[w]hen a single agency is involved, that agency will be the lead agency when it proposes to undertake, fund or approve a Type I or Unlisted Action that does not involve another agency"; and

WHEREAS, the Town Board has determined that the Action is an Unlisted Action; and

WHEREAS, the Town Board has determined that it is the single involved agency for the Action and as it is proposing to directly undertake the Action, has further declared itself the Lead Agency for the purpose of conducting a review of this Action; and

WHEREAS, the Town Board has required the property owner and petitioner for the rezoning properties near Stewart Avenue, NYS Route 300 and Interstate 84 to present a Developer's Agreement which requires that the developed density of the site which includes the rezoned properties shall be no more than 160 residential units and apart from any utility connections, there shall be no permanent roadway connection from the project to either Benson Avenue nor Wood Street; and

WHEREAS, the Town Board has determined to proceed at this time only with that portion of the amendment of the Comprehensive Plan Update and the rezoning of the properties near Stewart Avenue, NYS Route 300 and Interstate 84 and approval of the Developer's

WHEREAS, the Town Board has (i) thoroughly reviewed the EAF, and any and all other documents prepared and submitted with respect to this proposed action and its environmental review, and (ii) thoroughly analyzed the potential relevant areas of environmental concern to determine if the proposed Amended Action may have a significant adverse impact on the environment, including the criteria identified in 6 NYCRR Section 617.7(c); and

WHEREAS, the Town Board has not identified relevant areas of environmental concern which would lead to a determination that the Amended Action may have a significant adverse effect on the environment either in the short term, long term or cumulatively given the likely consequences, setting, probability of occurrence, duration, irreversibility, geographic scope, magnitude and the number of people affected.

NOW, THEREFORE, BE IT RESOLVED, that the Town Board, as Lead Agency, hereby determines that said Action will not have a significant effect on the environment and, accordingly, does issue a Negative Declaration; and

BE IT FURTHER RESOLVED, that the Town Board authorizes the Supervisor to execute and file the Environmental Assessment Form Determination of Significance annexed hereto and a Negative Declaration with such further amendment and modification as may be required to elaborate the Lead Agency's determination herein, in accordance with the applicable provisions of law, and all other appropriate notices and documents to effectuate these resolutions in accordance with the applicable provisions of law

The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

George Woolsey, Councilman voting _____

Gilbert J. Piaquadio, Councilman voting _____

Elizabeth J. Greene, Councilwoman voting _____

Ernest C. Bello, Jr., Councilman voting _____

Wayne C. Booth, Supervisor voting _____

The resolution was thereupon declared duly adopted.

DRAFT

At a meeting of the Town Board of the Town of Newburgh, held at the Town Hall, 1496 Route 300, in the Town of Newburgh, Orange County, New York on the 19th day of March, 2012 at 7:00 o'clock p.m.

PRESENT:

<u>Gilbert J. Piaquadio, Councilman</u>	RESOLUTION OF TOWN BOARD IN
<u>Elizabeth J. Greene, Councilwoman</u>	THE MATTER OF THE ADOPTION OF THAT
<u>Ernest C. Bello, Jr., Councilman</u>	PART OF THE PROPOSED AMENDMENT TO
	THE COMPREHENSIVE PLAN UPDATE
	OF THE TOWN OF NEWBURGH PERTAINING
	TO THE REZONING OF TWO LOTS
	NEAR STEWART AVENUE AND
	INTERSTATE 84 FROM IB TO THE ADJACENT
	R-3 ZONING DISTRICT

Councilman/woman _____ presented the following resolution which was seconded by Councilman/woman _____.

WHEREAS, the Town Board recognizes the importance of sound planning as a means of promoting responsible development and protecting the health, safety and general welfare of the citizens of the Town of Newburgh and otherwise fulfilling the legislative findings and intent set forth in Town Law Section 272-a; and

WHEREAS, the participation of citizens in an open, responsible and flexible planning process is essential to the designing of the optimum Town comprehensive plan; and

WHEREAS, pursuant to Town Law Section 272-a, having received petitions from the property owners and/or the owner's proxies, the Town Board prepared a proposed amendment to the adopted Comprehensive Plan Update of the Town of Newburgh providing for the rezoning of certain properties near Stewart Avenue, NYS Route 300 and Interstate 84, from IB (Interchange Business) to R-3 (Residential) District Zoning and on both sides of Patton Road at its intersection with Old South Plank Road (NYS Route 52) from B (Business) District to R-2 (Residential) District Zoning; and

WHEREAS, in both instances the Zoning Map shows boundaries of the zoning districts to which the subject properties are proposed to be rezoned as adjacent to the properties; and

WHEREAS, Town Law Section 272-a provides that in the event a town board prepares a proposed town comprehensive plan amendment, the town board shall hold one or more public hearings and such other meetings as it deems necessary to assure full opportunity for citizen participation in the preparation of such proposed plan amendment, and in addition, the town board shall hold one or more public hearings prior to adoption of such proposed plan

September, 2011 at 7:15 o'clock, p.m. to solicit citizen comment for the preparation of the proposed Amendment to the Comprehensive Plan Update for the Rezoning of Properties near Stewart Avenue and on Patton Road to adjacent residential zoning districts, and all parties in attendance were permitted to speak and comment; and

WHEREAS, the Town Board called and duly held a second public hearing prior to the adoption of the proposed Amendment to the Comprehensive Plan Update the Town Board prepared on the 5th day of March, 2012 at 7:00 o'clock, p.m. Prevailing Time and all parties in attendance were permitted to speak and comment ; and

WHEREAS, the Town Board has additionally considered the future housing needs of the region and the consistency of the Amendment with the needs and goals identified by the April, 2009 *Tri-County Affordable Housing Study*, conducted jointly by Orange, Dutchess, and Ulster Counties, and the potential affects of the Action on the Town's ability to meet goals for providing rental and owner occupied affordable housing; and

WHEREAS, pursuant to a certain Developer's Agreement, the owner of the subject properties near Stewart Avenue, NYS Route 300 and Interstate 84 and the developer/petitioner for the rezoning of those properties have agreed with the Town that the developed density of the site which includes the rezoned properties shall be no more than 160 residential units and apart from any utility connections, there shall be no permanent roadway connection from the project to either Benson Avenue nor Wood Street and the Town Board's adoption of the local law implementing the rezoning of those properties will be conditioned on the execution and delivery of said Agreement; and

WHEREAS, the Town Board after due deliberation has determined it is in the best interest of the Town to adopt at this time only that portion of the proposed Amendment to the Comprehensive Plan Update of the Town of Newburgh providing for the rezoning of certain properties near Stewart Avenue, NYS Route 300 and Interstate 84 from IB (Interchange Business) to R-3 (Residential) District Zoning and not to adopt at this time the portion pertaining to the rezoning of property on both sides of Patton Road at its intersection with Old South Plank Road (NYS Route 52) from B (Business) District to R-2 (Residential) District Zoning, which requires its further deliberation.

NOW, THEREFORE, BE IT RESOLVED as follows:

1. The Town Board of the Town of Newburgh hereby adopts only that part of Comprehensive Plan Update of the Town of Newburgh providing for the rezoning of certain properties near Stewart Avenue, NYS Route 300 and Interstate 84 from IB (Interchange Business) to R-3 (Residential) District Zoning attached as Exhibit "A" hereto.
2. The Town Clerk is hereby directed to enter this resolution in the minutes of this

The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

George Woolsey, Councilman voting _____

Gilbert J. Piaquadio, Councilman voting _____

Elizabeth J. Greene, Councilwoman voting _____

Ernest C. Bello, Jr., Councilman voting _____

Wayne C. Booth, Supervisor voting _____

The resolution was thereupon declared duly adopted.

DRAFT

DEVELOPER'S AGREEMENT

THIS DEVELOPER'S AGREEMENT made this _____ day of _____ 2012, by and between Autumn Sky Development Co., Inc., maintaining an office at 58 South Manheim Boulevard, Apartment #68, Post Office Box 298, New Paltz, New York 12561 (hereinafter the "Owner"), Parke Lane at Newburgh, LLC, maintaining an office at 54 Horse Hill Road, Suite 201, Cedar Knolls, NJ 07927 (hereinafter the "Developer") and the Town of Newburgh, a municipal corporation maintaining an office at 1496 Route 300, Newburgh, New York 12550 (hereinafter the "Town");

RECITALS

WHEREAS, the Owner is the owner of certain real property identified as Town of Newburgh Tax Map Nos. 97-1-4.11, 5 & 6, located off of Stewart Avenue (hereinafter the "property"), which has been proposed for development by the Developer into a one hundred and sixty (160) unit multi-family residential market rate rental development together with a clubhouse, pool, gazebos, open space, walkways, and seating areas to be known as "Parke Lane at Newburgh" (hereinafter the "Project"); and

WHEREAS, access to the Project is proposed to be via Stewart Avenue only, and there is no proposed permanent roadway connection to either Benson Avenue nor Wood Street, both of which are Town roads; and

WHEREAS, Lots 5 and 6 are within the Town's Interchange Business (IB) zoning districts. The remaining property is zoned Residential-3 (R3), and the parcels are surrounded by lands zoned and developed under the R3 zoning; and

WHEREAS, the Developer has petitioned the Town requesting that the Town rezone those portions of the Property from Interchange Business (IB) to the Residential-3 (R3) zoning district. This requested zoning map amendment would allow for the development of the Property that would be consistent and complimentary to the surrounding residential uses; and

WHEREAS, the Town has undertaken an update of its comprehensive plan in order to consider and evaluate the merits of the requested zoning map amendment; and

WHEREAS, in order to guarantee that the Project would be developed as currently proposed, the Developer and the Owner have offered to enter into this agreement which would impose certain restrictions upon the development of the property should the Town grant the requested zoning map amendment; and

WHEREAS, the Owner is party to this Agreement to the extent that the Owner acknowledges the obligations contained herein that pertain and apply to the future development of the Project should the Town grant the requested zoning map amendment and the Owner consents to the recording of this Agreement in the Orange County Clerk's Office; and

WHEREAS, the Developer, Owner and the Town have therefore entered into this Developer's Agreement for the purpose of memorializing the mutual consent of the Developer, Owner and the Town to the terms and conditions herein, and to set forth the Developer and Owner's obligations should the Town grant the requested rezoning; and

WHEREAS, should the Town grant the requested rezoning, these terms and conditions shall become a title encumbrance and shall run with the land and shall bind the Developer and the Owner, and their respective successors and assigns; and

WHEREAS, this Agreement is an unlisted action under SEQRA, and based on the Environmental Assessment Form provided for the Project to the Town of Newburgh Town Board, the Town has heretofore (1) determined that this Developer's Agreement is an Unlisted Action, and (2) conducted an uncoordinated review and adopted a SEQRA negative declaration that this Developer's Agreement will not have a significant adverse environmental impact on the environment.

TERMS

NOW, THEREFORE, in consideration of the foregoing, the parties hereto agree as follows:

1. In the event that the Town grants the Developer's petition and amends the zoning districts for Lots 5 and 6 from the Interchange Business (IB) to Residential-3 (R3), then the Owner and Developer agree that: (a) the developed density of the site, should the Project be built, shall be no more than 160 residential units, and (b) apart from any utility connections, there shall be no permanent roadway connection from the Project to either Benson Avenue nor Wood Street.
2. The Developer and Owner agree and understand that in the event that this Developer's Agreement is the subject of a legal challenge by a third party, the Developer and Owner shall indemnify and hold harmless the Town for all expenses and legal fees resulting from or arising out of such claim or legal proceeding by a third party.
3. This Developer's Agreement shall be binding upon and inure to benefit of, the parties' successors and assigns.
4. This Developer's Agreement constitutes the entire agreement between the parties and supersedes any prior understandings, agreements, or representations by or between the parties, written or oral, that may have related in any way to the subject matter hereof. Any modification or change to this Developer's Agreement or any waiver of the terms hereof must be made in writing signed by all parties.
5. The language used in this Developer's Agreement shall be deemed to be the language chosen by the parties hereto to express their mutual intent, and no rule of strict construction shall be applied against any party. This Developer's Agreement shall be governed by and construed in accordance with the laws of the State of New York.

6. Within sixty-two (62) days following execution by all parties, the Developer shall record this Developer's Agreement in the Orange County Clerk's Office at the Developer's expense. The Developer shall provide proof of such recording to the Town Attorney.

7. The Owner consents to the recordation of this Agreement in the Orange County Clerk's Office. Further, the Owner acknowledges that the terms and conditions of this Agreement shall run with the land and shall be binding on any other individual or entity proposing to develop the Project should the Developer fail to do so or otherwise withdraw from the Project.

8. The Town has authorized the Supervisor's execution of this Developer's Agreement by resolution at a regular meeting held on _____, 2012.

9. The parties hereto shall be deemed to have executed this Developer's Agreement upon the date and year set forth above.

Autumn Sky Development Co., Inc.

Town of Newburgh

By:

Steven Michalski, President

By:

Wayne Booth, Supervisor

Parke Lane at Newburgh, LLC

By:

Joseph Forgione, Managing Member

ACKNOWLEDGEMENTS

STATE OF NEW YORK)

ss.:

COUNTY OF _____)

On the ___ day of _____, 2012, before me personally came Steven Michalski, President of Autumn Sky Development Co., Inc., to me known to be the individual described in and who executed the forgoing instrument and acknowledged to me that he executed the same.

Notary Public

STATE OF NEW JERSEY)

ss.:

COUNTY OF _____)

On the ___ day of _____, 2012, before me personally came Joseph Forgione, Managing Member of Parke Lane at Newburgh, LLC, to me known to be the individual described in and who executed the forgoing instrument and acknowledged to me that he executed the same.

Notary Public

STATE OF NEW YORK)

ss.:

COUNTY OF ORANGE)

On the ___ day of _____, 2012, before me personally came Wayne Booth, Supervisor of the Town of Newburgh, to me known to be the individual described in and who executed the forgoing instrument and acknowledged to me that he executed the same.

Notary Public

DRAFT

At a meeting of the Town Board of the Town of Newburgh, held at the Town Hall, 1496 Route 300, in the Town of Newburgh, Orange County, New York on the 19th day of March, 2012 at 7:00 P.M., Prevailing Time.

PRESENT:

Gilbert J. Piaquadio, Councilman

Elizabeth J. Greene, Councilwoman

Ernest C. Bello, Jr., Councilman

RESOLUTION OF ADOPTION
OF LOCAL LAW NO. 1 OF
2012 - AMENDING CHAPTER
185 ENTITLED "ZONING" OF
THE CODE OF THE TOWN OF
TOWN OF NEWBURGH AND
THE ZONING MAP OF THE
TOWN OF NEWBURGH TO
REZONE TWO LOTS NEAR STEWART
AVENUE AND INTERSTATE 84 FROM
IB TO THE ADJACENT R-3 ZONING DISTRICT

Councilman/woman _____ presented the following resolution which was seconded by Councilman/woman _____.

WHEREAS, a Local Law Amending Chapter 185 entitled "Zoning" of the Code of the Town of Newburgh and the Zoning Map of the Town of Newburgh to Rezone Two Lots Near Stewart Avenue and Interstate 84 from IB to the Adjacent R-3 Zoning District was introduced before the Town Board of the Town of Newburgh in the County of Orange and State of New York on the 22nd day of August, 2011; and

WHEREAS, pursuant to resolution of the Town Board, copies of the aforesaid local law were forwarded to the Orange County Department of Planning and the Town of Newburgh Planning Board for their reports in accordance with the provisions of the New York State General Municipal Law and the Town of Newburgh Zoning Code respectively, and to the Town of Newburgh Zoning Board of Appeals; and

WHEREAS, the Town Board of the Town of Newburgh adopted a resolution on the 22nd day of August, 2011 ordering a public hearing to be held on the 19th day of September, 2011 at 7:15 o'clock p.m., prevailing time, to hear all interested parties on said proposed local law entitled "A Local Law Amending Chapter 185 Entitled "Zoning" of the Code of the Town of Newburgh and the Zoning Map of the Town of Newburgh to Rezone Two Lots Near Stewart Avenue and Interstate 84 from IB to the Adjacent R-3 Zoning District"; and

WHEREAS, a notice of public hearing was mailed to the clerks of the municipalities and counties with boundaries within 500 feet of the properties affected by the zoning amendment at least ten days prior to the date of the public hearing; and

WHEREAS, a notice of said Public Hearing was duly advertised on the ___th day of ____, 2011 in The Mid-Hudson Times and on the ___th day of ____, 2011 in The Sentinel and posted on the Town Clerk's sign board on the ___th day of ____, 2011; and

were permitted to speak on behalf or in opposition of the proposed Local Law or any part thereof;
and

WHEREAS, the Public Hearing was held open and reconvened on the 5th day of March, 2012, when all parties in attendance were afforded the opportunity to speak on behalf or in opposition of the proposed Local Law or any part thereof prior to the close of the Public Hearing;
and

WHEREAS, the Town Board of the Town of Newburgh, acting as lead agency, has duly considered the adoption of said Local Law amending the Town of Newburgh Zoning Code and Zoning Map to Rezone Two Lots Near Stewart Avenue and Interstate 84 from IB to the Adjacent R-3 Zoning District as part of an Unlisted Action under the State Environmental Quality Review Act which also included an Amendment to the Comprehensive Plan Update of the Town of Newburgh and has duly issued a negative declaration; and

WHEREAS, the Town Board of the Town of Newburgh has duly considered the reports and responses it has received from the Orange County Planning Department and the Town of Newburgh Planning Board; and

WHEREAS, the Town Board of the Town of Newburgh has additionally considered the future housing needs of the region and the consistency of the Amendment with the needs and goals identified by the April, 2009 *Tri-County Affordable Housing Study*, conducted jointly by Orange, Dutchess, and Ulster Counties, and the potential affects of the Action on the Town's ability to meet goals for providing rental and owner occupied affordable housing; and

WHEREAS, pursuant to a certain Developer's Agreement (the "Developer's Agreement"), the owner of the subject properties near Stewart Avenue, NYS Route 300 and Interstate 84 and the developer/petitioner for the rezoning of those properties have agreed with the Town that the developed density of the site which includes the rezoned properties shall be no more than 160 residential units and apart from any utility connections, there shall be no permanent roadway connection from the project to either Benson Avenue nor Wood Street; and

WHEREAS, the Town Board of the Town of Newburgh, after due deliberation finds it in the best interest of the Town to adopt said Local Law.

NOW, THEREFORE, BE IT RESOLVED as follows that, upon condition of the execution, acknowledgment and delivery of the Developer's Agreement to the Town by the other parties thereto:

1. The Town Board of the Town of Newburgh hereby adopts said Local Law No. 1 of Year 2012 entitled "A Local Law Amending Chapter 185 entitled 'Zoning' of the Code of the Town of Newburgh and the Zoning Map of the Town of Newburgh to Rezone Two Lots Near Stewart Avenue and Interstate 84 from IB to the Adjacent R-3 Zoning District"

to give due notice of the adoption of said Local Law to the Secretary of State and to the public.

3. A report of final action in the matter of the adoption of said Local Law amending the Zoning Code of the Town of Newburgh shall be delivered to the Orange County Planning Department in accordance with the requirements of the General Municipal Law.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call, which resulted as follows:

George Woolsey, Councilman voting _____

Gilbert J. Piaquadio, Councilman voting _____

Elizabeth J. Greene, Councilwoman voting _____

Ernest C. Bello, Jr., Councilman voting _____

Wayne C. Booth, Supervisor voting _____

The resolution was thereupon declared duly adopted.

**LOCAL LAW #1 OF 2012
A LOCAL LAW AMENDING
CHAPTER 185 ENTITLED "ZONING"
OF THE CODE OF THE TOWN OF NEWBURGH
AND
THE ZONING MAP
OF THE TOWN OF NEWBURGH
TO REZONE
TWO LOTS
NEAR STEWART AVENUE AND INTERSTATE 84
FROM IB TO THE ADJACENT R-3 ZONING DISTRICT**

SECTION 1 - TITLE

This Local Law shall be referred to as "A Local Law Amending Chapter 185 Entitled 'Zoning' of the Code of the Town of Newburgh and the Zoning Map of the Town of Newburgh to Rezone Two Lots Near Stewart Avenue and Interstate 84 from IB to the Adjacent R-3 Zoning District."

SECTION 2 - PURPOSE

The purpose of this local law is to rezone two certain parcels of land located near Stewart Avenue from the IB (Interchange Business) Zoning District to the adjacent R-3 (Residential) Zoning District.

The rezoning will encompass approximately 18 acres of land in the aggregate. The area is comprised of two adjoining lots, one of which is bounded to the north by the right of way for Interstate 84 and the entry ramp from Route 300/Union Avenue to that highway. The nearest street affording access to the parcels is Stewart Avenue. Although the parcels do not have frontage on this street, the owner owns an adjoining parcel with frontage on Stewart Avenue which will provide access. The R-3 zoning will be consistent with the Town of Newburgh's adopted Comprehensive Plan, as amended. Parke Lane at Newburgh, LLC, pursuant to a proxy from the owner of the two lots, has petitioned for the change in zoning.

SECTION 3 - AMENDMENT TO CHAPTER 185 AND ZONING MAP

1. The Zoning Map of the Town of Newburgh, adopted and made a part of Chapter 185 of the Code of the Town of Newburgh pursuant to Section 185-5, as last amended by Local Law No. 4 of 2010, is hereby amended to change the Zoning District from IB to R-3 for the following properties:

Tax Map Section 97 Block 1 Lot 5
Tax Map Section 97 Block 1 Lot 6

2. The Zoning Map of the Town of Newburgh, as amended by this local law, shall be maintained on file in the office of the Town Clerk

SECTION 4 – REPEAL All ordinances and local laws and any parts thereof inconsistent with this Local Law are hereby repealed.

SECTION 5 - VALIDITY

If any clause, sentence, paragraph, word, section or part of this local law shall be adjudged by any court of competent jurisdiction to be unconstitutional, illegal or invalid, such judgment shall not affect, impair or invalidate the remainder of this local law or the application thereof, but shall be confined in its operation to the clause, sentence, paragraph, word, section or part thereof directly involved in the controversy in which such judgment shall have been rendered. The Town Board of the Town of Newburgh hereby declares that it would have passed this Local Law or the remainder thereof had such invalid application or invalid provision been apparent.

SECTION 6 - EFFECTIVE DATE

This Local Law shall take effect immediately when it is filed in the Office of the New York State Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.

7. ENGINEERING:

a. Lakeside Road Culvert:-Approval for purchase

**b. Waring Road Culvert:- Recommendation for
Award of Contract**

MAR 19 2012

7a

TOWN OF NEWBURGH
TOWN ENGINEER
1496 Rte. 300
Newburgh, NY 12550
(845) 564-7814

MEMORANDUM

TO: Wayne Booth, Town Supervisor & Town Board
FROM: James W. Osborne, Town Engineer *JWO*
DATE: March 15, 2012
RE: H \ LAKESIDE ROAD - CULVERT REPLACEMENT

Attached for the Town Board's review is Maser Consulting Engineer's report and recommendation for the replacement of the existing concrete culvert on Lakeside Road. The report recommends the installation of a Contech Aluminum Box Culvert (ALBC) #10, F6 with an opening of 10'-11" by 4'-3". Purchase of this ALBC from the Town of Newburgh Highway Annual Bid at an estimated cost of \$32,000 is recommended. Final price will be obtained from the supplier based on the final length supplied.

As the above requires Town Board action, I am requesting that this item be placed on the next available agenda for approval. Installation by the Town of Newburgh Highway Dept. can be scheduled upon receipt of the new culvert. If you have any questions or comments, I am available to discuss them with you.

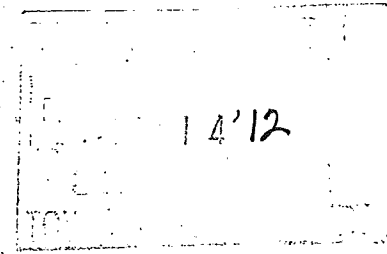
JWO/id

Attachment

cc: D. Benedict, Hwy. Supt.
J. Calarco, Accountant



Engineers
Planners
Surveyors
Landscape Architects
Environmental Scientists



1607 Route 300, Suite 101
Newburgh, NY 12550
T: 845.564.4495
F: 845.564.0278
www.maserconsulting.com

March 13, 2012

VIA HAND DELIVERY

Mr. James Osborne, P.E.
Town of Newburgh
1496 Route 300
Newburgh, New York 12550

Re: Lakeside Road
Culvert Replacement
MC Project No. 11000843A

Dear Mr. Osborne:

We have completed our review and analysis of the existing drainage requirements for the proposed culvert replacement on Lakeside Road. The damaged culvert shall be replaced as follows:

- We recommend replacement with a Contech Aluminum Box Culvert (ALBC) - #10, F6 (10'-11" (span) x 4'-3" (rise)) with headwalls. This culvert is on your current bid list from Chemung Supply dated April 25, 2011 (copy attached) but called out as model #10I. This is an old nomenclature so please confirm with manufacturer that this model designation is equivalent to the F6.
- The total length of the ALBC should be 40.5' (9 plates @ 4.5' each).
- The proposed box culvert alignment should match the existing box culvert.
- Based upon the existing conditions survey performed at the site, the upstream invert elevation is 93.54, while the downstream invert elevation is 91.58. The proposed upstream invert elevation should be set at 92.90, while the proposed downstream invert elevation should be 91.50. The upstream invert elevation needs to be lower in order to provide the required cover. The stream in this area should be regraded to accommodate the lowered invert.
- Per the manufacturer's specifications for the F6 model, the minimum cover from the top of box culvert to the bottom of flexible pavement must be 1.4 feet (1.9 feet to the top of pavement, assuming 6" of flexible asphalt pavement). Based upon the existing conditions survey performed at the site, this minimum cover is achievable. Setting the culvert per the proposed inverts mentioned above will achieve this cover requirement.
- Wingwalls on the inlet and outlet are not anticipated for this application. Placement of large stones can be used. Placement and extent shall be determined in the field per the




Mr. James Osborne, P.E.
11000843A
March 13, 2012
Page 2 of 2

The proposed Contech Aluminum Box Culvert must be installed per the manufacturer's recommendations and specifications. If you would like us to provide a detailed sketch of the proposed box culvert installation, please let me know and we can prepare this plan for your use.

If you have any questions regarding this matter please do not hesitate to call our office.

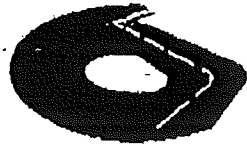
Very truly yours,

MASER CONSULTING P.A.


Joseph A. Doprco, P.E.
Senior Principal

JAD/dw
Enclosures

cc: Wayne Booth, Town Supervisor, w/o enclosures
Darrell Benedict, Highway Superintendent; w/enclosures
Patrick Keenan, Contech Representative; w/o enclosures



SERVING MUNICIPALITIES FOR OVER 75 YEARS

Chemung Supply

corporation

ROUTE 14 • POST OFFICE BOX 527 • ELMIRA, NEW YORK 14902 • (607) 733-5506 • FAX (607) 732-5979

April 25, 2011

Town of Newburgh

We are pleased to quote you on the following aluminum structural plate box culverts:

Aluminum Box Culvert #1G

8'9" x 2'6" \$479.06/'

Basewall \$1968.00ea

Corner panel \$1105.00ea

Aluminum Box Culvert #4G

10'0" x 4'10" \$616.87/'

Basewall \$2460.00ea

Corner panel \$1365.00ea

Aluminum Box Culvert #8H

10'2" x 2'8" \$610.00/'

Basewall \$2257.00ea

Corner panel \$1207.00ea

Aluminum Box Culvert #10I

10'11" x 4'3" \$754.68/'

Basewall \$2578.00ea

Corner panel \$1365.00ea



Aluminum Box Culvert #17I

12'3" x 4'5" \$885.00/'

Basewall \$2643.90ea

Corner panel \$1365.00ea

Aluminum Box Culvert #19I

12'11" x 6'10" \$1023.75/'

Basewall \$2966.08/ea

Corner panel \$1535.10ea

Aluminum Box Culvert #27I

14'8" x 4'1" \$1273.12/'

Basewall \$2730.00ea

Corner panel \$1365.00ea

CONTINUED

Town Of Newburgh
Page Two

Aluminum Box Culvert #37J
16'6" x 6'8" \$1627.50/
Basewall \$3412.50/ea
Corner panel \$1620.93/ea

Aluminum Box Culvert #52I
20'10" x 8'1" \$2115.75/
Basewall \$4200.40/ea
Corner panel \$2132.40/ea

Aluminum Box Culvert #78G
24'4" x 8'2" \$2079.00/
Basewall \$4158.00ea
Corner panel \$1512.00ea

All prices are delivered.

Thank you for the opportunity of quoting.
Very truly yours,
Chemung Supply Corp.

Carl H. Perine

MAR 19 2012

73

TOWN OF NEWBURGH
TOWN ENGINEER
1496 Rte. 300
Newburgh, NY 12550
(845) 564-7814

MEMORANDUM

TO: Wayne Booth, Town Supervisor & Town Board
FROM: James W. Osborne, Town Engineer *JWO*
DATE: March 13, 2012
RE: H \ **WARING ROAD CULVERT**

Attached for your review and approval is a *Recommendation for Award* from Maser Consulting Engineers for the above referenced project. Maser recommends award of the contract to Jorrey Excavating as the lowest responsible bidder with a bid of \$142,305.

As the above requires Town Board action, I am requesting that this item be placed on the next available agenda for approval. If you have any questions or comments, I am available to discuss them with you.

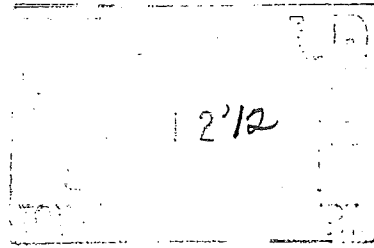
JWO/id

Attachment

cc: M. Taylor, Attorney
D. Benedict, Hwy. Supt.
J. Calarco, Accountant
J. Dopico, Maser



Engineers
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www.maserconsulting.com

March 12, 2012

VIA HAND DELIVERY

James Osborne, P.E.
Town Engineer
Town of Newburgh
1469 Route 300
Newburgh, NY 12550

Re: Waring Road Bridge
Town of Newburgh, Orange County, New York
MC Project No. 11000925G

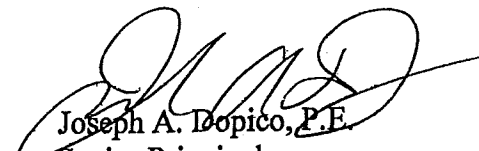
Dear Mr. Osborne:

We have completed our review of the bids received (Summary Attached) in connection with the above referenced project. We have also been in contact with three references from the apparent low bidder, Jorrey Excavating, Inc., and based upon the feedback from those references, we recommend awarding the project to Jorrey Excavating, Inc. of Middletown, NY.

If you should have any questions or require additional information, please do not hesitate to contact me at 845-564-4495.

Very truly yours,

MASER CONSULTING P.A.


Joseph A. Dopico, P.E.
Senior Principal

JAD/dw
Enclosures

cc: Wayne Booth, Supervisor w/ Encl.
Alex Itken, Maser Consulting w/ Encl.

Town of Newburgh
1496 Route 300
Newburgh, NY 12550

2012 Waring Road Replacement Bid
Bid Opening February 29, 2012
At 2:00 p.m.

PRESENT AT Opening
Andrew Zarutskie, Town Clerk
Deborah A. Smith, Deputy Town Clerk
James Osborne, Town Engineer

<i>BIDDER</i>	<i>GRAND TOTAL</i>
Argenio Brothers, Inc. PO Box 2068 Newburgh, NY 12550	\$145,145.00
Arold Construction Co. 51 Powder Mill Bridge Road Kingston, NY 12401	281,746.00
B&K Excavation 4 Talbot Drive Pleasant Valley, NY	164,280.00
HVB Construction PO Box 662 144 Rte. 17M Office B Harriman, NY 10926	196,000.00
Ing Civil 11 Arch Street Watervliet, NY	174,400.00
Jorrey Excavating 160 Bart Bull Road Middletown, NY	142,305.00
McNamee Construction 154 Lovel St. Rte 202 Lincolndale, NY	192,875.00
Parrott Enterprise 319 North Plank Road Newburgh, NY 12550	185,562.00
Sullivan Company Paving 420 Bernas Road Cochecton, NY	199,951.00
Sun Up 1903 Route 376 Wappingers Falls, NY	152,060.00

8. TOWN CLERK: Carnival Application at Newburgh Mall

MAR 14 2012

MAR 19 2012

TOWN OF NEWBURGH

Crossroads of the Northeast

OLD TOWN HALL
308 GARDNERTOWN ROAD
NEWBURGH, NEW YORK 12550

(Handwritten initials)

8

CODE COMPLIANCE DEPT.
TELEPHONE 845-564-7801
FAX LINE 845-564-7802

March 12, 2012

To: Wayne Booth, Supervisor
Town Board Members.

From: Thomas Dubetsky *TJD*
Public Safety Officer

This note is to serve as notification that following a review by the Code Compliance Department and the Town Police Department the application for a carnival to be held on the Newburgh Mall parking lot site from April 5th - 15th 2012 and has been found to be compliant for Town Board approval. The event is being conducted by Dreamland Amusements Inc. and will be a benefit for the East Coldenham Elementary School and PTA.

Security will be provided by Dreamland Amusements and the Town of Newburgh Police through off duty arrangements. A letter has been sent to the Winona Lake Fire Department advising them of the event. The mall has been advised that water for the carnival will be provided from their building spickets and no fire hydrants are to be utilized.

If you have any questions please notify this office.

CC: James Osborne, Town Engineer
Gerald Canfield, Code Compliance Supervisor
Michael Clancy, Chief of Police



Newburgh
MALL

(8)

February 2, 2012

Mr. Andrew J. Zarutskie, Town Clerk
Town of Newburgh
1496 Route 300
Newburgh, NY 12550

Re: **Dreamland Amusements**
2012 Spring Carnival Event at Newburgh Mall

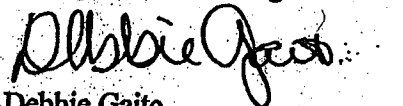
Bob DeStefano
516-901-2988
Re: Carnival
at Nby Mall
April 5 to 15th
Permits need to be 30 day

Dear Mr. Zarutskie:

Dreamland Amusements has permission to apply for the necessary permits to host a carnival at Newburgh Mall. The dates for the event are April 5-15, 2012.

Please contact me with any questions as we look forward to having this wonderful event at Newburgh Mall.

Regards,
URBAN RETAIL PROPERTIES, LLC
As Agent for Newburgh Mall


Debbie Gaito
Specialty Leasing Representative

Cc. Craig Herkimer, Kevaworks, Inc.