



Orange County Department of Planning
Application for Mandatory County Review of Local Planning Action
(Variations, Zone Changes, Special Permits, Subdivisions)

To be completed by Local Board having jurisdiction.
To be signed by Local Official.

TONZBA Town of Newburgh
MUNICIPALITY: ZONING BOARD of Appeals TAX MAP ID: 60-3-40.2
(Section-Block-Lot)

Local File #: PB Refl Project Name:

Applicant: Gas Development Lease, LLC
Address: 140 Boxwood Lane, Bridgewater MA 02324

Attorney, Engineer, Architect: John Cappello
Location of Site: 1413 Route 300 Newburgh F84 Meadow Hill ROAD
(Street, highway, nearest intersection)

Size of Parcel: 3 Acres Existing Lots: Proposed Lots/Units

Present Zoning District: IB

TYPE OF REVIEW:

[ ] Special Use Permit\* (SUP):

[x] Variance\* USE (VU):

AREA (AV): exit driveway shall have an unrestricted width of not less than 25 ft to build a gasoline station and a tire service business,

[ ] Zone Change\* FROM: TO:

[ ] Zoning Amendment\*\* To Section:

[ ] Subdivision Major Minor

[ ] Sketch [ ] Preliminary [ ] Final

DATE: 11/28/12

Grace Cardone
Chairperson, Signature and Title
ZONING BOARD of Appeals

\*Cite Section of Zoning Regulations where pertinent.

FOR COUNTY USE ONLY
County ID #

GERALD N. JACOBOWITZ  
DAVID B. GUBITS  
JOHN H. THOMAS JR.  
GERALD A. LENNON  
PETER R. ERIKSEN  
HOWARD PROTTER  
DONALD G. NICHOL  
LARRY WOLINSKY  
ROBERT E. DINARDO  
J. BENJAMIN GAILEY  
MARK A. KROHN\*  
JOHN C. CAPPELLO  
GEORGE W. LITHCO  
MICHELE L. BABCOCK  
\*LL.M. IN TAXATION

# JACOBOWITZ AND GUBITS, LLP

## COUNSELORS AT LAW

158 ORANGE AVENUE  
POST OFFICE BOX 367  
WALDEN, NEW YORK 12586-0367

(845) 778-2121 (845) 778-5173 FAX

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MARK T. STARKMAN  
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WILLIAM E. DUQUETTE  
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KARA J. CAVALLO  
TOBIAS A. LAKE  
DAVID M. GANDIN  
MICHAEL L. FOX  
MARCIA A. JACOBOWITZ  
F. BRYAN PAZ  
CARMEE G. MURPHY\*\*  
\*\*OF COUNSEL

November 26, 2012

### HAND DELIVERED

Hon. Grace Cardone, Chair and Zoning Board of Appeals  
Town of Newburgh  
1469 Route 300  
Newburgh, New York 12550

Re: Route 300 Center  
Driveway Width Area Variance Application  
Our File No. 10517-001

Dear Hon. Chair Cardone and ZBA Members:

Enclosed please find the following constituting the application of Gas Development Lease, LLC seeking an area variance to construct a secondary exit drive from the station which has a fully operating exit and entrance drive on Route 300 to the service road serving the Newburgh Mall property to the rear of the Gas Development Lease site.

1. Completed and signed application to the Zoning Board of Appeals with Addendum.
2. Check in the amount of \$200.00 representing the application fee.
3. A copy of the letter from Planning Board Attorney Michael Donnelly referring this matter to the ZBA for the area variance requested.
4. Copy of Deed - the Deed to the property was submitted as part of a separate area variance application for the same site submitted on April 9, 2012.
5. Assessor's list of property owners within 300 feet of the property.
6. Completed Short Environmental Assessment Form Part I which discusses and incorporates the Full Environmental Assessment Form submitted to the Town of Newburgh Planning Board to accompany the site plan approval for this application.
7. Completed Proxy Statements authorizing the applicant to make the application and authorizing Jacobowitz and Gubits, LLP, Langan Engineering and Environmental Services and Lisa Davis Associates to represent the applicant at the ZBA meetings was submitted with the April 9, 2012 application.
8. Eleven (11 copies of the plot plan (site plan)).

# TOWN OF NEWBURGH

*Crossroads of the Northeast*

ZONING BOARD OF APPEALS  
OLD TOWN HALL  
308 GARDNERTOWN ROAD  
NEWBURGH, NEW YORK 12550

OFFICE OF ZONING BOARD  
(845) 566-4901

## APPLICATION

DATED: NOVEMBER 19, 2012

TO: THE ZONING BOARD OF APPEALS  
THE TOWN OF NEWBURGH, NEW YORK 12550

I (~~WE~~) Gas Development Lease, LLC PRESENTLY located

RESIDING AT NUMBER 140 Boxwood Lane, Bridgewater, MA 02324

TELEPHONE NUMBER 617-877-3411

HEREBY MAKE APPLICATION TO THE ZONING BOARD OF APPEALS FOR THE FOLLOWING:

- A USE VARIANCE
- AN AREA VARIANCE
- INTERPRETATION OF THE ORDINANCE

1. LOCATION OF THE PROPERTY:

Sec. 60, Bl.3, Lot 40.2 (TAX MAP DESIGNATION)

1413 Rte 300 (STREET ADDRESS)

IB (ZONING DISTRICT)

2. PROVISION OF THE ZONING LAW APPLICABLE, (INDICATE THE SECTION AND SUBSECTION OF THE ZONING LAW APPLICABLE BY NUMBER; DO NOT QUOTE THE LAW).

SECTION 27-25-26 - Driveway width

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: Nov 2 2012

4. DESCRIPTION OF VARIANCE SOUGHT: See Addendum

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

N/A

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

\_\_\_\_\_  
\_\_\_\_\_

(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:

\_\_\_\_\_  
\_\_\_\_\_

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

\_\_\_\_\_  
\_\_\_\_\_

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

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6. IF AN AREA VARIANCE IS REQUESTED: Refer to attached addendum

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

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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:

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c) THE REQUESTED AREA VARIANCE IS NOT SUBSTANTIAL BECAUSE:

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

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e) THE HARDSHIP HAS NOT BEEN SELF CREATED BECAUSE:

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7. ADDITIONAL REASONS (IF PERTINENT);

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Lisa Davis / John Chappo  
PETITIONER (S) SIGNATURE

as Attorney  
11/28/12

MA Middlesex  
STATE OF NEW YORK: COUNTY OF ORANGE:

SWORN TO THIS 19 DAY OF November 20 12

T. Murnikova  
NOTARY PUBLIC



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.

## Appendix C

State Environmental Quality Review  
**SHORT ENVIRONMENTAL ASSESSMENT FORM**  
 For UNLISTED ACTIONS Only

**PART I - PROJECT INFORMATION (To be completed by Applicant or Project Sponsor)**

1. APPLICANT/SPONSOR GD Newburgh, LLC	2. PROJECT NAME Route 300 Shopping Center
3. PROJECT LOCATION: Municipality <u>Newburgh</u> County <u>Orange County</u>	
4. PRECISE LOCATION (Street address and road intersections, prominent landmarks, etc., or provide map) <u>1413 Union Avenue (Route 300) Town of Newburgh</u>	
5. PROPOSED ACTION IS: <input checked="" type="checkbox"/> New <input type="checkbox"/> Expansion <input type="checkbox"/> Modification/alteration	
6. DESCRIBE PROJECT BRIEFLY: <u>Application for a driveway width area variance to construct a secondary access drive that connects to the adjoining Mall Roadway to facilitate redevelopment of an industrial site to include a 10 position fueling facility with a 120+/- sf attendant kiosk, a Somerset Tire Center with a building footprint of 5,425 sf and a 1,915 sf mezzanine and parking for 36 vehicles. Primary access will be from a new driveway on Union Avenue.</u>	
7. AMOUNT OF LAND AFFECTED: Initially <u>3.03 + .23 easement</u> acres    Ultimately <u>3.03 + .23 easement</u> acres	
8. WILL PROPOSED ACTION COMPLY WITH EXISTING ZONING OR OTHER EXISTING LAND USE RESTRICTIONS? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No    If No, describe briefly <u>An area variance for the width of the rear driveway is requested</u>	
9. WHAT IS PRESENT LAND USE IN VICINITY OF PROJECT? <input type="checkbox"/> Residential <input type="checkbox"/> Industrial <input checked="" type="checkbox"/> Commercial <input type="checkbox"/> Agriculture <input type="checkbox"/> Park/Forest/Open Space <input type="checkbox"/> Other Describe:	
10. DOES ACTION INVOLVE A PERMIT APPROVAL, OR FUNDING, NOW OR ULTIMATELY FROM ANY OTHER GOVERNMENTAL AGENCY (FEDERAL, STATE OR LOCAL)? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No    If Yes, list agency(s) name and permit/approvals: <u>Site plan approval from Town of Newburgh Planning Board</u>	
11. DOES ANY ASPECT OF THE ACTION HAVE A CURRENTLY VALID PERMIT OR APPROVAL? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No    If Yes, list agency(s) name and permit/approvals:	
12. AS A RESULT OF PROPOSED ACTION WILL EXISTING PERMIT/APPROVAL REQUIRE MODIFICATION? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE TO THE BEST OF MY KNOWLEDGE Applicant/sponsor name: <u>GD Newburgh, LLC</u> Date: <u>11/20/2012</u> Signature: <u><i>John C. Capples, Attorney</i></u>	

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

**PART II - IMPACT ASSESSMENT (To be completed by Lead Agency)**

A. DOES ACTION EXCEED ANY TYPE I THRESHOLD IN 6 NYCRR, PART 617.4? If yes, coordinate the review process and use the FULL EAF.  
 Yes  No

B. WILL ACTION RECEIVE COORDINATED REVIEW AS PROVIDED FOR UNLISTED ACTIONS IN 6 NYCRR, PART 617.6? If No, a negative declaration may be superseded by another involved agency.  
 Yes  No

C. COULD ACTION RESULT IN ANY ADVERSE EFFECTS ASSOCIATED WITH THE FOLLOWING: (Answers may be handwritten, if legible)

C1. Existing air quality, surface or groundwater quality or quantity, noise levels, existing traffic pattern, solid waste production or disposal, potential for erosion, drainage or flooding problems? Explain briefly:  
 No.

C2. Aesthetic, agricultural, archaeological, historic, or other natural or cultural resources; or community or neighborhood character? Explain briefly:  
 No.

C3. Vegetation or fauna, fish, shellfish or wildlife species, significant habitats, or threatened or endangered species? Explain briefly:  
 No.

C4. A community's existing plans or goals as officially adopted, or a change in use or intensity of use of land or other natural resources? Explain briefly:  
 No.

C5. Growth, subsequent development, or related activities likely to be induced by the proposed action? Explain briefly:  
 No.

C6. Long term, short term, cumulative, or other effects not identified in C1-C5? Explain briefly:  
 No.

C7. Other impacts (including changes in use of either quantity or type of energy)? Explain briefly:  
 None.

D. WILL THE PROJECT HAVE AN IMPACT ON THE ENVIRONMENTAL CHARACTERISTICS THAT CAUSED THE ESTABLISHMENT OF A CRITICAL ENVIRONMENTAL AREA (CEA)?  
 Yes  No If Yes, explain briefly:

E. IS THERE, OR IS THERE LIKELY TO BE, CONTROVERSY RELATED TO POTENTIAL ADVERSE ENVIRONMENTAL IMPACTS?  
 Yes  No If Yes, explain briefly:

**PART III - DETERMINATION OF SIGNIFICANCE (To be completed by Agency)**

**INSTRUCTIONS:** For each adverse effect identified above, determine whether it is substantial, large, important or otherwise significant. Each effect should be assessed in connection with its (a) setting (i.e. urban or rural); (b) probability of occurring; (c) duration; (d) irreversibility; (e) geographic scope; and (f) magnitude. If necessary, add attachments or reference supporting materials. Ensure that explanations contain sufficient detail to show that all relevant adverse impacts have been identified and adequately addressed. If question D of Part II was checked yes, the determination of significance must evaluate the potential impact of the proposed action on the environmental characteristics of the CEA.

Check this box if you have identified one or more potentially large or significant adverse impacts which **MAY** occur. Then proceed directly to the FULL EAF and/or prepare a positive declaration.

Check this box if you have determined, based on the information and analysis above and any supporting documentation, that the proposed action **WILL NOT** result in any significant adverse environmental impacts **AND** provide, on attachments as necessary, the reasons supporting this determination.

11/20/2012

\_\_\_\_\_  
 Name of Lead Agency

\_\_\_\_\_  
 Date

\_\_\_\_\_  
 Print or Type Name of Responsible Officer in Lead Agency

\_\_\_\_\_  
 Title of Responsible Officer

\_\_\_\_\_  
 Signature of Responsible Officer in Lead Agency

\_\_\_\_\_  
 Signature of Preparer (if different from responsible officer)

Reset



***Dickover, Donnelly, Donovan & Biagi, LLP***  
Attorneys and Counselors at Law

**James B. Biagi**  
**David A. Donovan**  
**Michael H. Donnelly**  
**Robert J. Dickover**

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Phone (845) 294-9447  
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Fax (845) 294-6553  
*(Not for Service of Process)*

Suzanne Law Firm, Inc.  
Alexander Appelbaum, P.C., Florida, N.Y. (1915-1988)  
Ludwiger & Vurno, Esqs., Warwick, N.Y.

November 2, 2012

Town of Newburgh  
Zoning Board of Appeals  
308 Gardnertown Road  
Newburgh, New York 12550

RE: Gas Development Lease, LLC [Route 300 Center] (12.05)  
60-3-40 & 41.22 (Zone IB)  
1413 Route 300

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Members of the Board:

I write to you as the attorney for the Town of Newburgh Planning Board. The above referenced applicant has recently amended its site plan application for a gasoline service station and tire center. The applicant now proposes a one-way driveway connecting to the Newburgh Mall site. A driveway width variance [Section 185-28] will be required. Therefore, I now write on behalf of the planning board to refer this matter to you for consideration of the variance.

Very truly yours,

  
MICHAEL H. DONNELLY

MHD/lrm

cc: Town of Newburgh Planning Board  
308 Gardnertown Road  
Newburgh, NY 12550

Code Compliance  
308 Gardnertown Road  
Newburgh, NY 12550

Langan Engineering & Environmental Services  
555 Long Wharf Drive  
New Haven, CT 06511

**Addendum  
Route 300 Center  
1413 Union Avenue (NYS Route 300)  
Town of Newburgh  
Tax Map Section 60, Block 3, Lots 40 and 41.22**

**Project Description**

The subject site is located at 1413 Union Avenue, a/k/a New York State Route 300, contains 3.03 acres, is zoned IB (interchange Business) and is currently occupied by two (2) vacant buildings of approximately 9,500 square feet and 1,000 square feet. The larger of the two (2) buildings was historically used as a trucking terminal and warehouse facility. The smaller building was historically used as a maintenance garage. On June 28, 2012, the applicant obtained area variances to construct a 10 position gas fueling station with a 120 square foot attendant kiosk to be operated by the Stop & Shop Supermarket Company on the property. The area variance granted relief from the requirement that a new gas station not be located within 1,000 feet of an existing gas dispensing facility and from the Town signage laws.

During the June, 2012 Public Hearing the applicant proposed to construct a new entrance and exit drive from New York State Route 300 that would be sufficient to serve the site. In addition, the applicant stated that they would pursue the option of constructing an additional exit drive to allow vehicles to exit the site along the existing easement across the Newburgh Mall parcel to Meadow Hill Drive. This additional exit drive would allow vehicles to exit the site without making a left-hand turn from the site onto New York State Route 300.

At that time it was discussed that the applicant did not know if it would be feasible to construct the exit drive due to the existence of United States Army Corp of Engineers designated wetlands within the proposed driveway area. Since that time the applicant has contacted the Army Corp of Engineers and has obtained necessary authorization to construct an egress drive with a disturbance limit that permits up to an 18-foot wide access drive.

Town of Newburgh Zoning Code §185-28B requires that exit and entrance driveways servicing a motor vehicle service station have an unrestricted width of not less than 25 feet and not more than 50 feet. It would be very difficult if not impossible for the applicant to obtain the necessary authorization from the US Army Corp of Engineers to disturb the amount of wetlands necessary to increase the width of the proposed driveway to 25 feet hence this area variance request.

**I. Reasons Supporting Request For an Area Variance**

For the reasons set forth below, the benefit to the applicant in being able to provide an additional point of egress from the site through this 18 foot wide driveway allowing customers to exit the site without making a left-hand turn movement onto Route 300 greatly outweighs any perceived detriment to the area or neighborhood in relationship with granting the authorization to

construct such driveway.

- A. The variance, if granted, will not produce an undesirable change to the character of the neighborhood or a detriment to nearby properties.

**Discussion.**

The property can be developed as proposed without construction of this additional 18 foot wide exit drive. Therefore the character of the neighborhood would be essentially the same whether the driveway was constructed or not. However, construction of the driveway will allow the site to function in a safer manner by allowing customers to exit through the rear of the site to the Newburgh Mall driveway and Meadow Hill allowing customers to then proceed to the traffic light on Meadow Hill and New York State Route 300 and make the left turn at said light.

Therefore there will be no change or detriment to neighborhood, in fact the construction of the driveway will be an improvement by making the site a site that is safer to exit.

- B. The benefits sought by the applicant cannot be achieved by some method, feasible for the applicant to pursue other than an area variance.

**Discussion.**

As stated above the traffic to and from the site does work and the applicant would be able to pursue site plan approval without construction of the 29 foot wide exit drive. However, construction of the drive does make the exiting the site safer for customers utilizing the site. Additionally it would not be feasible for the applicant to pursue increasing the width of the exit drive to 25 feet since it would involve substantially more disturbance to an Army Corp wetland resulting in a tremendous additional expense with not much of a likelihood that the Army Corp would grant said permit for the wider road, especially since the road is technically not necessary to make this an approvable site for the use proposed.

- C. The requested area variance is not substantial.

**Discussion.**

The proposed 25 foot width set forth in the Code is for driveways that are used both for entrance and exit. Therefore, this proposed 29 foot wide exit driveway provides more travel room for the cars exiting the site than if it was a 25 foot driveway with two-way traffic. A fully functioning full service entrance and exit drive to and from Route 300 is provided in the site plan.

- D. The proposed variance will not have an adverse effect or impact on the

physical or environmental conditions of the neighborhood or district.

**Discussion.**

The driveway is being constructed in a manner that will make exiting the site safer while minimizing, to the maximum extent practicable, disturbance to the Army Corp wetlands located at the rear of the site. Therefore, the area variance proposed would have a beneficial effect on the physical and environmental condition of the neighborhood or district by making the site operate in a safer manner.

- E. While the hardship has technically been self-created, this in and of itself is not a reason for denial of the application.

**Discussion.**

The existence of the wetlands through the easement area makes it an impossible to construct a fully functional 25 foot wide driveway along this area. The applicant was aware of the wetlands located on the site. However, in order to make the site a safer site which would benefit all customers using the site, the applicant has determined to pursue the construction of the driveway in a manner that will limit the impact on the wetlands.

**Conclusion**

Based upon the above, the benefits to the applicant by allowing him to construct this 18 foot width driveway greatly outweighs any benefit or detriment to the surrounding neighborhood associated with the grant of said variance.

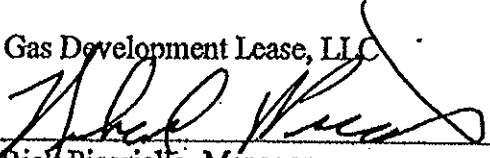
TOWN OF NEWBURGH  
ZONING BOARD OF APPEALS

PROXY

Rick Picariello, as Manager of Gas Development Lease, LLC, deposes and says that the address of the LLC is 140 Boxwood Lane, Bridgewater, MA, 02324 in the State of Massachusetts and that he is the contractor vendee of 1413 Route 300, Tax Map parcels Section 60 Block 3 Lots 40.2, which is the premises described in the foregoing application and that he has authorized Lisa Davis Associates, to make the foregoing application as described therein.

Date: April 13, 2012

Gas Development Lease, LLC

  
Rick Picariello, Manager



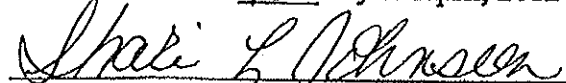
Witness' Signature

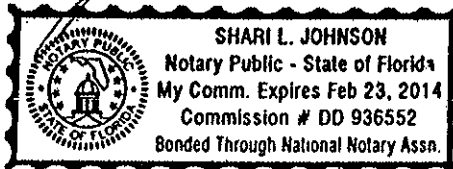
FL  
State of ~~New York~~ )

Lee :  
County of ~~Orange~~ )

ss.:

Sworn to me this 13 day of April, 2012

  
Notary Public



TOWN OF NEWBURGH  
ZONING BOARD OF APPEALS

PROXY

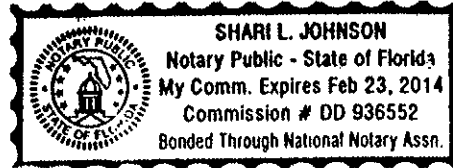
Rick Picariello, as Manager of Gas Development Lease, LLC, deposes and says that the address of the LLC is 140 Boxwood Lane, Bridgewater, MA, 02324 in the State of Massachusetts and that he is the contractor vendee of 1413 Route 300, Tax Map parcels Section 60 Block 3 Lots 40.2, which is the premises described in the foregoing application and that he has authorized Jacobowitz and Gubits, LLP, to make the foregoing application as described therein.

Date: April 13, 2012

Gas Development Lease, LLC

[Signature]  
Rick Picariello, Manager

[Signature]  
Witness' Signature



FL  
State of New York )  
Lee  
County of Grango )

ss.:

Sworn to me this 13 day of April, 2012

[Signature]  
Notary Public

TOWN OF NEWBURGH  
ZONING BOARD OF APPEALS

PROXY

Richard Lease, as a Member of JR & Ray, LLC, deposes and says that the address of the LLC is 5020 Route 9W, Newburgh, New York, 12550 in the County of Orange and State of New York and that he is the owner in fee of 1413 Route 300, Tax Map parcels Section 60 Block 3 Lots 40.2, which is the premises described in the foregoing application and that J\$ & Ray, LLC entered into a contract on a contingency basis with Gas Development Lease, LLC, and, authorizes Gas Development Lease, LLC and GD Lease, LLC to make the foregoing application as described therein.

Date: April 16 2012

JR & Ray, LLC

Richard Lease  
Richard Lease, Member

Dennis Barr

Witness' Signature

State of New York )

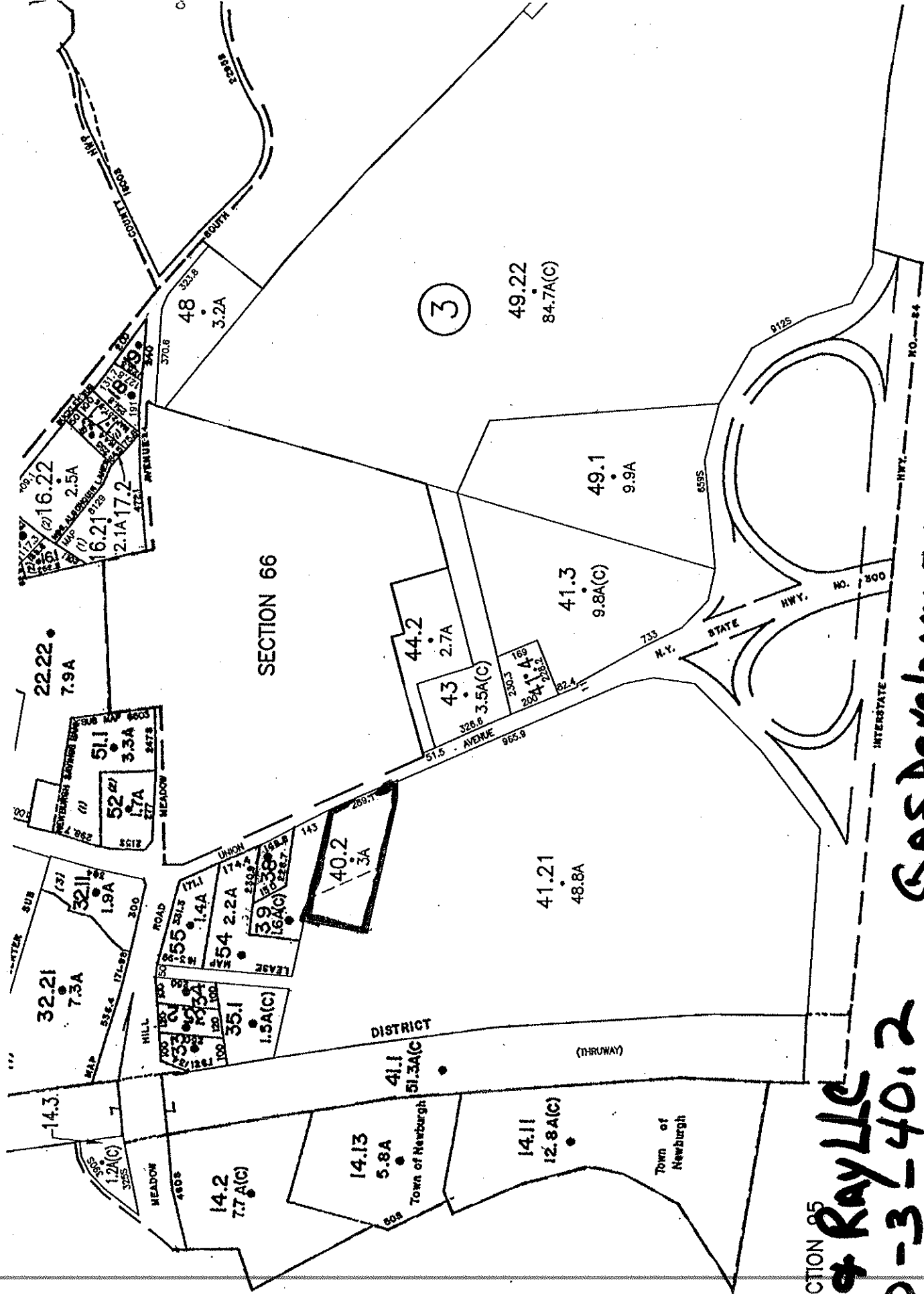
ss.:

County of Orange )

Sworn to me this 16 day of April, 2012

[Signature]  
Notary Public

Kenneth W. Davies Jr.  
Notary Public, State of New York  
No. 01DA4628056  
Qualified in Orange County  
Expires 12/31 14



**GAS Development Lease LLC**

**SECTION 05  
JR & RAY LLC  
1413 - 3 - 40.2  
Route 300**