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Hand Delivered

February 5, 2024

Chairman Darrin J. Scalzo and Members of the Zoning Board of Appeals
Zoning Board of Appeals
21 Hudson Valley Professional Building
Newburgh, N.Y. 12550

RE: Application for Interpretation and/or Variances -
Town of Newburgh Planning Board Project No. 2023-24
Premises: 5430 and 5450 Route 9W, Newburgh, New York / SBLs 9-1- 13 and 53.1
JMC Project no. 17160

Dear Chairman Scalzo and Members of the Zoning Board of Appeals:

I along with JMC Planning Engineering Landscape Architecture & Land Surveying, PLLC and Anthony Guccione, Jr. RLA represent the Applicant 5450 RTE 9W LLC, the owner of the above referenced real property and project.

Please accept this letter and the attachments as Applicant's application to the Town of Newburgh Zoning Board of Appeals for the herein described interpretations and/or variances in respect of Section 185 of the Town of Newburgh Code. Further in that connection at the outset we refer to the December 14, 2023 letter of referral from Dominic Cordisco, Esq. on behalf of the Town of Newburgh Planning Board, copy of which is attached for ease of reference.

At this time, the Applicant is pleased to submit this letter along with the following attachments in support of Applicant's request for an interpretation of the applicable ordinance or, alternatively, for approval of the variances sought as described herein:

1. Town of Newburgh Planning Board Referral letter dated 12/14/2023 ("Referral Letter").

2. JMC Drawing C-100 "Layout Plan" dated 02/05/2024 (11 copies).
3. Town of Newburgh ZBA application dated 02/05/2024.
4. Town of Newburgh ZBA Proxy dated 02/01/2024.
5. Certified Property Deed dated 01/31/2024.
6. 500' Property Owner List dated 01/31/2024.
7. Farrell Building Company, Inc. check #3921 for \$550.00 (Application and Hearing Fee).
8. Site pictures Figure #1 dated 02/05/2024.
9. Site Pictures Figure #2 dated 02/05/2024.
10. Long Form EAF.

The applicable building project comprises the merger of the two above referenced existing lots. The proposed construction includes an 11,550 square foot retail building , 1,500 sf restaurant and a 3,100 square foot convenience store/gas station with 6 gasoline pumps, parking, and associated site improvements. In furtherance of these matters, I note the following:

#1. The Referral Letter (#1) states that "a rear yard setback variance is required for the buildings where 30 feet is required and 18 feet is provided for one building and 19.5 feet is provided for the other." The Applicant is in agreement with this interpretation as a result of which the Applicant hereby makes application for the aforesaid set back variances.

Also in that connection it is respectfully submitted that the proposed variances are not substantial, that there will not be an undesirable change in the character of the neighborhood, that in view of the property situs and its development difficulties the proposed set back variances cannot be obviated by other means, that any difficulty is not self created, and that the proposed variances sought result from numerous discussions with the Planning Board and its consultants to yield a better project.

2. The Referral letter states (#2) "The setback of the canopy from the state highway where 60 feet is required and 24 feet is provided. Similarly the canopy is located on a corner lot with two front yards, and 40 feet is required from the second lot".

The Applicant respectfully disagrees with the foregoing interpretation as set forth in the Referral letter. As a result the Applicant hereby makes a request for an interpretation that no such set back variances are required in respect thereof - i.e., this on the basis that the canopy in question does not meet the definition of a “structure” as it is not a building, etc. Alternatively, request is hereby made for approval of the requested setback variances so that the canopy can be deployed as part of the proposed development project.

Also in connection with the foregoing it is respectfully submitted that the proposed variances are not substantial, that there will not be an undesirable change in the character of the neighborhood, that in view of the property situs and its development difficulties the proposed set back variances cannot be obviated by other means, that any difficulty is not self created, and that the proposed variances sought result from numerous discussions with the Planning Board and its consultants to yield a better project.

3. The Referral Letter (#3) states that “The entrance to Oak Street does not appear to comply with Chapter 185-13B(6) requiring that there shall be no entrance or exit for an accessory off-street parking area with over 10 parking spaces or any loading berths shall be located within 150 feet of a street intersection”.

The Applicant is in agreement with this interpretation as a result of which the Applicant has redesigned the project, as submitted herewith, to comply as aforesaid; this with the result that the Applicant does not seek such an area variance as part of this Application.

4. The Referral Letter (#4) states that “The project abuts the R3 zoning district, which requires a 75 foot buffer area, where 18 feet is provided, together with a percentage of landscaped area.”

The Applicant respectfully disagrees with this interpretation as a result of which request is hereby made for an interpretation that no such set back variance is required - i.e., this on the basis that the “Minimum Buffer Strip Table” provides for a buffer depth equal to one-half of the rear yard setback. As such, since the particular site in question lies in a “B” district which has a 30’ rear yard setback, the proposed buffer should equate to 15’. Since the Applicant’s plans propose an 18’ set back in that connection it is respectfully submitted that the current development plan as submitted herewith is in compliance without the need for such a variance. If the Board determines otherwise then, alternatively, request is hereby made by Applicant for approval of the requested set back variance.

Also in connection with the foregoing it is respectfully submitted that the proposed variance is not substantial, that there will not be an undesirable change in the character of the neighborhood, that in view of the property situs and its development difficulties the proposed set back variance cannot be obviated by other means, that any difficulty is not self created, and that the proposed variances sought result from numerous discussions with the Planning Board and its consultants to yield a better project.

* * * *

Finally it is also to be noted that, in the overall, it is respectfully submitted that the use requested is permitted in the zone, that the requested variances would not potentially impact future residences or other property development opportunities, and that the variances sought are the minimum variances that will make possible the reasonable use of the land, building and structure based upon the development opportunities and difficulties including the current state of the industry and the ultimate user's business operations.

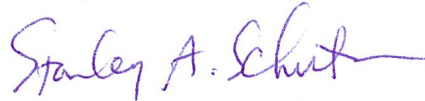
The Applicant also respectfully submits that, for the reasons above, the granting of the requested variances or proposed interpretations would not be detrimental to the public welfare or injurious to other property improvements in the neighborhood in which the particular property in question is located, that any such will not impair an adequate supply of light and air to any adjacent property, that they will not substantially increase any hazard from fire or other dangers to said property or to the adjacent property, that they will not otherwise impair public health, safety, comfort or general welfare of the inhabitants of the Town of Newburgh including that they should have no detriment to the health, safety and welfare of the surrounding community, that they will not unduly increase traffic congestion in the public streets and highways (in fact, as a condition of Planning Board approval the Applicant notes that the Town of Newburgh Planning Board proposed and the Applicant has already agreed to participate in the cost and expense in improvements being considered to be made by the Town and Orange County to improve traffic conditions alongside Route 9W in view of this and the other developments currently before or possibly planned for review by the Planning Board), and that in view of all factors and circumstances the requested relief will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood and will not create a nuisance or result in an increase in public expenditures.

We understand that your next meeting is scheduled for February 22, 2024. It would be the Applicant's intention to give a presentation of the project in discussion with your Board regarding the requested interpretations and the variances sought.

Town of Newburgh ZBA
5430 & 5450 Route 9W, Newburgh, NY
February 5, 2024 / page 5 of 5

We thank you and the Board members for your due consideration hereof and we look forward to meeting with you on this Application. In the interim, should you or the other Board members have any questions regarding this application or require additional information, please do not hesitate to contact my office.

Sincerely yours,
Stanley A. Schutzman, P.C.



Stanley A. Schutzman

attachments

cc: David A. Donovan, Esq. – cover letter only via email
Dominic Cordisco, Esq. - cover letter only via email
JMC Planning Engineering Landscape Architecture & Land Surveying, PLLC
Mr. Butch Payne, Applicant
Brian DeSesa, Esq., Applicant

3. IF VARIANCE TO THE ZONING LAW IS REQUESTED:

a) APPEAL IS MADE FROM DISAPPROVAL BY THE TOWN BUILDING INSPECTOR OR BUILDING PERMIT APPLICATION. SEE ACCOMPANYING NOTICE DATED:

b) OR DENIAL (REFERRAL) BY THE PLANNING BOARD OF THE TOWN OF NEWBURGH OF AN APPLICATION TO THE BOARD, SEE ACCOMPANYING NOTICE DATED:
12/14/2023

4. DESCRIPTION OF VARIANCE SOUGHT: _____

See attached

5. IF A USE VARIANCE IS REQUESTED: STRICT APPLICATION OF THE ZONING LAW WOULD PRODUCE UNNECESSARY HARDSHIP IN THAT:

a) UNDER APPLICABLE ZONING REGULATIONS THE APPLICANT IS DEPRIVED OF ALL ECONOMIC USE OR BENEFIT FROM THE PROPERTY IN QUESTION BECAUSE:
N/A

(ATTACH WITH THIS APPLICATION COMPETENT FINANCIAL EVIDENCE ESTABLISHING SUCH DEPRIVATION)

b) THE HARDSHIP IS UNIQUE AND DOES NOT APPLY TO A SUBSTANTIAL PORTION OF THE DISTRICT OR NEIGHBORHOOD BECAUSE:
N/A

c) THE VARIANCE WOULD NOT ALTER THE ESSENTIAL CHARACTER OF THE NEIGHBORHOOD BECAUSE:
N/A

d) THE HARDSHIP HAS NOT BEEN SELF-CREATED BECAUSE:
N/A

6. IF AN AREA VARIANCE IS REQUESTED:

- a) THE VARIANCE WILL NOT PRODUCE AN UNDESIRABLE CHANGE IN THE CHARACTER OF THE NEIGHBORHOOD OR A DETRIMENT TO NEARBY PROPERTIES BECAUSE:

See attached

- b) THE BENEFIT SOUGHT BY THE APPLICANT CAN NOT BE ACHIEVED BY SOME METHOD, FEASIBLE FOR THE APPLICANT TO PURSUE, OTHER THAN AN AREA VARIANCE, BECAUSE:

See attached

- c) THE REQUESTED AREA VARIANCE IS NOT SUBSTANTIAL BECAUSE:

See attached

- d) THE PROPOSED VARIANCE WILL NOT HAVE AN ADVERSE EFFECT OR IMPACT ON THE PHYSICAL OR ENVIRONMENTAL CONDITIONS IN THE NEIGHBORHOOD OR DISTRICT BECAUSE:

See attached

- e) THE HARDSHIP HAS NOT BEEN SELF-CREATED BECAUSE:

See attached

7. ADDITIONAL REASONS (IF PERTINENT):

See attached

5450 RTE 9W LLC

By: Stanley A. Schutz

PETITIONER (S) SIGNATURE

Stanley A. Schutzman, Attorney

STATE OF NEW YORK: COUNTY OF ORANGE:

SWORN TO THIS 5th DAY OF February 2024


NOTARY PUBLIC

DIANA E. FRAILEY
Notary Public - State of New York
No. 01FR4900387
Qualified in Dutchess County
My Commission Expires Sept. 28, 2025

NOTE: NYS GML Section 239-m (3) for proposed actions that are within 500 feet of the properties or thresholds listed in the statute the Zoning Board of Appeals is required to send a copy of the complete application to the Orange County Department of Planning to be reviewed prior to Zoning Board of Appeals decision. And also NYS GML Section 239-NN requires notification for any proposed actions, to the Municipal Clerk, within 500 feet of the Border of that adjoining County, Town or City.

(ALL MATERIALS REGARDING THE APPLICATION MUST BE SUBMITTED TO THE ZONING BOARD OFFICE FOR REVIEW NO LATER THAN 13 DAYS PRIOR TO THE HEARING DATE OR THEY MAY NOT BE CONSIDERED THE NIGHT OF THE MEETING).

(NOTE: BOARD MEMBERS MAKE SITE VISITS TO ALL THE PROPERTIES)


**TOWN OF NEWBURGH
ZONING BOARD OF APPEALS**


PROXY

Bryan J. Farrell, DEPOSES AND SAYS THAT
is Trust / Member of 5450 RTE 9W LLC. which has an office at
HE/~~SHE~~ RESIDES AT 2331 Montauk Highway, Bridgehampton
IN THE COUNTY OF Suffolk AND STATE OF New York
AND THAT HE/~~SHE~~ IS THE OWNER IN FEE OF _____
Newburgh Commons

WHICH IS THE PREMISES DESCRIBED IN THE FOREGOING APPLICA-
TION AND THAT HE/SHE HAS AUTHORIZED Hanig & Schutzman
TO MAKE THE FOREGOING APPLICATION AS DESCRIBED THEREIN.

DATED: 2/1/24



OWNER'S SIGNATURE



WITNESS' SIGNATURE

STATE OF NEW YORK: COUNTY OF ORANGE:

SWORN TO THIS 1st DAY OF February 2024


NOTARY PUBLIC

JILLIAN R DEGRENIER
NOTARY PUBLIC, STATE OF NEW YORK
Registration No. 01DE6409831
Qualified in Suffolk County
My Commission Expires: 10/5/2024

**Full Environmental Assessment Form
Part 1 - Project and Setting**

Instructions for Completing Part 1

Part 1 is to be completed by the applicant or project sponsor. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification.

Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information; indicate whether missing information does not exist, or is not reasonably available to the sponsor; and, when possible, generally describe work or studies which would be necessary to update or fully develop that information.

Applicants/sponsors must complete all items in Sections A & B. In Sections C, D & E, most items contain an initial question that must be answered either "Yes" or "No". If the answer to the initial question is "Yes", complete the sub-questions that follow. If the answer to the initial question is "No", proceed to the next question. Section F allows the project sponsor to identify and attach any additional information. Section G requires the name and signature of the applicant or project sponsor to verify that the information contained in Part 1 is accurate and complete.

A. Project and Applicant/Sponsor Information.

Name of Action or Project: Newburgh Commons		
Project Location (describe, and attach a general location map): 5430 & 5450 Route 9W, South side of Route 9W between Oak Street and Cortland Drive.		
Brief Description of Proposed Action (include purpose or need): The project proposes a 14,600 s.f. retail building on the western side of the property and a 4,600 s.f. convenience store/gas station with 6 gasoline pumps on the eastern portion of the site with parking and associated site improvements. Two driveways are proposed to connect to Route 9W to serve the property.		
Name of Applicant/Sponsor: 5450 RTE 9W LLC.		Telephone: (631) 537-1068
		E-Mail:
Address: P.O. Box 14, 2331 Montauk Highway		
City/PO: Bridgehampton	State: NY	Zip Code: 11932
Project Contact (if not same as sponsor; give name and title/role): Anthony Guccione, Jr., RLA (JMC)		Telephone: (914) 273-5225
		E-Mail: aguccione@jmcpllc.com
Address: 120 Bedford Road		
City/PO: Armonk	State: NY	Zip Code: 10504
Property Owner (if not same as sponsor):		Telephone:
		E-Mail:
Address:		
City/PO:	State:	Zip Code:

B. Government Approvals

B. Government Approvals, Funding, or Sponsorship. (“Funding” includes grants, loans, tax relief, and any other forms of financial assistance.)		
Government Entity	If Yes: Identify Agency and Approval(s) Required	Application Date (Actual or projected)
a. City Counsel, Town Board, <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No or Village Board of Trustees		
b. City, Town or Village Planning Board or Commission <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Town of Newburgh Planning Board: Site Plan Approval	
c. City, Town or Village Zoning Board of Appeals <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Town of Newburgh Zoning Board of Appeals: Rear Yard Setback Variance	
d. Other local agencies <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Building Department: Building Permit	
e. County agencies <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Health Department: Water Main Extension, Sanitary Septic System	
f. Regional agencies <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
g. State agencies <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	NYSDEC: SPDES General Permit NYSDOT: Highway Work Permit	
h. Federal agencies <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	USACE NWP 39	
i. Coastal Resources.		
i. Is the project site within a Coastal Area, or the waterfront area of a Designated Inland Waterway?		<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
ii. Is the project site located in a community with an approved Local Waterfront Revitalization Program?		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
iii. Is the project site within a Coastal Erosion Hazard Area?		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

C. Planning and Zoning

C.1. Planning and zoning actions.	
Will administrative or legislative adoption, or amendment of a plan, local law, ordinance, rule or regulation be the only approval(s) which must be granted to enable the proposed action to proceed?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<ul style="list-style-type: none"> • If Yes, complete sections C, F and G. • If No, proceed to question C.2 and complete all remaining sections and questions in Part 1 	
C.2. Adopted land use plans.	
a. Do any municipally- adopted (city, town, village or county) comprehensive land use plan(s) include the site where the proposed action would be located?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
If Yes, does the comprehensive plan include specific recommendations for the site where the proposed action would be located?	<input type="checkbox"/> Yes <input type="checkbox"/> No
b. Is the site of the proposed action within any local or regional special planning district (for example: Greenway; Brownfield Opportunity Area (BOA); designated State or Federal heritage area; watershed management plan; or other?)	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
If Yes, identify the plan(s):	

c. Is the proposed action located wholly or partially within an area listed in an adopted municipal open space plan, or an adopted municipal farmland protection plan?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
If Yes, identify the plan(s):	

C.3. Zoning

a. Is the site of the proposed action located in a municipality with an adopted zoning law or ordinance. Yes No
 If Yes, what is the zoning classification(s) including any applicable overlay district?
 B - Business District _____

b. Is the use permitted or allowed by a special or conditional use permit? Yes No

c. Is a zoning change requested as part of the proposed action? Yes No
 If Yes,
 i. What is the proposed new zoning for the site? _____

C.4. Existing community services.

a. In what school district is the project site located? Marlboro School District

b. What police or other public protection forces serve the project site?
Town of Newburgh Police Department

c. Which fire protection and emergency medical services serve the project site?
Middle Hope Fire Department

d. What parks serve the project site?
Cronomer Hill County Park

D. Project Details

D.1. Proposed and Potential Development

a. What is the general nature of the proposed action (e.g., residential, industrial, commercial, recreational; if mixed, include all components)? commercial (retail)

b. a. Total acreage of the site of the proposed action? _____ 3.67 acres
 b. Total acreage to be physically disturbed? _____ 3.24 acres
 c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor? _____ 3.67 acres

c. Is the proposed action an expansion of an existing project or use? Yes No
 i. If Yes, what is the approximate percentage of the proposed expansion and identify the units (e.g., acres, miles, housing units, square feet)? % _____ Units: _____

d. Is the proposed action a subdivision, or does it include a subdivision? Yes No
 If Yes,
 i. Purpose or type of subdivision? (e.g., residential, industrial, commercial; if mixed, specify types)
Commercial - consolidation of 2 lots
 ii. Is a cluster/conservation layout proposed? Yes No
 iii. Number of lots proposed? 1
 iv. Minimum and maximum proposed lot sizes? Minimum 3.67 Maximum 3.67

e. Will the proposed action be constructed in multiple phases? Yes No
 i. If No, anticipated period of construction: _____ 18 months
 ii. If Yes:
 • Total number of phases anticipated _____ 1
 • Anticipated commencement date of phase 1 (including demolition) _____ Jan month 2025 year
 • Anticipated completion date of final phase _____ July month 2026 year
 • Generally describe connections or relationships among phases, including any contingencies where progress of one phase may determine timing or duration of future phases: _____

f. Does the project include new residential uses? Yes No
 If Yes, show numbers of units proposed.

	<u>One Family</u>	<u>Two Family</u>	<u>Three Family</u>	<u>Multiple Family (four or more)</u>
Initial Phase	_____	_____	_____	_____
At completion of all phases	_____	_____	_____	_____

g. Does the proposed action include new non-residential construction (including expansions)? Yes No
 If Yes,

i. Total number of structures 2

ii. Dimensions (in feet) of largest proposed structure: 35 height; 70 width; and 215 length

iii. Approximate extent of building space to be heated or cooled: 19,200 square feet

h. Does the proposed action include construction or other activities that will result in the impoundment of any liquids, such as creation of a water supply, reservoir, pond, lake, waste lagoon or other storage? Yes No
 If Yes,

i. Purpose of the impoundment: Subsurface stormwater management practices

ii. If a water impoundment, the principal source of the water: Ground water Surface water streams Other specify: Stormwater

iii. If other than water, identify the type of impounded/contained liquids and their source. _____

iv. Approximate size of the proposed impoundment. Volume: TBD million gallons; surface area: TBD acres

v. Dimensions of the proposed dam or impounding structure: _____ height; _____ length

vi. Construction method/materials for the proposed dam or impounding structure (e.g., earth fill, rock, wood, concrete): _____

D.2. Project Operations

a. Does the proposed action include any excavation, mining, or dredging, during construction, operations, or both? Yes No
 (Not including general site preparation, grading or installation of utilities or foundations where all excavated materials will remain onsite)
 If Yes:

i. What is the purpose of the excavation or dredging? Site Grading

ii. How much material (including rock, earth, sediments, etc.) is proposed to be removed from the site?

- Volume (specify tons or cubic yards): TBD
- Over what duration of time? 6 months

iii. Describe nature and characteristics of materials to be excavated or dredged, and plans to use, manage or dispose of them.
On-Site soils including mostly sand, some silt, gravel and boulders will be excavated.

iv. Will there be onsite dewatering or processing of excavated materials? Yes No
 If yes, describe. _____

v. What is the total area to be dredged or excavated? _____ acres

vi. What is the maximum area to be worked at any one time? _____ acres

vii. What would be the maximum depth of excavation or dredging? _____ feet

viii. Will the excavation require blasting? Yes No

ix. Summarize site reclamation goals and plan: _____

b. Would the proposed action cause or result in alteration of, increase or decrease in size of, or encroachment into any existing wetland, waterbody, shoreline, beach or adjacent area? Yes No
 If Yes:

i. Identify the wetland or waterbody which would be affected (by name, water index number, wetland map number or geographic description): Watercourse relocation

ii. Describe how the proposed action would affect that waterbody or wetland, e.g. excavation, fill, placement of structures, or alteration of channels, banks and shorelines. Indicate extent of activities, alterations and additions in square feet or acres:
Watercourse relocation

iii. Will the proposed action cause or result in disturbance to bottom sediments? Yes No
If Yes, describe: _____

iv. Will the proposed action cause or result in the destruction or removal of aquatic vegetation? Yes No
If Yes:

- acres of aquatic vegetation proposed to be removed: _____
- expected acreage of aquatic vegetation remaining after project completion: _____
- purpose of proposed removal (e.g. beach clearing, invasive species control, boat access): _____
- proposed method of plant removal: _____
- if chemical/herbicide treatment will be used, specify product(s): _____

v. Describe any proposed reclamation/mitigation following disturbance: _____
Recreation of stream bed in some areas. Disturbed areas will be vegetated with erosion control vegetation and/or rip-rap.

c. Will the proposed action use, or create a new demand for water? Yes No
If Yes:

i. Total anticipated water usage/demand per day: _____ 2,296 gallons/day

ii. Will the proposed action obtain water from an existing public water supply? Yes No
If Yes:

- Name of district or service area: Chadwick Lake
- Does the existing public water supply have capacity to serve the proposal? Yes No
- Is the project site in the existing district? Yes No
- Is expansion of the district needed? Yes No
- Do existing lines serve the project site? Yes No

iii. Will line extension within an existing district be necessary to supply the project? Yes No
If Yes:

- Describe extensions or capacity expansions proposed to serve this project: _____
- Source(s) of supply for the district: _____

iv. Is a new water supply district or service area proposed to be formed to serve the project site? Yes No
If Yes:

- Applicant/sponsor for new district: _____
- Date application submitted or anticipated: _____
- Proposed source(s) of supply for new district: _____

v. If a public water supply will not be used, describe plans to provide water supply for the project: _____

vi. If water supply will be from wells (public or private), what is the maximum pumping capacity: _____ gallons/minute.

d. Will the proposed action generate liquid wastes? Yes No
If Yes:

i. Total anticipated liquid waste generation per day: _____ 2,296 gallons/day

ii. Nature of liquid wastes to be generated (e.g., sanitary wastewater, industrial; if combination, describe all components and approximate volumes or proportions of each): _____
Sanitary wastewater

iii. Will the proposed action use any existing public wastewater treatment facilities? Yes No
If Yes:

- Name of wastewater treatment plant to be used: _____
- Name of district: _____
- Does the existing wastewater treatment plant have capacity to serve the project? Yes No
- Is the project site in the existing district? Yes No
- Is expansion of the district needed? Yes No

• Do existing sewer lines serve the project site? Yes No
 • Will a line extension within an existing district be necessary to serve the project? Yes No
 If Yes:
 • Describe extensions or capacity expansions proposed to serve this project: _____

iv. Will a new wastewater (sewage) treatment district be formed to serve the project site? Yes No
 If Yes:
 • Applicant/sponsor for new district: _____
 • Date application submitted or anticipated: _____
 • What is the receiving water for the wastewater discharge? _____
 v. If public facilities will not be used, describe plans to provide wastewater treatment for the project, including specifying proposed receiving water (name and classification if surface discharge or describe subsurface disposal plans):
 New on-site subsurface septic system

vi. Describe any plans or designs to capture, recycle or reuse liquid waste: _____
 No

e. Will the proposed action disturb more than one acre and create stormwater runoff, either from new point sources (i.e. ditches, pipes, swales, curbs, gutters or other concentrated flows of stormwater) or non-point source (i.e. sheet flow) during construction or post construction? Yes No
 If Yes:
 i. How much impervious surface will the project create in relation to total size of project parcel?
 _____ Square feet or 2.4 acres (impervious surface)
 _____ Square feet or 3.6 acres (parcel size)
 ii. Describe types of new point sources. pipes and curbs

 iii. Where will the stormwater runoff be directed (i.e. on-site stormwater management facility/structures, adjacent properties, groundwater, on-site surface water or off-site surface waters)?
 On-site subsurface stormwater management system

 • If to surface waters, identify receiving water bodies or wetlands: _____

 • Will stormwater runoff flow to adjacent properties? Yes No

iv. Does the proposed plan minimize impervious surfaces, use pervious materials or collect and re-use stormwater? Yes No

f. Does the proposed action include, or will it use on-site, one or more sources of air emissions, including fuel combustion, waste incineration, or other processes or operations? Yes No
 If Yes, identify:
 i. Mobile sources during project operations (e.g., heavy equipment, fleet or delivery vehicles)

 ii. Stationary sources during construction (e.g., power generation, structural heating, batch plant, crushers)

 iii. Stationary sources during operations (e.g., process emissions, large boilers, electric generation)

g. Will any air emission sources named in D.2.f (above), require a NY State Air Registration, Air Facility Permit, or Federal Clean Air Act Title IV or Title V Permit? Yes No
 If Yes:
 i. Is the project site located in an Air quality non-attainment area? (Area routinely or periodically fails to meet ambient air quality standards for all or some parts of the year) Yes No
 ii. In addition to emissions as calculated in the application, the project will generate:
 • _____ Tons/year (short tons) of Carbon Dioxide (CO₂)
 • _____ Tons/year (short tons) of Nitrous Oxide (N₂O)
 • _____ Tons/year (short tons) of Perfluorocarbons (PFCs)
 • _____ Tons/year (short tons) of Sulfur Hexafluoride (SF₆)
 • _____ Tons/year (short tons) of Carbon Dioxide equivalent of Hydrofluorocarbons (HFCs)
 • _____ Tons/year (short tons) of Hazardous Air Pollutants (HAPs)

h. Will the proposed action generate or emit methane (including, but not limited to, sewage treatment plants, landfills, composting facilities)? Yes No

If Yes:

i. Estimate methane generation in tons/year (metric): _____

ii. Describe any methane capture, control or elimination measures included in project design (e.g., combustion to generate heat or electricity, flaring): _____

i. Will the proposed action result in the release of air pollutants from open-air operations or processes, such as quarry or landfill operations? Yes No

If Yes: Describe operations and nature of emissions (e.g., diesel exhaust, rock particulates/dust): _____

j. Will the proposed action result in a substantial increase in traffic above present levels or generate substantial new demand for transportation facilities or services? Yes No

If Yes:

i. When is the peak traffic expected (Check all that apply): Morning Evening Weekend
 Randomly between hours of _____ to _____.

ii. For commercial activities only, projected number of truck trips/day and type (e.g., semi trailers and dump trucks): _____

iii. Parking spaces: Existing _____ Proposed _____ Net increase/decrease _____

iv. Does the proposed action include any shared use parking? Yes No

v. If the proposed action includes any modification of existing roads, creation of new roads or change in existing access, describe: _____

vi. Are public/private transportation service(s) or facilities available within ½ mile of the proposed site? Yes No

vii. Will the proposed action include access to public transportation or accommodations for use of hybrid, electric or other alternative fueled vehicles? Yes No

viii. Will the proposed action include plans for pedestrian or bicycle accommodations for connections to existing pedestrian or bicycle routes? Yes No

k. Will the proposed action (for commercial or industrial projects only) generate new or additional demand for energy? Yes No

If Yes:

i. Estimate annual electricity demand during operation of the proposed action: _____
TBD

ii. Anticipated sources/suppliers of electricity for the project (e.g., on-site combustion, on-site renewable, via grid/local utility, or other):
Local utility

iii. Will the proposed action require a new, or an upgrade, to an existing substation? Yes No

l. Hours of operation. Answer all items which apply.

<p>i. During Construction:</p> <ul style="list-style-type: none"> • Monday - Friday: _____ 7 AM - 7 PM • Saturday: _____ 9 AM - 5 PM • Sunday: _____ none • Holidays: _____ none 	<p>ii. During Operations:</p> <ul style="list-style-type: none"> • Monday - Friday: _____ TBD • Saturday: _____ TBD • Sunday: _____ TBD • Holidays: _____ TBD
--	---

m. Will the proposed action produce noise that will exceed existing ambient noise levels during construction, operation, or both? Yes No

If yes:

i. Provide details including sources, time of day and duration:
 Typical construction equipment during construction process, during permitted construction hours. _____

ii. Will the proposed action remove existing natural barriers that could act as a noise barrier or screen? Yes No
 Describe: _____

n. Will the proposed action have outdoor lighting? Yes No

If yes:

i. Describe source(s), location(s), height of fixture(s), direction/aim, and proximity to nearest occupied structures:
 Building lighting, parking lot lighting and gas canopy lighting. Fixtures will be high efficiency LED down lighting. _____

ii. Will proposed action remove existing natural barriers that could act as a light barrier or screen? Yes No
 Describe: _____

o. Does the proposed action have the potential to produce odors for more than one hour per day? Yes No
 If Yes, describe possible sources, potential frequency and duration of odor emissions, and proximity to nearest occupied structures: _____

p. Will the proposed action include any bulk storage of petroleum (combined capacity of over 1,100 gallons) or chemical products 185 gallons in above ground storage or any amount in underground storage? Yes No

If Yes:

i. Product(s) to be stored Petroleum gas

ii. Volume(s) _____ TBD per unit time _____ TBD (e.g., month, year)

iii. Generally, describe the proposed storage facilities: _____
Underground storage tanks

q. Will the proposed action (commercial, industrial and recreational projects only) use pesticides (i.e., herbicides, insecticides) during construction or operation? Yes No

If Yes:

i. Describe proposed treatment(s):
Typical landscape treatment as required to maintain the lawns and plant materials.

ii. Will the proposed action use Integrated Pest Management Practices? Yes No

r. Will the proposed action (commercial or industrial projects only) involve or require the management or disposal of solid waste (excluding hazardous materials)? Yes No

If Yes:

i. Describe any solid waste(s) to be generated during construction or operation of the facility:

- Construction: _____ TBD tons per _____ (unit of time)
- Operation : _____ TBD tons per _____ (unit of time)

ii. Describe any proposals for on-site minimization, recycling or reuse of materials to avoid disposal as solid waste:

- Construction: Debris recycling will be in accordance with applicable local requirements.
- Operation: Recycling will be in accordance with applicable County requirements.

iii. Proposed disposal methods/facilities for solid waste generated on-site:

- Construction: Private hauler
- Operation: Private hauler

s. Does the proposed action include construction or modification of a solid waste management facility? Yes No
 If Yes:

i. Type of management or handling of waste proposed for the site (e.g., recycling or transfer station, composting, landfill, or other disposal activities): _____

ii. Anticipated rate of disposal/processing:

- _____ Tons/month, if transfer or other non-combustion/thermal treatment, or
- _____ Tons/hour, if combustion or thermal treatment

iii. If landfill, anticipated site life: _____ years

t. Will the proposed action at the site involve the commercial generation, treatment, storage, or disposal of hazardous waste? Yes No
 If Yes:

i. Name(s) of all hazardous wastes or constituents to be generated, handled or managed at facility: _____

ii. Generally describe processes or activities involving hazardous wastes or constituents: _____

iii. Specify amount to be handled or generated _____ tons/month

iv. Describe any proposals for on-site minimization, recycling or reuse of hazardous constituents: _____

v. Will any hazardous wastes be disposed at an existing offsite hazardous waste facility? Yes No
 If Yes: provide name and location of facility: _____

If No: describe proposed management of any hazardous wastes which will not be sent to a hazardous waste facility: _____

E. Site and Setting of Proposed Action

E.1. Land uses on and surrounding the project site

a. Existing land uses.

i. Check all uses that occur on, adjoining and near the project site.

Urban Industrial Commercial Residential (suburban) Rural (non-farm)
 Forest Agriculture Aquatic Other (specify): _____

ii. If mix of uses, generally describe: _____

b. Land uses and covertypes on the project site.

Land use or Covertype	Current Acreage	Acreage After Project Completion	Change (Acres +/-)
• Roads, buildings, and other paved or impervious surfaces	0.60	2.20	+1.60
• Forested	0	0	0
• Meadows, grasslands or brushlands (non-agricultural, including abandoned agricultural)	2.98	1.38	-1.60
• Agricultural (includes active orchards, field, greenhouse etc.)	0	0	0
• Surface water features (lakes, ponds, streams, rivers, etc.)	0.09	0.09	0
• Wetlands (freshwater or tidal)	0	0	0
• Non-vegetated (bare rock, earth or fill)	0	0	0
• Other Describe: Landscaping	0	0.73	0.73

c. Is the project site presently used by members of the community for public recreation? Yes No
i. If Yes: explain: _____

d. Are there any facilities serving children, the elderly, people with disabilities (e.g., schools, hospitals, licensed day care centers, or group homes) within 1500 feet of the project site? Yes No
If Yes,
i. Identify Facilities: _____

e. Does the project site contain an existing dam? Yes No
If Yes:
i. Dimensions of the dam and impoundment:
• Dam height: _____ feet
• Dam length: _____ feet
• Surface area: _____ acres
• Volume impounded: _____ gallons OR acre-feet
ii. Dam's existing hazard classification: _____
iii. Provide date and summarize results of last inspection: _____

f. Has the project site ever been used as a municipal, commercial or industrial solid waste management facility, or does the project site adjoin property which is now, or was at one time, used as a solid waste management facility? Yes No
If Yes:
i. Has the facility been formally closed? Yes No
• If yes, cite sources/documentation: _____
ii. Describe the location of the project site relative to the boundaries of the solid waste management facility: _____

iii. Describe any development constraints due to the prior solid waste activities: _____

g. Have hazardous wastes been generated, treated and/or disposed of at the site, or does the project site adjoin property which is now or was at one time used to commercially treat, store and/or dispose of hazardous waste? Yes No
If Yes:
i. Describe waste(s) handled and waste management activities, including approximate time when activities occurred: _____

h. Potential contamination history. Has there been a reported spill at the proposed project site, or have any remedial actions been conducted at or adjacent to the proposed site? Yes No
If Yes:
i. Is any portion of the site listed on the NYSDEC Spills Incidents database or Environmental Site Remediation database? Check all that apply: Yes No
 Yes – Spills Incidents database Provide DEC ID number(s): _____
 Yes – Environmental Site Remediation database Provide DEC ID number(s): _____
 Neither database
ii. If site has been subject of RCRA corrective activities, describe control measures: _____

iii. Is the project within 2000 feet of any site in the NYSDEC Environmental Site Remediation database? Yes No
If yes, provide DEC ID number(s): _____
iv. If yes to (i), (ii) or (iii) above, describe current status of site(s): _____

v. Is the project site subject to an institutional control limiting property uses? Yes No

- If yes, DEC site ID number: _____
- Describe the type of institutional control (e.g., deed restriction or easement): _____
- Describe any use limitations: _____
- Describe any engineering controls: _____
- Will the project affect the institutional or engineering controls in place? Yes No
- Explain: _____

E.2. Natural Resources On or Near Project Site

a. What is the average depth to bedrock on the project site? _____ >6 feet

b. Are there bedrock outcroppings on the project site? Yes No
 If Yes, what proportion of the site is comprised of bedrock outcroppings? _____ %

c. Predominant soil type(s) present on project site:

UH - Udorthents, smoothed	_____	96 %
OVE - Otisville and Hoosic soils	_____	3 %
Wd - Wayland soils complex	_____	<1 %

d. What is the average depth to the water table on the project site? Average: 3 - 6 feet

e. Drainage status of project site soils:

<input checked="" type="checkbox"/> Well Drained:	_____	99 % of site
<input type="checkbox"/> Moderately Well Drained:	_____	% of site
<input checked="" type="checkbox"/> Poorly Drained	_____	1 % of site

f. Approximate proportion of proposed action site with slopes:

<input checked="" type="checkbox"/> 0-10%:	_____	4 % of site
<input checked="" type="checkbox"/> 10-15%:	_____	4 % of site
<input checked="" type="checkbox"/> 15% or greater:	_____	4 % of site

g. Are there any unique geologic features on the project site? Yes No
 If Yes, describe: _____

h. Surface water features.

i. Does any portion of the project site contain wetlands or other waterbodies (including streams, rivers, ponds or lakes)? Yes No

ii. Do any wetlands or other waterbodies adjoin the project site? Yes No

If Yes to either *i* or *ii*, continue. If No, skip to E.2.i.

iii. Are any of the wetlands or waterbodies within or adjoining the project site regulated by any federal, state or local agency? Yes No

iv. For each identified regulated wetland and waterbody on the project site, provide the following information:

- Streams: Name 862-374 Classification C
- Lakes or Ponds: Name _____ Classification _____
- Wetlands: Name Federal Waters, Federal Waters, Federal Waters Approximate Size _____
- Wetland No. (if regulated by DEC) _____

v. Are any of the above water bodies listed in the most recent compilation of NYS water quality-impaired waterbodies? Yes No
 If yes, name of impaired water body/bodies and basis for listing as impaired: _____

i. Is the project site in a designated Floodway? Yes No

j. Is the project site in the 100-year Floodplain? Yes No

k. Is the project site in the 500-year Floodplain? Yes No

l. Is the project site located over, or immediately adjoining, a primary, principal or sole source aquifer? Yes No
 If Yes:
 i. Name of aquifer: _____

m. Identify the predominant wildlife species that occupy or use the project site: _____
 Typical suburban species _____

n. Does the project site contain a designated significant natural community? Yes No
 If Yes:
 i. Describe the habitat/community (composition, function, and basis for designation): _____
 ii. Source(s) of description or evaluation: _____
 iii. Extent of community/habitat:
 • Currently: _____ acres
 • Following completion of project as proposed: _____ acres
 • Gain or loss (indicate + or -): _____ acres

o. Does project site contain any species of plant or animal that is listed by the federal government or NYS as endangered or threatened, or does it contain any areas identified as habitat for an endangered or threatened species? Yes No
 If Yes:
 i. Species and listing (endangered or threatened): _____
 Bald Eagle, Indiana Bat

p. Does the project site contain any species of plant or animal that is listed by NYS as rare, or as a species of special concern? Yes No
 If Yes:
 i. Species and listing: _____

q. Is the project site or adjoining area currently used for hunting, trapping, fishing or shell fishing? Yes No
 If yes, give a brief description of how the proposed action may affect that use: _____

E.3. Designated Public Resources On or Near Project Site

a. Is the project site, or any portion of it, located in a designated agricultural district certified pursuant to Agriculture and Markets Law, Article 25-AA, Section 303 and 304? Yes No
 If Yes, provide county plus district name/number: ORAN001

b. Are agricultural lands consisting of highly productive soils present? Yes No
 i. If Yes: acreage(s) on project site? _____
 ii. Source(s) of soil rating(s): _____

c. Does the project site contain all or part of, or is it substantially contiguous to, a registered National Natural Landmark? Yes No
 If Yes:
 i. Nature of the natural landmark: Biological Community Geological Feature
 ii. Provide brief description of landmark, including values behind designation and approximate size/extent: _____

d. Is the project site located in or does it adjoin a state listed Critical Environmental Area? Yes No
 If Yes:
 i. CEA name: _____
 ii. Basis for designation: _____
 iii. Designating agency and date: _____

e. Does the project site contain, or is it substantially contiguous to, a building, archaeological site, or district which is listed on the National or State Register of Historic Places, or that has been determined by the Commissioner of the NYS Office of Parks, Recreation and Historic Preservation to be eligible for listing on the State Register of Historic Places? Yes No

If Yes:

i. Nature of historic/archaeological resource: Archaeological Site Historic Building or District

ii. Name: _____

iii. Brief description of attributes on which listing is based: _____

f. Is the project site, or any portion of it, located in or adjacent to an area designated as sensitive for archaeological sites on the NY State Historic Preservation Office (SHPO) archaeological site inventory? Yes No

g. Have additional archaeological or historic site(s) or resources been identified on the project site? Yes No

If Yes:

i. Describe possible resource(s): _____

ii. Basis for identification: _____

h. Is the project site within five miles of any officially designated and publicly accessible federal, state, or local scenic or aesthetic resource? Yes No

If Yes:

i. Identify resource: _____

ii. Nature of, or basis for, designation (e.g., established highway overlook, state or local park, state historic trail or scenic byway, etc.): _____

iii. Distance between project and resource: _____ miles.

i. Is the project site located within a designated river corridor under the Wild, Scenic and Recreational Rivers Program 6 NYCRR 666? Yes No

If Yes:

i. Identify the name of the river and its designation: _____

ii. Is the activity consistent with development restrictions contained in 6NYCRR Part 666? Yes No

F. Additional Information

Attach any additional information which may be needed to clarify your project.

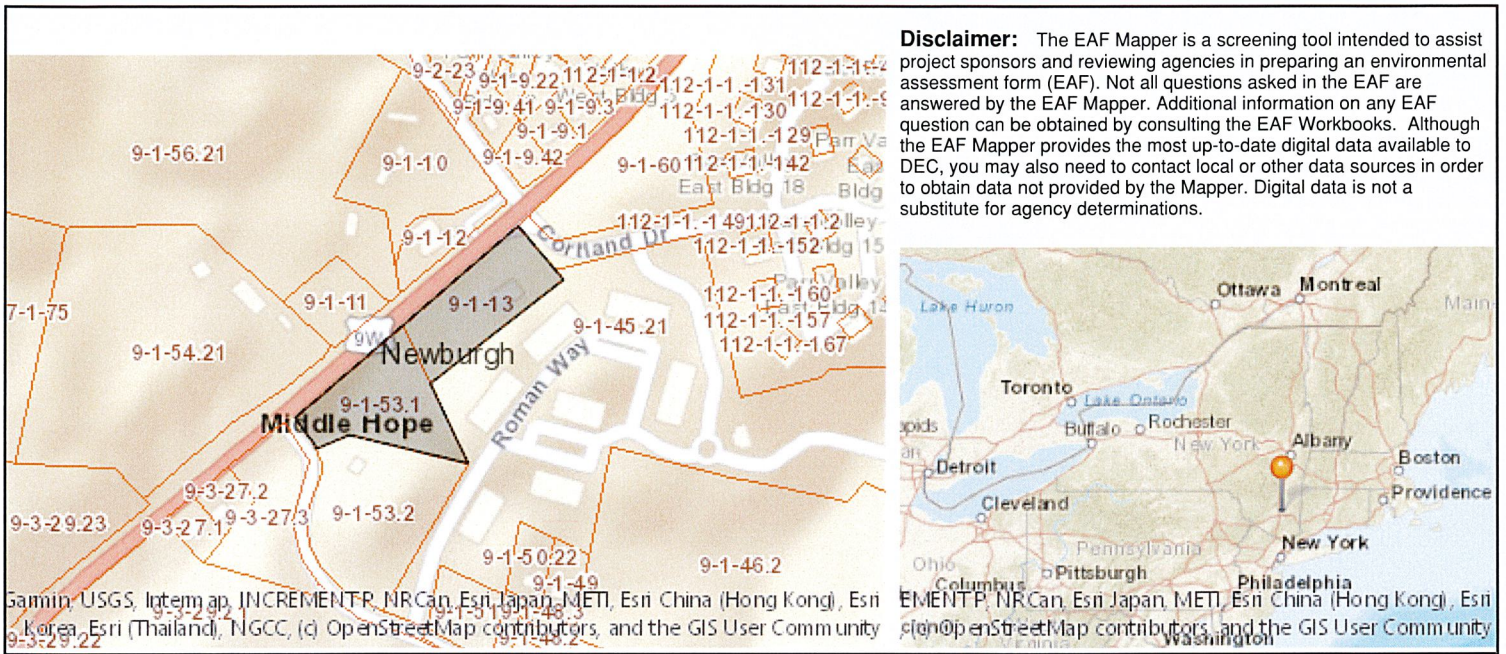
If you have identified any adverse impacts which could be associated with your proposal, please describe those impacts plus any measures which you propose to avoid or minimize them.

G. Verification

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

Applicant/Sponsor Name JMC PLLC, Agent Date 11/13/2023

Signature Anthony Guccione, Jr Title Principal



Disclaimer: The EAF Mapper is a screening tool intended to assist project sponsors and reviewing agencies in preparing an environmental assessment form (EAF). Not all questions asked in the EAF are answered by the EAF Mapper. Additional information on any EAF question can be obtained by consulting the EAF Workbooks. Although the EAF Mapper provides the most up-to-date digital data available to DEC, you may also need to contact local or other data sources in order to obtain data not provided by the Mapper. Digital data is not a substitute for agency determinations.

B.i.i [Coastal or Waterfront Area]	Yes
B.i.ii [Local Waterfront Revitalization Area]	No
C.2.b. [Special Planning District]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.1.h [DEC Spills or Remediation Site - Potential Contamination History]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.1.h.i [DEC Spills or Remediation Site - Listed]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.1.h.i [DEC Spills or Remediation Site - Environmental Site Remediation Database]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.1.h.iii [Within 2,000' of DEC Remediation Site]	No
E.2.g [Unique Geologic Features]	No
E.2.h.i [Surface Water Features]	Yes
E.2.h.ii [Surface Water Features]	Yes
E.2.h.iii [Surface Water Features]	Yes - Digital mapping information on local and federal wetlands and waterbodies is known to be incomplete. Refer to EAF Workbook.
E.2.h.iv [Surface Water Features - Stream Name]	862-374
E.2.h.iv [Surface Water Features - Stream Classification]	C
E.2.h.iv [Surface Water Features - Wetlands Name]	Federal Waters
E.2.h.v [Impaired Water Bodies]	No
E.2.i. [Floodway]	No
E.2.j. [100 Year Floodplain]	Yes
E.2.k. [500 Year Floodplain]	No

E.2.i. [Wetlands]	No
E.2.n. [Natural Communities]	No
E.2.o. [Endangered or Threatened Species]	Yes
E.2.o. [Endangered or Threatened Species - Name]	Bald Eagle, Indiana Bat
E.2.p. [Rare Plants or Animals]	No
E.3.a. [Agricultural District]	Yes
E.3.a. [Agricultural District]	ORAN001
E.3.c. [National Natural Landmark]	No
E.3.d [Critical Environmental Area]	No
E.3.e. [National or State Register of Historic Places or State Eligible Sites]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.3.f. [Archeological Sites]	No
E.3.i. [Designated River Corridor]	No

STATE OF NEW YORK
ORANGE COUNTY



I, Kelly A. Eskew, Clerk of the County of Orange of the County Court of said County and of the Supreme Court, both being courts of Record having a common seal, DO HEREBY CERTIFY that I have compared this copy with the original

DEED FILED IN BOOK 14343 PAGE 1620 ON 1/8/2018

filed, recorded, or entered in this office and that the same is a correct transcript thereof and of the whole of said original.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said County and Courts on

Date: 1/31/2024

Kelly A. Eskew
Orange County Clerk

By: KS



ORANGE COUNTY – STATE OF NEW YORK
ANN G. RABBITT, COUNTY CLERK
 255 MAIN STREET
 GOSHEN, NEW YORK 10924

COUNTY CLERK'S RECORDING PAGE
*****THIS PAGE IS PART OF THE DOCUMENT – DO NOT DETACH*****



BOOK/PAGE: 14343 / 1620
 INSTRUMENT #: 20180001508

Receipt#: 2430177
 Clerk: DB
 Rec Date: 01/08/2018 07:00:00 AM
 Doc Grp: D
 Descrip: DEED
 Num Pgs: 4
 Rec'd Frm: KENSINGTON VANGUARD NLS LLC - NY

Party1: RT 9W ASSOCS OF NEWBURGH INC
 Party2: 5450 RTE 9W LLC
 Town: NEWBURGH (TN)
 9-1-13

Recording:	
Recording Fee	40.00
Cultural Ed	14.25
Records Management - Coun	1.00
Records Management - Stat	4.75
TP584	5.00
RP5217 All others - State	241.00
RP5217 - County	9.00
Sub Total:	315.00
Transfer Tax	
Transfer Tax - State	2640.00
Sub Total:	2640.00
Total:	2955.00
**** NOTICE: THIS IS NOT A BILL ****	

***** Transfer Tax *****
 Transfer Tax #: 5361
 Commercial Transfer Tax
 Consideration: 660000.00

Transfer Tax - State	2640.00
Total:	2640.00

Payment Type: Check ___
 Cash ___
 Charge ___
 No Fee ___

Comment: _____

Ann G. Rabbitt
 Ann G. Rabbitt
 Orange County Clerk

Record and Return To:

ELECTRONICALLY RECORDED BY INGEN

667084P MYCPML S 9
D RANOC B 1
Newburgh L 13 + 53.1

BARGAIN AND SALE DEED WITH COVENANT AGAINST GRANTOR'S ACTS (INDIVIDUAL OR CORPORATION)

FORM 8002 (short version), FORM 8007 (long version)

CAUTION: THIS AGREEMENT SHOULD BE PREPARED BY AN ATTORNEY AND REVIEWED BY ATTORNEYS FOR SELLER AND PURCHASER BEFORE SIGNING.

THIS INDENTURE, made the 14th day of December, 2017,

BETWEEN Rt. 9W Associates of Newburgh, Inc., with an address of 5450 Route 9W, Newburgh, New York 12550,

party of the first part, and

5450 Rte 9W LLC with an address of 2317 Montauk Highway, Bridgehampton, New York 11932,

party of the second part;

WITNESSETH, that the party of the first part, in consideration of Ten Dollars and No Cents (\$10.00) and other valuable consideration paid by the party of the second part, does hereby grant and release unto the party of the second part, the heirs or successors and assigns of the party of the second part forever;

ALL that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in the Town of Newburgh, County of Orange, State of New York, more particularly described in the Schedule A attached hereto and made a part hereof;

BEING the same premises as conveyed by George Alfano to Rt. 9W Associates of Newburgh, Inc. by deed dated July 11, 1996 and recorded July 18, 1996 in Liber 4416 page 48 in the office of the Orange County Clerk; and by deed from Janet Gurda to Rt. 9W Associates of Newburgh, Inc. by deed dated April 3, 2017 and recorded April 21, 2017 in Liber 14220 page 818 in the office of the Orange County Clerk.

THIS conveyance was made during the regular course of business of the grantor and does not constitute all or substantially all of the assets of the company.

TOGETHER with all right, title and interest, if any, of the party of the first part in and to any streets and roads abutting the above described premises to the center lines thereof,

TOGETHER with the appurtenances and all the estate and rights of the party of the first part in and to said premises,

TO HAVE AND TO HOLD the premises herein granted unto the party of the second part, the heirs or successors and assigns of the party of the second part forever.

AND the party of the first part, covenants that the party of the first part has not done or suffered anything whereby the said premises have been encumbered in any way whatever, except as aforesaid.

AND the party of the first part, in compliance with Section 13 of the Lien Law, covenants that the party of the first part will receive the consideration for this conveyance and will hold the right to receive

Schedule A Description - continued

Title Number: 667084(F-NY-CP-HL)

Policy Number 5011436-0147150E

degrees 32 minutes 42 seconds West, 471.17 feet to its point of intersection with the northerly line of Lot 1 as shown on a map titled "Subdivision of Lands for: Janet Gurda" prepared by Dennis E. Walden dated September 13, 1998 and filed June 12, 2001 in the Orange County Clerk's Office as Map No. 119-01;

Thence along said northerly line of Lot 1, North 19 degrees 52 minutes 30 seconds West, 152.60 feet to its point of intersection with a southeasterly line of the aforesaid Route 9W (State Highway 5007);

Thence along the general southerly line of said Route 9W (State Highway 5007) the following four (4) courses and distances:

- 1) North 62 degrees 15 minutes 51 seconds East, 4.81 feet;
- 2) North 34 degrees 40 minutes 58 seconds West, 23.80 feet;
- 3) North 62 degrees 23 minutes 02 seconds East, 261.50 feet;
- 4) North 50 degrees 29 minutes 02 seconds East, 182.86 feet to the Point of Beginning.

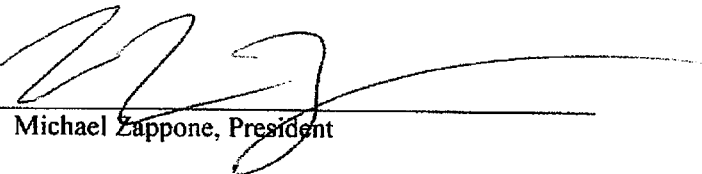
As shown on a survey made by Thomas M. Schmidt dated 10/16/2017.

such consideration as a trust fund to be applied first for the purpose of paying the cost of the improvement and will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose.

The word "party" shall be construed as if it read "parties" whenever the sense of this indenture so requires.

IN WITNESS WHEREOF, the party of the first part has duly executed this deed the day and year first above written.

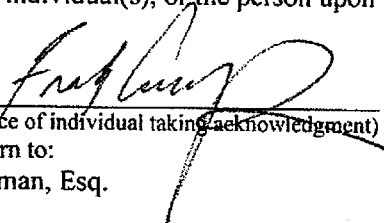
Rt. 9W Associates of Newburgh, Inc.



By: Michael Zappone, President

Acknowledgment by a Person Outside New York State (RPL § 309-b)

STATE OF FLORIDA)
COUNTY OF Manatee) ss.:
)

On the 30 day of November in the year 2017, before me, the undersigned, personally appeared **Michael Zappone**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he executed the same in his capacity(ies), and that by his signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.


(signature and office of individual taking acknowledgment)
Record and Return to:
Stanley Schutzman, Esq.
PO Box 4307
New Windsor, NY 12553


Frank Cummings
State of Florida
MY COMMISSION # FF 224423
Expires: July 4, 2019

James R. Loeb
Richard J. Drake, *retired*
Glen L. Heller*
Marianna R. Kennedy
Gary J. Gogerty
Stephen J. Gaba
Adam L. Rodd
Dominic Cordisco
Ralph L. Puglione, Jr.
Alana R. Bartley**
Aaron C. Fitch

Judith A. Waye
Sarah N. Wilson
Michael J. Barfield**
Meghan R. LoCicero

Jennifer L. Schneider
Managing Attorney

*LL.M. in Taxation
**Member NJ & NY Bar

December 14, 2023

BY EMAIL ONLY

Darrin J. Scalzo, Chairman
Zoning Board of Appeals
Town of Newburgh Town Hall
1496 Route 300
Newburgh, New York 12550

Re: Newburgh Commons // ZBA referral
Planning Board Project No. 2023-24

Dear Chairman Scalzo and Zoning Board Members:

At the Planning Board's December 7, 2023 meeting, the Planning Board resolved to refer this application to the Zoning Board of Appeals for its consideration of the variances required for the proposed project located at 5430 and 5450 Route 9W, across from the Overlook Farms property, between Cortland Drive and Oak Street. The project proposes the merger of 2 existing lots. The proposed construction includes a 14,600 square foot retail building and a 4,600 square foot convenience store/gas station with 6 gasoline pumps, parking and associated site improvements.

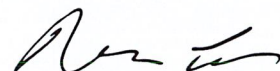
As part of this application the following variances are required:

1. A rear yard setback variance is required for the buildings where 30 feet is required and 18 feet is provided for one building, and 19.5 feet is provided for the other.
2. The setback of the canopy from the state highway where 60 feet is required and 24 feet is provided. Similarly, the canopy is located on a corner lot with two front yards, and 40 feet is required from the second front yard.
3. The entrance to Oak Street does not appear to comply with Chapter 185-13B(6) requiring that there shall be no entrance or exit for an accessory off-street parking area with over 10 parking spaces or any loading berths shall be located within 150 feet of a street intersection.
4. The project abuts the R3 zoning district, which requires a 75 feet buffer area, where 18 feet is provided, together with a percentage of landscaped area.

The Planning Board has not declared its intent to serve as lead agency so that the Zoning Board of Appeals may consider and process this application without the need to wait for the Planning Board to conclude its SEQRA review.

Thank you for your consideration of this matter.

Very Truly Yours,



Dominic Cordisco



Picture taken from the southwest corner of property



Picture taken from the west corner of property



Picture taken from east corner of property



Picture taken from northeast corner of property

*** RECEIPT ***

Date: 02/06/24

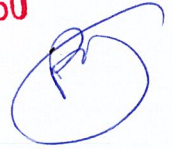
Receipt#: 91183

Quantity	Transactions	Reference	Subtotal
1	Public Hearing		\$50.00
1	Zba Applic. & Advertising		\$500.00
Total Paid:			\$550.00

Notes:

Payment Type	Amount	Paid By
CK #3921	\$550.00	Farrell Building Co.

LISA M. VANCE AYERS TOWN CLERK
TOWN OF NEWBURGH
1496 ROUTE 300
NEWBURGH, NY 12550



Name: Farrell Building Co.
Po Box 14
Bridgehampton, NY 11932

Clerk ID: COUNTER

Internal ID:

**AFFIDAVIT OF POSTING(S) OF
NOTICE OF PUBLIC HEARING
AT THE PROPERTY**

STATE OF NEW YORK: COUNTY OF ORANGE:

I Umberto Baldinucci, being duly sworn, depose and say that I did on or before
February 8, 2024, post and will thereafter maintain at

5430 & 5450 Route 9w 9-1-53.1 & 13 B Zone in the Town of Newburgh, New York, at or near the
front

property line(s) and within view of each fronting street a copy(ies) of the Notice of Public Hearing, which
notice was in the form attached hereto.

The applicant shall maintain and update notice(s) (with amended information if there is any change to
the information contained in the original Notice of Hearing) until after the Public Hearing is closed. The
Notice must then be removed and property disposed of within ten (10) days of the close of the Public
Hearing. Failure to follow the required procedure may result in the Public Hearing being held open for
additional time.



Sworn to before me this 8th

day of January, 2024.



**KIMBERLY ROMANINO
NOTARY PUBLIC-STATE OF NEW YORK
No. 01RO6134291**

Qualified in Putnam County 2025
My Commission Expires September 26, 2025



Sign #1 Fronting Route 9W



Sign #2 Fronting Cortland Drive



Sign #3 Fronting Oak Street