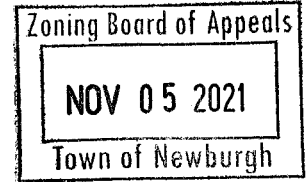


TOWN OF NEWBURGH

Crossroads of the Northeast

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



APPLICATION

OFFICE OF ZONING BOARD
(845) 566-4901

DATED: 11/5/2021

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

I (WE) Gas Land Petroleum, Inc. (Zeidan Nesheiwat) PRESENTLY

RESIDING AT NUMBER 3 Ohioville Road, New Paltz, NY 12561

TELEPHONE NUMBER 845-331-7545

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

- _____ A USE VARIANCE
- _____ AN AREA VARIANCE
- _____ INTERPRETATION OF THE ORDINANCE
- _____ SPECIAL PERMIT

1. LOCATION OF THE PROPERTY:

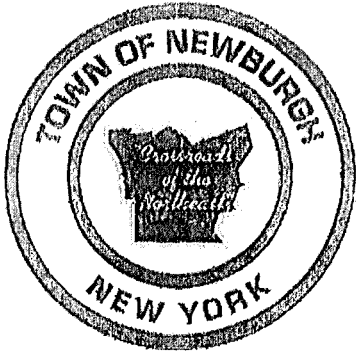
71-2.11 (TAX MAP DESIGNATION)

42 S. Plank Road (NYS Route 52) (STREET ADDRESS)

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 PROVISION OF THE ZONING LAW APPLICABLE, (INDICATE THE SECTION AND SUBSECTION OF THE ZONING LAW APPLICABLE BY NUMBER; DO NOT QUOTE THE LAW).

1) ZS 185-18(c)(4)(b): Minimum front yard off NYS Route 52 (building and canopy); 2) Schedule 7 ZS 185-11: Minimum front yard off 5th Avenue (canopy); 3) ZS 185-21 C(2) and ZS 185-21 B(4): Minimum required setback to parked car; 4) ZS 185-13 B(2): Parking in required yards; 5) ZS 185-13 B(4): Minimum setback to intersection; 6) ZS185-28 E: Minimum setback to storage tanks



TOWN OF NEWBURGH

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

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: October 20, 2021

4. DESCRIPTION OF VARIANCE SOUGHT:

1) Encroachment into minimum front yard off NYS Route 52 (building and canopy); 2) Encroachment into minimum front yard off 5th Avenue (canopy); 3) Encroachment into the minimum required setback to parked car; 4) Location of parking in required yards; 5) Encroachment into the minimum setback to intersection; 6) Encroachment into minimum setback to storage tanks.

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:
Not applicable.

(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:
Not applicable.

- c) THE VARIANCE WOULD NOT ALTER THE ESSENTIAL CHARACTER OF THE NEIGHBORHOOD BECAUSE:
Not applicable.



TOWN OF NEWBURGH

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

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

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:

The existing use of the property is as a Convenience Store and Gasoline Filling Station, which has operated since at least 1975. No motor vehicle repair, auto leasing or sales use takes place on the property and is not proposed. The amended site plan has been designed to minimize negative effects on neighboring residential uses; therefore, the new convenience store building is located to the north (or rear) of the existing building (which would be demolished), with parking placed on the east and south away from the neighbors. The proposed project will improve the aesthetics, accessibility, and vehicular safety of the site, including modifications to the site to reduce unrestricted access off 5th Avenue.

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:

The requested area variances which will result in encroachment within various setbacks will benefit the Applicant by allowing for large convenience store with grab-n-go deli (no seating), enhanced kitchen prep areas, and ample storage/cooler areas. However, benefits for the community will also be derived, including a publicly-accessible restroom, a new refuse enclosure, new curbing along the east side of the site, which will reduce the access (currently unrestricted) to a single-entry point, required parking (including accessible parking), and beautiful landscaping. The amended site plan offers the best compromise featuring improved aesthetics, safe circulation for vehicles, trucks and pedestrians, an approved landscaping and buffering.

c) THE REQUESTED AREA VARIANCE IS NOT SUBSTANTIAL BECAUSE:

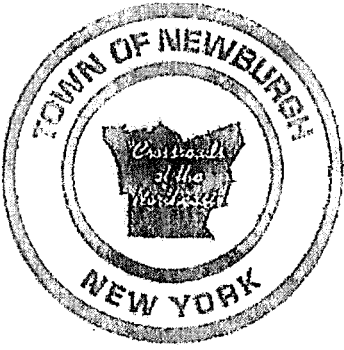
Three of the area variances requested (setback to intersection, storage tanks, and canopy) are existing nonconformances that will not be modified or increased. Therefore, these variances are not considered to be substantial. Relief from the 50-foot minimum front yard setback off NYS Route 5 will result in a 17.4% or 8.7 foot encroachment. The requested variance is less than 50% and will improve the existing non-conformity. Therefore, it is not considered to be substantial. Relief from the 10-foot minimum setback to a parked car will result in a 55% or 5.5 foot encroachment. The requested variance may be considered substantial, but will improve the existing non-conformity related to required parking while improving vehicular and pedestrian safety and circulation. Relief from the prohibition of parking in the required yard will result in a 100% encroachment as no parking is allowed within any yard. The variance may be considered substantial but will allow for safer vehicular and pedestrian conflicts.

THE NEIGHBORHOOD OR DISTRICT BECAUSE:

September 2021, a Full Environmental Assessment Form, Part 1 and narrative report assessed the potential for significantly adverse physical or environmental impacts from the proposed project. As explained in the report, the proposed project is not anticipated to result in significant adverse impacts. In fact, as explained above, the project will result in improvements to the site including, an aesthetically pleasing building, improvements to vehicular and pedestrian circulation and safety, and improved landscaping and buffering.

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

Prior to the rezoning to the B Zoning District, the site was zoned for residential use (Residential R-3 Zoning District) and the use (in place since at least 1975) was an existing, legal non-conforming use. As a non-conforming use, the Applicant was at a disadvantage as it pertained to improving the site. Therefore, the Applicant applied for a rezoning to the B Zoning District, which was granted by the Town in October 2020. The Applicant desires to modernize the existing convenience store and gasoline filling station and improve site ingress and egress (reducing un-restricted access along the drive aisles with the accessways for pedestrian and vehicular safety, and provide landscaping and buffering from the nearby residence. For the reasons noted above, the Applicant does not believe that the alleged difficulty is self-created.



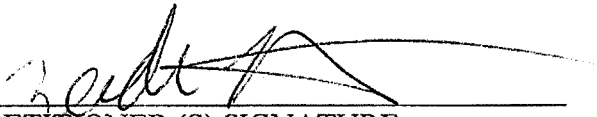
TOWN OF NEWBURGH

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

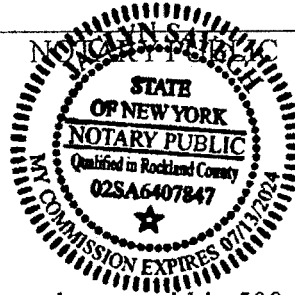
7. ADDITIONAL REASONS (IF PERTINENT):



PETITIONER (S) SIGNATURE
Gas Land Petroleum, Inc. (Zeidan Nesheiwat)

STATE OF NEW YORK: COUNTY OF ORANGE:

SWORN TO THIS 13th DAY OF October 2021



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 10 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

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ZONING BOARD OF APPEALS
OLD TOWN HALL
308 GARDNERTOWN ROAD
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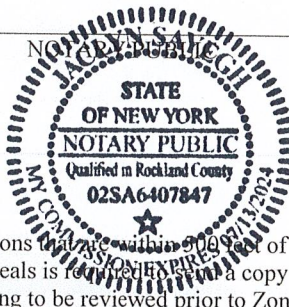
7. ADDITIONAL REASONS (IF PERTINENT):



PETITIONER(S) SIGNATURE
Gas Land Petroleum, Inc. (Zeidan Nesheiwat)

STATE OF NEW YORK: COUNTY OF ORANGE:

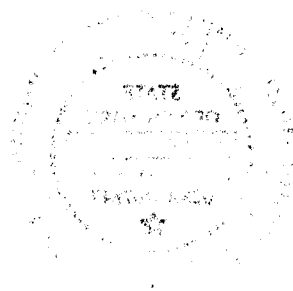
SWORN TO THIS 13th DAY OF October 2021



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 receive 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.

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





TOWN OF NEWBURGH

Crossroads of the Northeast

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

PROXY

Gas Land Petroleum, Inc. (Zeidan Nesheiwat) , DEPOSES AND SAYS THAT

HE/SHE RESIDES AT 3 Ohioville Road, New Paltz, NY 12561

IN THE COUNTY OF Ulster AND STATE OF New York

AND THAT HE/SHE IS THE OWNER IN FEE OF _____

42 S. Plank Road (NYS Route 52)

WHICH IS THE PREMISES DESCRIBED IN THE FOREGOING APPLICATION AND THAT HE/SHE HAS AUTHORIZED The Chazen Companies TO MAKE THE FOREGOING APPLICATION AS DESCRIBED THEREIN.

DATED: 10/13/21 *Zeidan Nesheiwat*

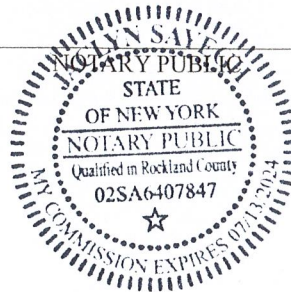
OWNER'S SIGNATURE

Kuss Umak

WITNESS' SIGNATURE

STATE OF NEW YORK: COUNTY OF ORANGE:

SWORN TO THIS 13th DAY OF October 20 21



ORANGE COUNTY CLERK'S OFFICE RECORDING PAGE
 THIS PAGE IS PART OF THE INSTRUMENT - DO NOT REMOVE

PRINT OR TYPE BLACK INK ONLY

Northville Industries
 Corp.
 TO
 GASLANO PETROLEUM, Inc.

SECTION 71 BLOCK 2 LOT 11

RECORD AND RETURN TO:
 (Name and Address)

Paul Sawcinian, Esq.
 4 Liberty St.
 Poughkeepsie, NY 12601

ATTACH THIS SHEET TO THE FIRST PAGE OF EACH
 RECORDED INSTRUMENT ONLY.

DO NOT WRITE BELOW THIS LINE

CONTROL NO. 55309 DATE 4-26-94 AFFIDAVIT FILED _____ 19__

INSTRUMENT TYPE: DEED MORTGAGE _____ SATISFACTION _____ ASSIGNMENT _____ OTHER _____

- BQ20 Blooming Grove _____
- CH22 Chester _____
- CO24 Cornwall _____
- CR28 Crawford _____
- DP28 Despark _____
- GO30 Goshen _____
- GR32 Greenville _____
- HA34 Hamptonburgh _____
- HI38 Highlands _____
- MK38 Miniskill _____
- ME40 Monroe _____
- MY42 Montgomery _____
- MH44 Mount Hope _____
- NT48 Newburgh (T)
- NW48 New Windsor _____
- TU50 Tuxedo _____
- WL62 Wallkill _____
- WK54 Warwick _____
- WA56 Wawayanda _____
- WO58 Woodbury _____
- MN08 Middletown _____
- NC11 Newburgh _____
- PJ13 Port Jervis _____
- 9999 Hold _____

SERIAL NO. _____
 Mortgage Amount \$ _____
 Exempt Yes _____ No _____
 3-6 Cooking Units Yes _____ No _____
 Received Tax on above Mortgage _____
 Basic \$ _____
 MTA \$ _____
 Spec. Add. \$ _____
 TOTAL \$ _____

CHECK CASH _____ CHANGE _____
 MORTGAGE TAX \$ _____
 TRANSFER TAX \$ 1600
 ED. FUND \$ 5.00
 RECORD FEE \$ 17.00
 REPORT FORMS \$ 30.00
 CERT. COPIES \$ _____

by: Joan A. Macchi
 Orange County Clerk
 ORANGE COUNTY CLERK'S OFFICE S.S.
 Recorded on MAY 3 1994
 at 12:49 O'clock P. M.
 In Libor/Film 4037 dech
 of page 2-41 and examined.
Joan A. Macchi
 County Clerk

River City
 RECEIVED
 REAL ESTATE
 TRANSFER TAX
 ORANGE COUNTY
 MAY 3 1994
 \$150

LIBER 4037 PAGE 241

ORG 05/03/94 12:49:44 20492 47.00
 ***** EDUCATION FUND: 5.00 *****
 DEED CONTROL NO: 55309 1600.00 *
 ***** SERIAL NUMBER: 006450 *****

RC1870667

CONSULT YOUR LAWYER BEFORE SIGNING THIS INSTRUMENT. THIS INSTRUMENT SHOULD BE USED BY LAWYERS ONLY.

THIS INDENTURE, made the 26th day of April, nineteen hundred and NINETY-FOUR
BETWEEN NORTHVILLE INDUSTRIES CORP., a New York corporation, having its principal office at 25 Melville Park Road, Melville, NY 11747

party of the first part, and GASLAND PETROLEUM, INC., a New York corporation, with an office at 785 Broadway, Kingston, NY 12401

party of the second part.
WITNESSETH, that the party of the first part, in consideration of Ten Dollars 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

SEE SCHEDULE A

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 73 of the Easement Law, covenants that the party of the first part will receive the consideration for this conveyance and will hold the right to receive 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.

IN PRESENCE OF

NORTHVILLE INDUSTRIES CORP.

Gene M. Bernstein
GENE M. BERNSTEIN,
PRESIDENT

LIBER 4037 PAGE 242

STATE OF NEW YORK, COUNTY OF

On the day of 19 , before me personally came

to me known to be the individual described in and who executed the foregoing instrument, and acknowledged that executed the same.

STATE OF NEW YORK, COUNTY OF

On the day of 19 , before me personally came

to me known to be the individual described in and who executed the foregoing instrument, and acknowledged that executed the same.

STATE OF NEW YORK, COUNTY OF SUFFOLK

On the 26th day of APRIL 1994 , before me personally came Gene M. Bernstein to me known, who, being by me duly sworn, did depose and say that he resides at No. 39 The Oaks, Roslyn, NY

PRESIDENT that he is the of NORTHVILLE INDUSTRIES CORP.,

the corporation described in and which executed the foregoing instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the board of directors of said corporation; and that he signed his name thereto by his order.

MOTARY PUBLIC

ALICE HELLER Notary Public, State of New York No. 62-4521836 Qualified in Suffolk County Commission Expires Feb. 28, 1997

STATE OF NEW YORK, COUNTY OF

On the day of 19 , before me personally came

the subscribing witness to the foregoing instrument, with whom I am personally acquainted, who, being by me duly sworn, did depose and say that he resides at No.

that he knows

to be the individual described in and who executed the foregoing instrument; that he, said subscribing witness, was present and saw execute the same; and that he, said witness, at the same time subscribed his name as witness thereto.

BARGAIN AND SALE DEED WITH COVENANT AGAINST GRANTOR'S ACTS Title No.

NORTHVILLE INDUSTRIES CORP.

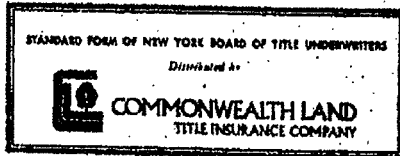
TO

GASLAND PETROLEUM, INC.

SECTION BLOCK LOT COUNTY OR TOWN

Recorded at Request of COMMONWEALTH LAND TITLE INSURANCE COMPANY.

RETURN BY MAIL TO:



PAUL SCHWEMER 4 LIBERTY STREET Poughkeepsie, NY 12601 Zip No.

RESERVE THIS SPACE FOR USE OF RECORDING OFFICE

LIBER-4037 PAGE 243

TITLE NO. RCA-ST-0352

SCHEDULE A

ALL THAT TRACT OR PARCEL OF LAND situate in the Town of Newburgh, County of Orange and State of New York being lands of Northville Industries, Corp. as described and recorded in the Orange County Clerk's Office in Liber 3403 of Deeds at Page 330, said parcel being more particularly bounded and described as follows:

BEGINNING at a point on the northwesterly bounds of the Travelled Way of Fifth Street, said point being the southeast corner of lands of Venuto (D.L. 2424, P. 317) and also being located South 24 degrees 24 minutes 00 seconds West a distance of 140.0 feet as measured along said road bounds from an iron pipe found on said road bounds; thence from said point of beginning along the northwesterly bounds of said Fifth Street South 24 degrees 24 minutes 00 seconds West a distance of 201.08 feet to a concrete highway monument found at the northeast corner of lands taken by the State of New York for highway purposes (D.L. 2241, P. 369); thence running along the northerly bounds of said parcel taken for highway purposes South 68 degrees 31 minutes 14 seconds West a distance of 23.52 feet to a concrete highway monument found at an angle point in said northerly bounds; thence continuing along the northerly bounds of said parcel taken for highway purposes North 52 degrees 55 minutes 32 seconds West a distance of 28.00 feet to a concrete highway monument found on the easterly bounds of the Travelled Way of New York State Highway #52; thence running along the easterly bounds of said Highway #52 North 10 degrees 18 minutes 00 seconds West a distance of 91.73 feet to an angle in said easterly bounds; thence continuing along the easterly bounds of said Highway #52 North 21 degrees 17 minutes 00 seconds West a distance of 57.11 feet to the most southerly corner of lands of Indzonka (D.L. 1764, P. 939), said point also being located South 21 degrees 17 minutes 00 seconds East a distance of 92.3 feet as measured along said road bounds from an iron rod found on said road bounds; thence

LIB 4037 PAGE 241

TITLE NO. RCA-ST-0352
Page 2
SCHEDULE A

running along the southeasterly bounds of said lands of Indzonka running partially along the remains of a line of poles North 22 degrees 51 minutes 00 seconds East a distance of 94.32 feet to the southwest corner of said lands of Venuto; thence running along the southwesterly bounds of said lands of Venuto passing through an iron pipe found on said southwesterly bounds South 66 degrees 31 minutes 00 seconds East a distance of 139.34 feet to the point or place of beginning

For conveyancing only,
to be conveyed.

Together with all right, title if intended
and interest of, in and to any streets and
road abutting the above described
premises, to the center line thereof

Certificate and Report of Title- New York
FORM 2215-5

LIBER 4037 PAGE 245





Mobil

Emergency
Supplement
Check out
the new
15 minute
fast service
gas change.

Emergency
Supplement
Check out
the new
15 minute
fast service
gas change.

112¢
116¢
111¢
111¢



Mobil

Synergy
Superior
Hybrid
24
for better
gas mileage

Mobil

FUEL TECHNOLOGY
Synergy

Regular Cash	2.09
Regular Credit	2.19
Diesel Efficient Credit	2.49

Food Mart

open
24
hours



**ADDENDUM TO ZBA APPLICATION FOR AREA VARIANCE
REASONS FOR APPEAL
Proposed New Convenience Store with Site Improvements
42 S. Plank Road, Newburgh, NY**

The Applicant and Owner, Gas Land Petroleum, is seeking site plan approval to construct a new, one-story, 2,300 SF convenience store (located approximately 18 feet north of the existing 1,564 SF, one-story, convenience store, which would be demolished) with associated site improvements (landscaping, parking, vehicular safety upgrades) located at 42 S. Plank Road (NYS Route 52) in the Town of Newburgh. The 0.531-acre parcel is identified as parcel 71-2.11 on the Town of Newburgh Tax Map and is located at the intersection of S. Plank Road and 5th Avenue (Figures 1 and 2). The site was rezoned to Zoning District Business (B) on October 26, 2020. In addition to the existing building, the tax parcel is currently developed with 8 fuel pumps (8 fueling stations)¹ and 13 parking spaces, including 8 spaces at the fuel pumps.

The new 2,300 SF convenience store will feature updated and Town-appropriate architecture and will include a grab-n-go deli (no seating), enhanced kitchen prep areas, ample storage and cooler areas, and a publicly-accessible restroom. The existing 8 fuel pumps would remain unchanged as part of the proposed project. As part of the proposed project, new curbing will be introduced around the east side of the site, which will reduce the access (currently unrestricted) to a single-entry point. A new refuse enclosure will be located west of the northeast corner of the new building. A new landscaped island will be constructed along the eastern edge of the property. Total new parking will include 17 spaces, including the 8 spaces at the pumps. Parking spaces will be located on the south side of the building with sufficient drive aisle space that aligns with the modified entrance on the east side of the site and the existing west side access. An accessible parking space will be added in front of the store and additional parking will be added in the southeast area of the property. Landscaping improvements will include new trees and shrubs along the east, west and north sides of the property as well as new fencing for screening along the northwest, north and northeast parts of the property. The number of fueling stations will remain the same.

The site was rezoned to Zoning District Business (B) on October 26, 2020. Some aspects of the site's current development are pre-existing, nonconforming including:

- Encroachment into the minimum front yard off NYS Route 52 by the existing building and canopy;
- Encroachment into the minimum front yard off 5th Avenue by the existing building and canopy;
- Encroachment into the minimum setback to an intersection;
- No parking in required yards;
- Encroachment into the minimum required setback to a parked car;
- Encroachment into the minimum landscape buffer between residential and non-residential uses at the side yard;
- Encroachment of the underground storage fuel tanks into the minimum required setback; and
- Required parking and loading.

The proposed project will improve the minimum front yard setback to the building off NYS Route 52 and 5th Avenue, the minimum landscape buffer at the side yard, location of parking in the side yard, and provide the required parking and loading spaces. The area variances required for the proposed project are presented below and in Table 1. Of the variances being requested, the proposed action to construct a new convenience store will not change or increase the encroachment of the canopy into the front yard

¹ No changes are proposed to the fuel pumps as part of the proposed action.

setbacks, the encroachment into the required setback to the intersection, and the encroachment of the underground storage tanks into the setback.

Required Area Variances

1. Per ZS 185-18C(4)(b): Minimum front yard off NYS Route 52 for building and canopy
2. Per ZS 185-11, Schedule 7 B District: Minimum front yard off 5th Avenue for canopy
3. ZS 185-21C(2) and ZS 185-21B(4) Minimum required setback to parked car
4. Per ZS 185-13B(2): Parking in required yards
5. Per ZS 185-13B(4): Minimum setback to intersection
6. Per ZS 185-28E: Minimum setback to storage tanks

Table 1: Bulk and Dimensional Requirements - B Zoning District and Supplemental Regulations

Convenience Store with Gasoline Filling Station		B District	Existing Condition	Proposed Condition – Variance Required
Front yard ¹	NYS Route 52	50 FT	Building: ³ Pre-existing Nonconforming 37.1 FT	Building: 41.3 FT
			Canopy: ³ Pre-existing Nonconforming 7 FT	Canopy: 7 FT
	5 th Avenue	40 FT	Canopy: ³ Pre-existing Nonconforming 27.8 FT	Canopy: 27.8 FT
Minimum setback to parked car		10 FT	³ Pre-existing Nonconforming 7 FT	4.5 FT
Parking in required yards		Not allowed	³ Pre-existing Nonconforming - Parking spaces located in front and side yards	Parking spaces in both front yards
Setback to intersection ²		50 FT	³ Pre-existing Nonconforming 22 FT	22 FT
Setback to storage tanks		15 FT	³ Pre-existing Nonconforming 12 FT	12 FT

¹ Town Code § 185-18(c)(4)(b) states, “front yards abutting all County and State highways shall be at least 60 feet in depth, except where the majority of existing buildings on either side of the road within 300 feet from the intersection of the nearest property line and street line are of a lesser average depth. In such case, the front yard depth shall be 50 feet or the average of all lot depths within said 300 feet, whichever is greater.” ² Town Code § 185-13-B(4) states, “no access within 50 feet of any street intersection.” ³ Pre-existing nonconformance. ⁶ Area variance required.

Area Variance Criteria

Per Section 185-54B, in making its determination, the Zoning Board of Appeals shall take into consideration the following:

(1) To authorize, upon appeal of a decision of the Building and Code Enforcement Officer and the Chairman of the Planning Board, such variances from the terms of this chapter as will not be contrary to the public interest where, owing to exceptional and extraordinary circumstances, there are unnecessary hardships or practical difficulties in the way of carrying out of the strict letter of this chapter, subject to terms and conditions to be fixed by the Zoning Board of Appeals; provided, however, that no such variance shall be granted unless the Zoning Board of Appeals finds:

- (a) That there are special circumstances or conditions fully described in the findings of the Board applying to the land or building for which the variance is sought, which circumstances or conditions are unique to such land or building and do not apply generally to land or buildings in

the neighborhood and have not resulted from any act of the appellant or applicant subsequent to the adoption of this chapter, whether in violation of the provisions hereof or not.

Prior to the rezoning to the B Zoning District, the site was zoned for residential use (Residential R-3 Zoning District) and the use (in place since at least 1975) was an existing, legal non-conforming use. As a non-conforming use, the Applicant was at a disadvantage as it pertained to improving the site. Therefore, the Applicant applied for a rezoning to the B Zoning District, which was granted by the Town in October 2020.

Upon rezoning, the site became pre-existing, nonconforming for:

- Encroachment into the minimum front yard off NYS Route 52 by the existing building and canopy;
- Encroachment into the minimum front yard off 5th Avenue by the existing building and canopy;
- Encroachment into the minimum setback to an intersection by the existing access;
- No parking in required yards;
- Encroachment into the minimum required setback to a parked car;
- Encroachment into the minimum landscape buffer between residential and non-residential uses at the side yard;
- Encroachment of the underground storage fuel tanks into the minimum required setback; and
- Required parking and loading.

The proposed project requires an area variance for the building's encroachment into the minimum front yard off NYS Route 52; however, the amended site plan will improve the non-conformance. A 50-foot setback off NYS Route 52 is required. In the existing condition, a 37.1-foot is provided. The amended site plan provides a 41.3-foot setback to the proposed new convenience store, which will improve the non-conformity.

The pre-existing nonconforming encroachment of the canopy into the required front yards (7 FT on NYS 52 and 27.8 FT on 5th Avenue) will not be changed or increased as part of the proposed action; however, an area variance is required.

The proposed project requires an area variance for minimum setback to a parked car. To provide the required parking and improve vehicular and pedestrian circulation and safety the amended site plan includes two parking spaces along the east edge (Fifth Avenue) for more efficient use of the site. These two parking spaces are located within the required 10-foot setback at 4.5 feet from the east property line.

The proposed project requires an area variance for parking in the required yard, which is not permitted. Parking will be located within both front yards (including at the fuel pumps on NYS Route 52) but will no longer occur in the side yard.

The proposed project requires an area variance for the required minimum setback to an intersection where 50 feet is required and 22 feet is provided, which is pre-existing non-conforming. The amended site plan will not increase the non-conformity. The site is wedged between NYS Route 52 and Fifth Avenue and has been operational since at least 1975.

The pre-existing nonconforming encroachment of the underground storage tanks into the required setback will not be changed or increased as part of the proposed action; however, an area variance is required.

The site is unusually constrained and has been operational since at least 1975 as a convenience store and gasoline filling station. The proposed area variances will improve some non-conformities and improve vehicular and pedestrian circulation and safety. With the recent rezoning, the Applicant has the ability to improve the facility and the amended site plan offers the best compromise featuring improved aesthetics, safe circulation for vehicles, trucks and pedestrians, and improved landscaping and buffering.

(b) That for reasons fully set forth in the findings of the Board, the aforesaid circumstances or conditions are such that the strict application of the provisions of this chapter would deprive the appellant or applicant of the reasonable use of such land or building and the granting of the variance is necessary for the reasonable use of the land or building and that the variance which is granted by the Board is the minimum variance that will accomplish this purpose.

The requested area variance for encroachment in the front yard setback on NYS Route 52 will allow for additional landscaping and buffering between the new building and residences located east across Fifth Avenue without encroachment into the required front yard setback off Fifth Avenue. In fact, the proposed new building is situated as closely to the required Fifth Avenue front yard setback as possible. Therefore, the minimum variance is being requested.

The requested variances for the existing canopy's encroachment into the required front yards are the minimum necessary as the proposed action will not modify the location of the canopy and it is pre-existing, non-conforming.

The requested area variance for encroachment into the minimum setback to a parked car is necessary to provide the required parking in a manner that improves vehicular and pedestrian circulation and safety on site. As part of the proposed project, new curbing will be introduced along the east side of the site, which will reduce the access (currently unrestricted) to a single-entry point. The new curbing presents an opportunity to beautify the site with landscaping and provide additional parking as required. By providing the parking along the east side, as opposed to further south by the sign, the amended site plan avoids vehicular and pedestrian conflicts. Therefore, the minimum variance is being requested.

Similar to above, the requested area variance for parking in the required front yards where it is prohibited is proposed to avoid vehicular and pedestrian conflicts. Given site constraints, there is no lesser variance that would be suitable. Note that parking has been removed from the required side yard, where it encroaches in the current condition.

The requested area variance for encroachment within the required minimum setback to an intersection is the minimum requested as there is no increase to the existing non-conformity.

The requested area variance for encroachment within the required minimum setback to underground storage tanks is the minimum requested as there is no increase to the existing non-conformity.

(c) That the granting of the variance will be in harmony with the general purposes and intent of this chapter and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

The requested area variances which will result in encroachment within various setbacks (i.e., front yard setback, parking setback, setback from intersection, no parking in any setback, and setback to storage tanks) will result in an amended site plan that is in harmony with the general purposes and intent of the Zoning chapter and which will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

The gas station site, which has existed since at least 1975, is located at the edge of a residential area, wedged between NYS Route 52 and 5th Avenue. Commercial properties located adjacent to the site include a former dentist's office (previously known as Francis Indzonka – Dentist at 46 S. Plank Road), which is currently inactive and a chiropractor's office (Dane Clark – Chiropractor at 4 Fifth Avenue). The site is also located less than ½ mile northeast of a property owned by Waterstone (zoned for Industrial Business (IB)), Cooper Electric (zoned as B District) and Habitat for Humanity (zoned as B District) and less than one mile from the exit ramps providing access to Interstate 84 (I-84).

The new 2,300 SF convenience store will feature updated and Town-appropriate architecture and will include a grab-n-go deli (no seating), enhanced kitchen prep areas, ample storage and cooler areas, and a publicly-accessible restroom. The existing 8 fuel pumps would remain unchanged as part of the proposed project. New curbing will be introduced around the east side of the site, which will reduce the access (currently unrestricted) to a single-entry point. A new refuse enclosure will be located west of the northeast corner of the new building. A new landscaped island will be constructed along the eastern edge of the property. Parking spaces will be located on the south side of the building with sufficient drive aisle space that aligns with the modified entrance on the east side of the site and the existing west side access. An accessible parking space will be added in front of the store and additional parking will be added in the southeast area of the property. Landscaping improvements will include new trees and shrubs along the east, west and north sides of the property as well as new fencing for screening along the northwest, north and northeast parts of the property.

With these improvements, this convenience store and gasoline filling station that has served the community for almost 50 years, will continue to provide necessary services to the community without causing detriment.

The following area variance criteria are found on the Town of Newburgh Zoning Board of Appeals Application.

1. The variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties.

The existing use of the property is as a Convenience Store and Gasoline Filling Station, which has operated since at least 1975. No motor vehicle auto repair, auto leasing or sales use currently takes place on the property and is not proposed. No new use is proposed for the site and the number of fueling stations will remain unchanged.

The amended site plan has been designed to minimize negative effects on neighboring residential uses; therefore, the new convenience store building is located to the north (or rear) of the existing building (which would be demolished), with parking placed on the east and south away from the neighbors. The proposed project will improve the aesthetics, accessibility, and vehicular safety of the site, including modifications to the site to reduce unrestricted access off 5th Avenue. Therefore, the area variances for encroachment within various setbacks (i.e., front yard setback, parking setback, setback from intersection, no parking in any setback, and setback to storage tanks) will not result in an undesirable change in the character of the neighborhood or a detriment to nearby properties especially as they were each pre-existing, nonconforming.

Furthermore, the proposed project will improve the minimum front yard setback to the building off NYS Route 52 and 5th Avenue, the minimum landscape buffer at the side yard, location of parking in the side yard, and provide the required parking and loading spaces. Finally, the proposed action to construct a new convenience store will not change or increase the encroachment of the canopy into the front yard setbacks, the encroachment into the required setback to the intersection, and the encroachment of the underground storage tanks into the setback.

2. The benefit sought by the Applicant cannot be achieved by some method, feasible for the Applicant to pursue, other than the variance.

The requested area variances which will result in encroachment within various setbacks (i.e., front yard setback, parking setback, setback from intersection, no parking in any setback, and setback to storage tanks), which will benefit the Applicant by allowing for a larger convenience store with grab-n-go deli (no seating), enhanced kitchen prep areas, and ample storage and cooler areas. However, benefits for the community will also be derived, including a publicly-accessible restroom, new curbing along the east side of the site, which will reduce the access (currently unrestricted) to a single-entry point, required parking (including accessible parking), and beautiful landscaping. In addition, a new refuse enclosure will be located west of the northeast corner of the new building.

The site is unusually constrained and the proposed area variances will improve some non-conformities and improve vehicular and pedestrian circulation and safety. With the recent rezoning, the Applicant has the ability to improve the facility and the amended site plan offers the best compromise featuring improved aesthetics, safe circulation for vehicles, trucks and pedestrians, and improved landscaping and buffering. Note that requested variances include those for existing nonconformances that are not being altered, such as the location of the canopy, underground storage tanks, the setback to the intersection, and parking in required yards. For these variances, there is not alternative.

3. The requested area variance is not substantial.

- Relief from the 50-foot minimum front yard setback off NYS Route 52 for the proposed building will result in a 17.4% or 8.7 foot encroachment. The requested variance is less than 50% and will improve the existing non-conformity. Therefore, it is not considered to be substantial.
 - Relief from the 50-foot minimum front yard setback off NYS Route 52 for the existing canopy will result in 86% or 43 foot encroachment. The requested variance does not increase the existing non-conformity; therefore, it is asserted that this variance is not substantial.
 - Relief from the 50-foot minimum front yard setback off 5th Avenue for the existing canopy will result in 24.4 or 12.2 foot encroachment. The requested variance does not increase the existing non-conformity; therefore, it is asserted that this variance is not substantial.
 - Relief from the 10-foot minimum setback to a parked car will result in a 55% or 5.5 foot encroachment. The requested variance may be considered substantial, but will improve the existing non-conformity related to required parking while improving vehicular and pedestrian safety and circulation.
 - Relief from the prohibition of parking and loading in the required front yards will result in a 100% encroachment as no parking or loading is allowed within any yard. The variance may be considered substantial but will allow for safer vehicular and pedestrian conflicts, and is an existing non-conformity.
 - Relief from the 50-foot minimum setback to an intersection will result in a 56% or 28-foot encroachment. The requested variance does not increase the existing non-conformity (22 feet); therefore, it is asserted that this variance is not substantial.
 - Relief from the 15-foot minimum setback to underground storage tanks for the existing underground storage tanks will result in 2% or 3 foot encroachment. The requested variance does not increase the existing non-conformity; therefore, it is asserted that this variance is not substantial.
4. The proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood district.

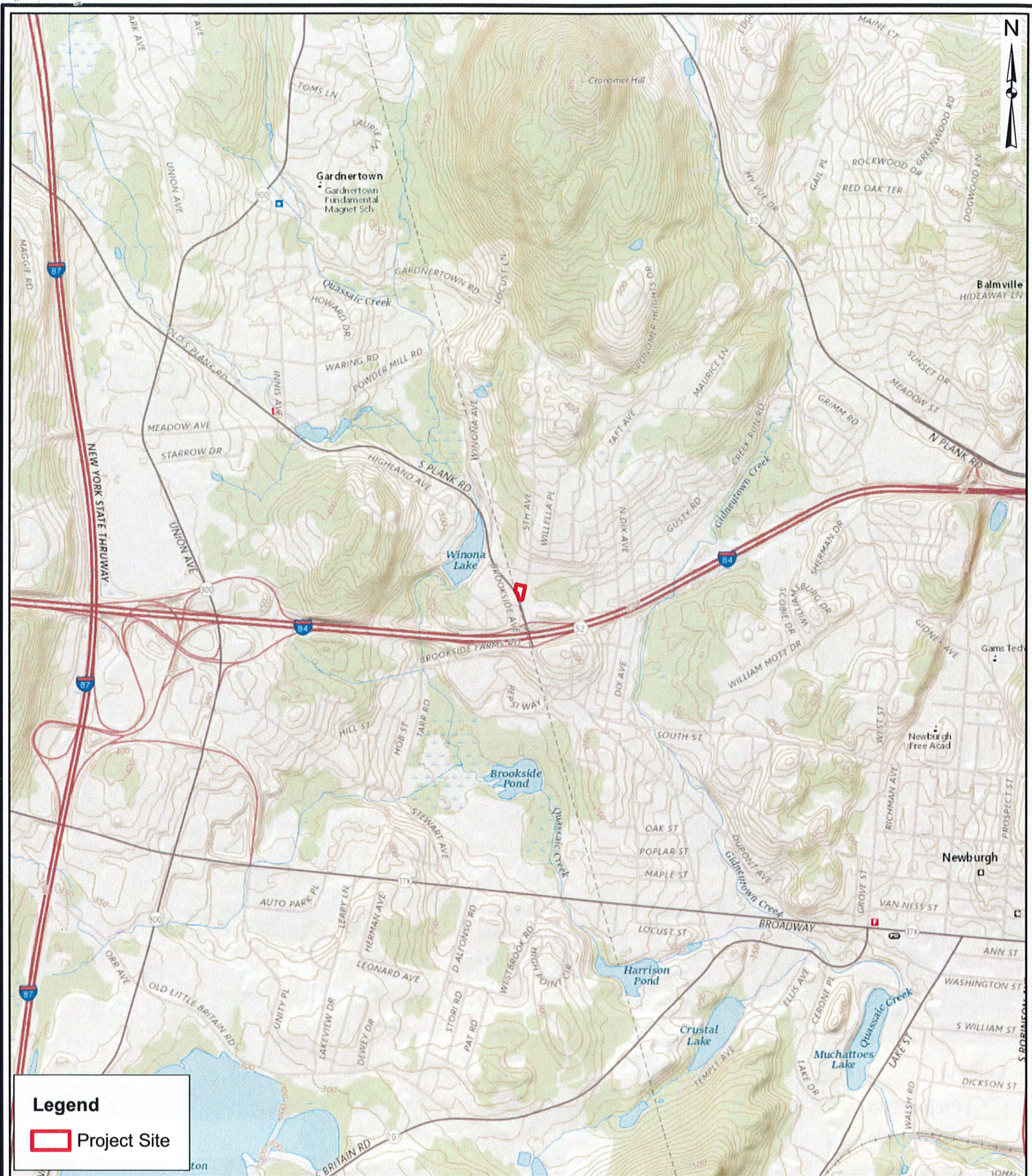
In September 2021, a Full Environmental Assessment Form, Part 1 and narrative report assessed the potential for significantly adverse physical or environmental impacts from the proposed project. As explained in the report, the proposed project is not anticipated to result in significantly adverse impacts. In fact, as explained above, the project will result in improvements to the site including, an aesthetically pleasing building, improvements to vehicular and pedestrian circulation and safety, and improved landscaping and buffering.

5. The hardship has not been self-created.

Prior to the rezoning to the B Zoning District, the site was zoned for residential use (Residential R-3 Zoning District) and the use (in place since at least 1975) was an existing, legal nonconforming use. As a nonconforming use, the Applicant was at a disadvantage

as it pertained to improving the site. Therefore, the Applicant applied for a rezoning to the B Zoning District, which was granted by the Town in October 2020.

The Applicant desires to modernize the existing convenience store and gasoline filling station and improve site ingress and egress (reducing un-restricted access), align the drive aisles with the accessways for pedestrian and vehicular safety, and provide landscaping and buffering from the nearby residences. For the reasons noted above, the Applicant does not believe that the alleged difficulty is self-created.



Legend
 Project Site

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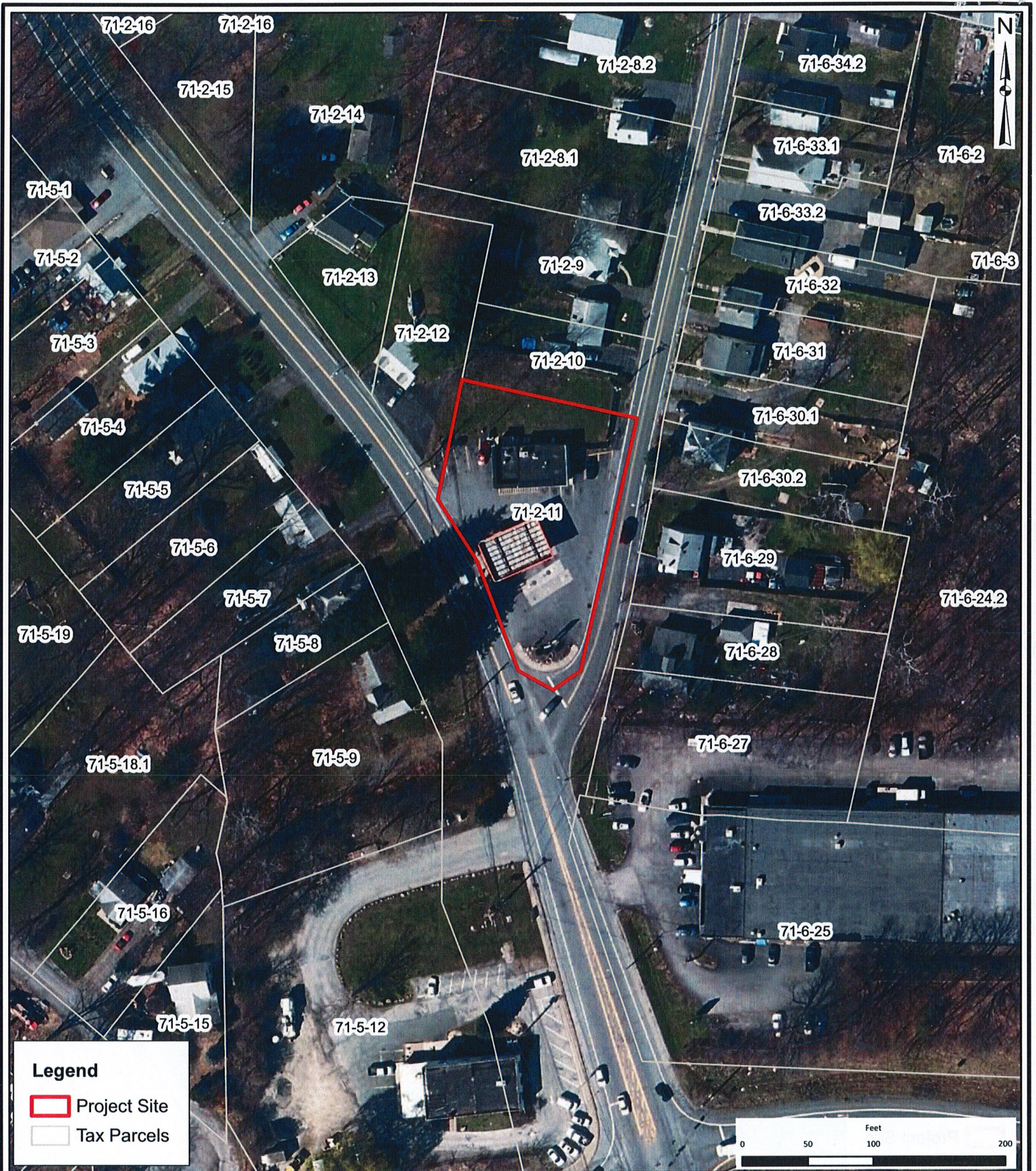
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Plank Road - GasLand

USGS Location Map

Town of Newburgh, Orange County, New York

Drawn:	SPL
Date:	04/09/2020
Scale:	1 inch = 2,000 feet
Project:	82018.00
Figure:	1



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Plank Road - GasLand

Orthophoto Tax Map

Town of Newburgh, Orange County, New York

Drawn:	SPL
Date:	04/09/2020
Scale:	1 inch = 100 feet
Project:	82018.00
Figure:	2

Short Environmental Assessment Form Part 1
for
42 S. Plank Road – Gas Land Petroleum
42 South Plank Road (U.S. Route 52)
Town of Newburgh
Orange County, New York



Issued: April 22, 2021

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SHORT ENVIRONMENTAL ASSESSMENT FORM PART 1 FORM

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- Attachment A: Suffolk County Loading Rates
- Attachment B: US Fish & Wildlife Service (USFWS) IPaC Resource List
- Attachment C: NYSOPRHP Correspondence

Note: Site Plan submitted separately.

PROJECT NARRATIVE

1.0 PROJECT DESCRIPTION

The Applicant and Owner, Gas Land Petroleum, is seeking site plan approval to construct a new, one-story, 2,300 SF convenience store (located approximately 18 feet north of the existing 1,564 SF, one-story, convenience store, which would be demolished) with associated site improvements (landscaping, parking, vehicular safety upgrades) located at 42 S. Plank Road (NYS Route 52) in the Town of Newburgh. The 0.531-acre parcel is identified as parcel 71-2.11 on the Town of Newburgh Tax Map and is located at the intersection of S. Plank Road and 5th Avenue (Figures 1 and 2). The site was rezoned to Zoning District Business (B) on October 26, 2020. In addition to the existing building, the tax parcel is currently developed with 8 fuel pumps (8 fueling stations)¹ and 13 parking spaces, including 8 spaces at the fuel pumps.

The new 2,300 SF convenience store will feature updated and Town-appropriate architecture and will include a grab-n-go deli (no seating), enhanced kitchen prep areas, ample storage and cooler areas, and a publicly-accessible restroom. The existing 8 fuel pumps would remain unchanged as part of the proposed project. As part of the proposed project, new curbing will be introduced around the east side of the site, which will reduce the access (currently unrestricted) to a single-entry point. A new refuse enclosure will be located west of the northeast corner of the new building. A new landscaped island will be constructed along the eastern edge of the property. Total new parking will include 17 spaces, including the 8 spaces at the pumps. Parking spaces will be located on the south side of the building with sufficient drive aisle space that aligns with the modified entrance on the east side of the site and the existing west side access. An accessible parking space will be added in front of the store and additional parking will be added in the southeast area of the property. Landscaping improvements will include new trees and shrubs along the east, west and north sides of the property as well as new fencing for screening along the northwest, north and northeast parts of the property. The number of fueling stations will remain the same. The proposed project will require area variances for the following: minimum front yard off NYS Route 52; minimum setback to intersection, parking in required yards; and minimum required setback to parked car.

Table 1 provides a list of the approvals/permits that are anticipated for the project.

Table 1: Anticipated Approvals/Permits/Statutory Referrals

AGENCY	APPROVAL/PERMIT
Town of Newburgh Planning Board	Site Plan, Architectural Review
Town of Newburgh Zoning Board of Appeals	Area Variance(s)
Orange County Department of Planning and Development	GML 239m referral
Town of Newburgh Highway Department	Highway Work Permit

2.0 LAND USE AND ZONING

2.1 Land Use

The site is located at the edge of a residential area, wedged between a State highway (NYS Route 52/S. Plank Road) and Fifth Avenue. Commercial properties located adjacent to the site include a former dentist’s office (previously known as Francis Indzonka – Dentist at 46 S. Plank Road), which is currently inactive and a

¹ No changes are proposed to the fuel pumps as part of the proposed action.

chiropractor's office (Dane Clark – Chiropractor at 4 Fifth Avenue) (see Figure 3). The site is also located less than ½ mile northeast of other Industrial Business and B-zoned properties, including a property owned by Waterstone, Cooper Electric, and Habitat for Humanity, and less than one mile from the exit ramps providing access to Interstate 84 (I-84).

The existing use of the property is as a Convenience Store and Gasoline Filling Station. No motor vehicle auto repair, auto leasing or sales use takes place on the property. The site has operated as a convenience store and gasoline filling station use since at least 1975.

2.2 Zoning

The site was rezoned to Zoning District Business (B) on October 26, 2020. The bulk and dimensional requirements for the B Zoning District and applicable supplemental regulations are identified in Table 2. As indicated below, the site generally conforms to the bulk and dimensional requirements of the B Zoning District, with some exceptions. Some aspects of the site's development are pre-existing, nonconforming including the provision of the minimum front yard off NYS Route 52 and Fifth Avenue; provision of the minimum setback to an intersection, parking in required yards (not allowed), minimum required setback to parked car, and minimum landscape buffer between residential and non-residential uses at the side yard. The proposed project will require area variances for minimum front yard off NYS Route 52; minimum setback to intersection, parking in required yards; and minimum required setback to parked car but will improve the non-conformance for the minimum front yard off NYS Route 52, minimum landscape buffer at the side yard, and required loading space. Since the use conforms and the proposed project is generally consistent with the Town's Zoning regulations, no significant adverse impacts related to land use or zoning are anticipated to result from the proposed project.

Table 2: Bulk and Dimensional Requirements - B Zoning District and Supplemental Regulations

Convenience Store with Gasoline Filling Station		B District – use subject to PB site plan approval	Existing Condition	Proposed Condition
Lot area SF		20,000 SF	23,123 SF	23,123 SF
Lot width FT		100 FT	130 FT	130 FT
Lot depth FT		125 FT	221 FT	221 FT
Front yard FT¹	NYS Route 52	50 FT (185-18(C)(4)(b))	⁵ Pre-existing Nonconforming 37.1 FT	⁶ 41.3 FT
	Fifth Avenue	40 FT	⁵ Pre-existing Nonconforming 29.6 FT (Fifth Ave)	41.5 FT
Rear yard FT²		30 FT	55.3 FT	31.5 FT
1 side yard FT²		25 FT	46.7 FT	25.6 FT
Setback to intersection³		50 FT	⁵ Pre-existing Nonconforming 22 FT	⁵ 622 FT
Lot building coverage %⁴		50%	6.9%	9.9%
Lot surface coverage %		80%	60.8%	67.3%
Building height FT		35 FT	< 35 FT	< 35 FT
Parking in required yards		Not allowed	⁵ Pre-existing Nonconforming - Parking spaces located in front and side Yards	⁶ Parking spaces in front yard off Fifth Avenue and loading in the side yard
Minimum setback to parked car		10 FT	⁵ Pre-existing Nonconforming 7 FT	⁶ 4.5 FT
Landscape buffer between Residential and Nonresidential		15 FT, rear yard (185-21(D)(2))	55.3 FT (rear) ⁵ Pre-existing Nonconforming 9.5 FT (side)	31.5 (rear) 10 FT (side)
Required Parking: Convenience Store		1 space per 150 SF gross leasable floor space	1,564 SF convenience store / 150 SF = 11 required spaces. 13 spaces provided (including 8 spaces at the pumps)	2,300 SF convenience store/150 SF = 16 required spaces 17 spaces provided (including 8 spaces at the pumps)
Required Loading		< 25,000 SF = 1 space	Pre-existing Nonconforming - 0 space provided	1 space provided

¹ Town Code § 185-18(c)(4)(b) states, “front yards abutting all County and State highways shall be at least 60 feet in depth, except where the majority of existing buildings on either side of the road within 300 feet from the intersection of the nearest property line and street line are of a lesser average depth. In such case, the front yard depth shall be 50 feet or the average of all lot depths within said 300 feet, whichever is greater.” ² Town Code § 185-18(C)(5)(a) states, “Minimum Adjacent Side and Rear Yard Requirements for Lots in B District Abutting Residential Zones: If total building floor area is less than 30,000 SF, then the greater of the minimum required yard set forth in the B district Table of Bulk and Use Requirements – Schedule 7, or 25 feet.” Schedule 7 regulates a 30 FT rear yard, which is the greater of the two. Schedule 7 regulates a 15 FT side yard, which is less than 25 FT; therefore, 25 FT is required. ³ Town Code § 185-13-B(4) states, “no access within 50 feet of any street intersection.” ⁴ Maximum lot building coverage is 40% if no public water or sewer and 50% if public water and sewer. ⁵ Pre-existing nonconformance. ⁶ Area variance required.

2.3 Public Policy

Town of Newburgh 2005 Comprehensive Plan

The Town’s Comprehensive Plan (“Plan”) was written in 2005 following a time of heightened development and growth. The Plan focuses on planning for growth through short, intermediate and long-term actions related to infrastructure and utilities, transportation and planning and zoning. The site is located within the southern half of the Town, which is described in the Plan as having a higher density residential area and commercial corridors.

The project site is not identified specifically in the Plan, but the Plan does include an implementation action to update the definitions of convenience store and motor vehicle service stations². According to Zoning Section 185-3, a convenience store is defined as,

“a retail business selling nondurable consumer products, including but not limited to groceries, prepared and packaged foods and gasoline, and providing no services. A convenience store shall be regulated in accordance with § 185-28 if it is on the same lot with a car wash or motor vehicle service station.”

As stated above, the existing use does not include a car wash or motor vehicle service station; therefore § 185-28 does not apply as the existing use (convenience store selling gasoline and no automobile service or car wash provided) on the Property is within the Zoning Code’s definition of a convenience store.

The proposed project will improve the aesthetics, accessibility, and vehicular safety of the site, including modifications to the site to reduce unrestricted access off 5th Avenue. Accordingly, the proposed project is consistent with the objectives of Town public policy.

Town of Newburgh 2007 Design Guidelines

The 2007 Design Guidelines were established to assist the Town and Applicants in understanding pertinent design and aesthetic standards, “to ensure that new developments better retain the visual, environmental, and architectural characteristics that express the history and character of the Town.” The design guidelines are intended to supplement the zoning regulations and provide information related to

² Zoning Section 185-3 defines a Motor Vehicle Service Station as a, “building or lot or part thereof where refueling and related services are available to the public, operated for gain, including repair, greasing, washing, servicing, adjusting, equipping, lease or rental of automobiles or other motor vehicles, but not including the storing, holding or displaying of the same for sale or resale, except as to the holding of a vehicle for not more than 60 days for insurance appraisal purposes covering property damage claims and except as to the holding of a vehicle for the required period to perfect or protect a garageman’s lien pursuant to statute.”

what may be expected as part of the Architectural Review Board's (ARB) review. The Guidelines apply to residential subdivisions of 10 or more lots, and every application requiring site plan review by the Planning Board, including both non-residential and residential developments; therefore, these guidelines apply to the proposed project.

The design principles are stated as follows:

- Development patterns should be sensitive to Newburgh's rural character and natural environment;
- Building designs should be sensitive to Newburgh's architectural heritage and aesthetic character;
- Development should strengthen the identity and importance of the Town's hamlets;
- Preserve open space and resource lands;
- Protect and preserve hilltops, ridgelines and viewsheds; and
- Roadways should encourage a variety of uses including pedestrian, bicycle and vehicular travel.

The Guidelines include a section on commercial area design, much of which is dedicated to site planning. As the project site is already developed gasoline pumps and associated storage many of these cannot be implemented. Nevertheless, the site plan does implement several guidelines, including:

- Minimize the impact of commercial properties upon surrounding residential properties.
 - The proposed project includes new landscaping along the north property line, and at the east and west sides of the building with supplemental landscaping added throughout the site. New fencing for screening is proposed along the northwest, north and northeast parts of the property.
- Entry/Exit Ways.
 - The proposed project includes a modified east entrance, which reduces entry and exit opportunities to improve traffic movement on/off site.
- Service Areas: Garbage Disposal
 - The proposed project includes a new refuse enclosure, which will be further screened by new landscaping.

The proposed project will meet many of the building design guidelines, including:

- New commercial building designs should evoke the character of existing traditional buildings in the surrounding area.
 - The proposed project includes construction of a new convenience store building, which will be contextual with the surrounding neighborhood and will feature Town appropriate architecture, including hardie board, etc. Elevations will be provided separately for the Town's review.
 - No changes to signage (existing two Mobil signs on canopy, none on convenience store)
 - Site lighting will be updated to feature decorative wall mounted and pedestrian scale light post fixtures.

The proposed project includes construction of a new convenience store building. The amended site plan has been designed to minimize negative effects on neighboring residential uses; therefore, the new convenience store building is located to the north (or rear) of the existing building (which would be

demolished), with parking placed on the east and south away from the neighbors. The proposed project will improve the aesthetics, accessibility, and vehicular safety of the site and is anticipated to be consistent with the objectives of the design guidelines.

3.0 UTILITIES

3.1 Water and Wastewater

The new 2,300 SF convenience store will include a grab-n-go deli (no seating), enhanced kitchen prep areas, ample storage and cooler areas, and a publicly-accessible restroom.

The project site is currently developed with a convenience store and public toilet. Based on the New York State Department of Environmental Conservation (NYSDEC) Water and Wastewater Systems Design and Construction Standards, the design flow for a facility with a public toilet is 400 gpd.

The NYSDEC Design Standard for Wastewater Treatment Works, 2014, does not provide anticipated hydraulic loading rates for a convenience store with minor food preparation. Therefore, Table 1 – Project Density Loading Rates & Design Sewage Flow Rates, from the Suffolk County Department of Health Services (Attachment A). This table provides a hydraulic load for a “wet store w/food (deli/take-out with max 16 seats single service³), where single service is defined as disposable plates, silverware & cups of 0.15 GPD for each gross square foot of floor space.” The proposed convenience store will not have seating. Based on this loading, the expected flow would be 345 gpd (2,300 square feet x 0.15).

Therefore, the total anticipated water demand and wastewater generation is anticipated to be 745 gpd (400 gpd + 345 gpd). The project site is currently connected to municipal water and sewer service and the additional water demand and wastewater generation is anticipated to be accommodated without negative impact to the water or sewer district.

3.2 Stormwater

The project site is connected to the municipal stormwater system. The proposed project will result in less than one acre of physical ground disturbance at the site. Therefore, no stormwater pollution prevention plan (SWPPP) is required. Erosion and sediment controls will be in place during construction.

4.0 WATER RESOURCES AND FLOODPLAIN

According to available GIS data and New York State Department of Environmental Conservation (NYSDEC) Environmental Resource Map (Figures 5 and 6), there are no floodplains, mapped streams, National Wetland Inventory (NWI) wetlands, or NYSDEC regulated wetlands or adjacent areas on or adjacent to the project site. Therefore, no adverse impacts to water resources are anticipated, and no impacts related to floodplains will occur.

³ Single service is defined as disposable plates, silverware and cups.

5.0 ENDANGERED, THREATENED & RARE SPECIES AND SIGNIFICANT HABITAT

According to the NYSDEC Environmental Resource Mapper (ERM) (Figure 6), there are no known occurrences of endangered, threatened or rare species on or in the vicinity of the project site. The NYSDEC ERM indicates that the site does not include nor is it near a Significant Natural Community.

The US Fish & Wildlife Service (USFWS) IPaC Resource List (Attachment B) indicates the potential for the Indiana Bat (endangered), Northern Long-Eared Bat (threatened), and Small Whorled Pogonia in the vicinity of the project site. There are no trees proposed to be removed as part of the project; therefore, no adverse impacts to bats are anticipated to occur as part of the proposed project.

According to the USFWS, the Small Whorled Pogonia, “grows in a variety of upland, mid-successional, wooded habitats, usually mixed-deciduous or mixed-deciduous/coniferous forests that are in second or third-growth successional stages. Canopy trees are typically 40 to 75 years old and 8 to 18 inches in diameter. Characteristics of this species’ habitat include a sparse herb and shrub layer, a relatively open understory canopy, thick leaf litter on the forest floor, and gently sloping ground.”⁴ The project site is completely developed and does not present the habitat presented above. Therefore, no adverse impacts to the Small Whorled Pogonia are anticipated to occur.

6.0 HISTORIC AND ARCHEOLOGICAL RESOURCES

According to the NYS Office of Parks, Recreation, and Historic Preservation (NYSOPRHP) Cultural Resource Information System (CRIS) mapping (Figure 7), the project site does not contain nor is it located substantially contiguous to a listed or eligible resource on the National or State Registers of Historic Places. The project site is not located within an area known to be sensitive for archeological resources. The project site is in a developed area and is completely disturbed, consisting of mostly building and parking area. Physical disturbance associated with the proposed project will include areas that have been previously disturbed. A submission was made to NYSOPRHP as part of an earlier project to renovate the façade of the existing building and add a 760-foot addition with related site improvements similar to those being undertaken as part of the proposed project. In a May 5, 2020 letter, NYSOPRHP stated, “Based on the information provided, OPHRP has no concerns regarding the proposed project under SEQRA. Should the project design be changed, we recommend further consultation with this office.” A new submittal will be made to NYSOPRHP to update them on the currently proposed project.

⁴ Small Whorled Pogonia. Fact Sheet. <https://www.fws.gov/northeast/njfieldoffice/Endangered/pogonia.html>

SHORT ENVIRONMENTAL ASSESSMENT FORM (SEAF)

Short Environmental Assessment Form

Part 1 - Project Information

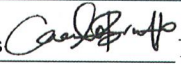
Instructions for Completing

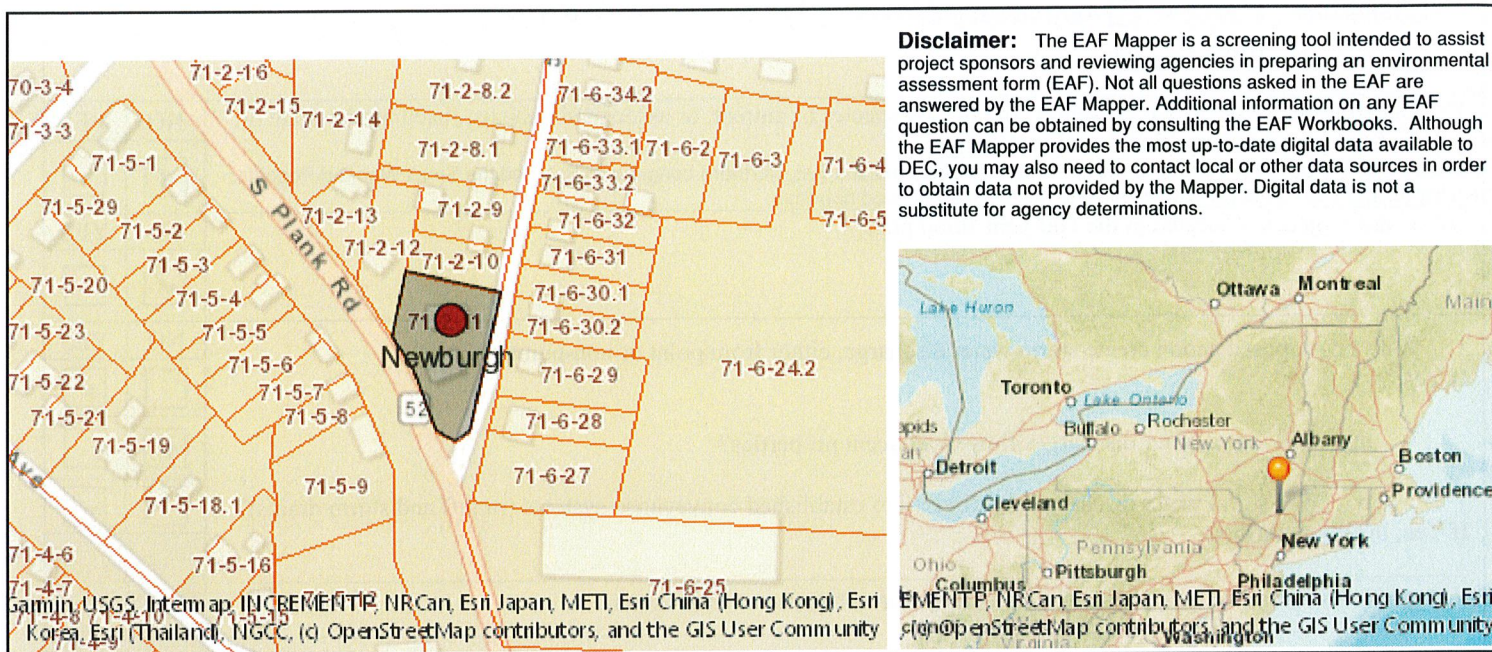
Part 1 – Project Information. The applicant or project sponsor is responsible for the completion of Part 1. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification. Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information.

Complete all items in Part 1. You may also provide any additional information which you believe will be needed by or useful to the lead agency; attach additional pages as necessary to supplement any item.

Part 1 – Project and Sponsor Information			
Name of Action or Project: 42 S. Plank Road - Gas Land Petroleum			
Project Location (describe, and attach a location map): 42 S. Plank Road, Town of Newburgh, Orange County, NY			
Brief Description of Proposed Action: The Applicant and Owner, Gas Land Petroleum, is seeking site plan approval to construct a new, one-story, 2,300 SF convenience store (located approximately 18 feet north of the existing 1,564 SF, one-story, convenience store, which would be demolished) with associated site improvements (landscaping, parking, vehicular safety upgrades) located at 42 S. Plank Road (NYS Route 52) in the Town of Newburgh. The 0.531-acre parcel is identified as parcel 71-2.11 on the Town of Newburgh Tax Map and is located at the intersection of S. Plank Road and 5th Avenue (Figures 1 and 2). The site was rezoned to Zoning District Business (B) on October 26, 2020. In addition to the existing building, the tax parcel is currently developed with 8 fuel pumps (8 fueling stations) and 13 parking spaces, including 8 spaces at the fuel pumps. The new 2,300 SF convenience store will feature updated and Town-appropriate architecture and will include a grab-n-go deli (no seating), enhanced kitchen prep areas, ample storage and cooler areas, and a publicly-accessible restroom. The existing 8 fuel pumps would remain unchanged as part of the proposed project. Total new parking will include 17 spaces, including the 8 spaces at the pumps. The proposed project will require area variances for the following: minimum front yard off NYS Route 52; minimum setback to intersection, parking in required yards; and minimum required setback to parked car.			
Name of Applicant or Sponsor: Gas Land Petroleum (Zeidan Nesheiwat)		Telephone: 845-331-7545 E-Mail: gasland.zeidan@gmail.com	
Address: 3 Ohioville Road			
City/PO: New Paltz		State: NY	Zip Code: 12561
1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation? If Yes, attach a narrative description of the intent of the proposed action and the environmental resources that may be affected in the municipality and proceed to Part 2. If no, continue to question 2.			NO <input type="checkbox"/>
			YES <input type="checkbox"/>
2. Does the proposed action require a permit, approval or funding from any other government Agency? If Yes, list agency(s) name and permit or approval: Planning Board: Site plan, Architectural review; Zoning Board of Appeals: Area variances; Highway Dept: Work permit			NO <input type="checkbox"/>
			YES <input checked="" type="checkbox"/>
3. a. Total acreage of the site of the proposed action? 0.531 acres b. Total acreage to be physically disturbed? 0.22 acres c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor? 0.531 acres			
4. Check all land uses that occur on, are adjoining or near the proposed action:			
5. <input type="checkbox"/> Urban <input type="checkbox"/> Rural (non-agriculture) <input checked="" type="checkbox"/> Industrial <input checked="" type="checkbox"/> Commercial <input checked="" type="checkbox"/> Residential (suburban) <input type="checkbox"/> Forest <input type="checkbox"/> Agriculture <input type="checkbox"/> Aquatic <input type="checkbox"/> Other(Specify): <input type="checkbox"/> Parkland			

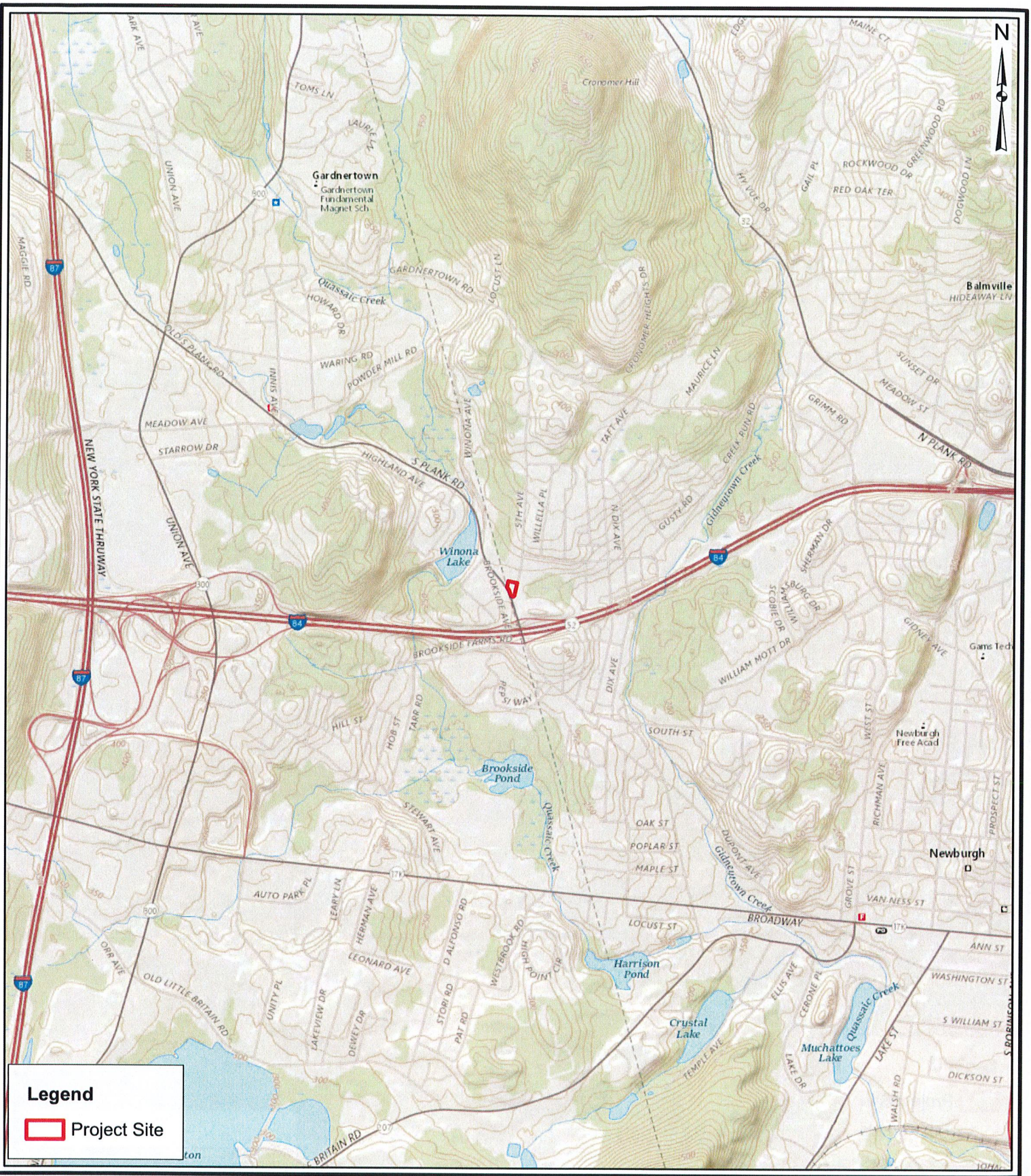
5. Is the proposed action,	NO	YES	N/A
a. A permitted use under the zoning regulations?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Consistent with the adopted comprehensive plan?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
6. Is the proposed action consistent with the predominant character of the existing built or natural landscape?	NO <input type="checkbox"/>	YES <input checked="" type="checkbox"/>	
7. Is the site of the proposed action located in, or does it adjoin, a state listed Critical Environmental Area? If Yes, identify: _____	NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/>	
8. a. Will the proposed action result in a substantial increase in traffic above present levels? b. Are public transportation services available at or near the site of the proposed action? c. Are any pedestrian accommodations or bicycle routes available on or near the site of the proposed action?	NO <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/>	YES <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	
9. Does the proposed action meet or exceed the state energy code requirements? If the proposed action will exceed requirements, describe design features and technologies: _____ _____	NO <input type="checkbox"/>	YES <input checked="" type="checkbox"/>	
10. Will the proposed action connect to an existing public/private water supply? If No, describe method for providing potable water: _____ _____	NO <input type="checkbox"/>	YES <input checked="" type="checkbox"/>	
11. Will the proposed action connect to existing wastewater utilities? If No, describe method for providing wastewater treatment: _____ _____	NO <input type="checkbox"/>	YES <input checked="" type="checkbox"/>	
12. a. 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? b. 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?	NO <input checked="" type="checkbox"/> <input checked="" type="checkbox"/>	YES <input type="checkbox"/> <input type="checkbox"/>	
13. a. Does any portion of the site of the proposed action, or lands adjoining the proposed action, contain wetlands or other waterbodies regulated by a federal, state or local agency? b. Would the proposed action physically alter, or encroach into, any existing wetland or waterbody?	NO <input type="checkbox"/> <input checked="" type="checkbox"/>	YES <input checked="" type="checkbox"/> <input type="checkbox"/>	
If Yes, identify the wetland or waterbody and extent of alterations in square feet or acres: _____ There are no aquatic resources located on the project site. Winona Lake is located approximately 1,000 feet northwest of the site. _____ _____			

14. Identify the typical habitat types that occur on, or are likely to be found on the project site. Check all that apply:		
<input type="checkbox"/> Shoreline <input type="checkbox"/> Forest <input type="checkbox"/> Agricultural/grasslands <input type="checkbox"/> Early mid-successional <input type="checkbox"/> Wetland <input type="checkbox"/> Urban <input checked="" type="checkbox"/> Suburban		
15. Does the site of the proposed action contain any species of animal, or associated habitats, listed by the State or Federal government as threatened or endangered?	NO	YES
According to the USFWS, the Site is within the vicinity of the Indiana Bat, Northern Long-eared Bat, and the Small Whorled Pogonia. No impacts to these species is anticipated to occur. See attached narrative.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
16. Is the project site located in the 100-year flood plan?	NO	YES
	<input checked="" type="checkbox"/>	<input type="checkbox"/>
17. Will the proposed action create storm water discharge, either from point or non-point sources?	NO	YES
If Yes,	<input type="checkbox"/>	<input checked="" type="checkbox"/>
a. Will storm water discharges flow to adjacent properties?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Will storm water discharges be directed to established conveyance systems (runoff and storm drains)?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
If Yes, briefly describe:		
Drainage flows will continue to sheet flow towards existing collection systems in the roadway.		
18. Does the proposed action include construction or other activities that would result in the impoundment of water or other liquids (e.g., retention pond, waste lagoon, dam)?	NO	YES
If Yes, explain the purpose and size of the impoundment:	<input checked="" type="checkbox"/>	<input type="checkbox"/>
19. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility?	NO	YES
If Yes, describe:	<input checked="" type="checkbox"/>	<input type="checkbox"/>
20. Has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) for hazardous waste?	NO	YES
If Yes, describe:	<input type="checkbox"/>	<input checked="" type="checkbox"/>
The site has not been the subject of remediation for hazardous waste. The DuPont-Stauffer Landfill (DEC #336009), a State Superfund Site, is located approximately 2,000 feet southeast of the site (across I-84). Remediation is complete.		
I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE		
Applicant/sponsor/name: <u>Gas Land Petroleum</u> Date: <u>4/22/2021</u>		
Signature: <u>Caren LoBrutto, Agent for Applicant, Chazen Companies</u>  Title: <u>Senior Planner</u>		



Part 1 / Question 7 [Critical Environmental Area]	No
Part 1 / Question 12a [National or State Register of Historic Places or State Eligible Sites]	No
Part 1 / Question 12b [Archeological Sites]	No
Part 1 / Question 13a [Wetlands or Other Regulated Waterbodies]	Yes - Digital mapping information on local and federal wetlands and waterbodies is known to be incomplete. Refer to EAF Workbook.
Part 1 / Question 15 [Threatened or Endangered Animal]	No
Part 1 / Question 16 [100 Year Flood Plain]	No
Part 1 / Question 20 [Remediation Site]	Yes

FIGURES



Legend

Project Site

THE Chazen COMPANIES
ENGINEERS
 LAND SURVEYORS
 PLANNERS
 ENVIRONMENTAL & SAFETY PROFESSIONALS
 LANDSCAPE ARCHITECTS

Dutchess County Office:
 21 Fox Street, Poughkeepsie, NY 12601
 Phone: (845) 454-3980

Capital District Office:
 547 River Street, Troy, NY 12180
 Phone: (518) 273-0055

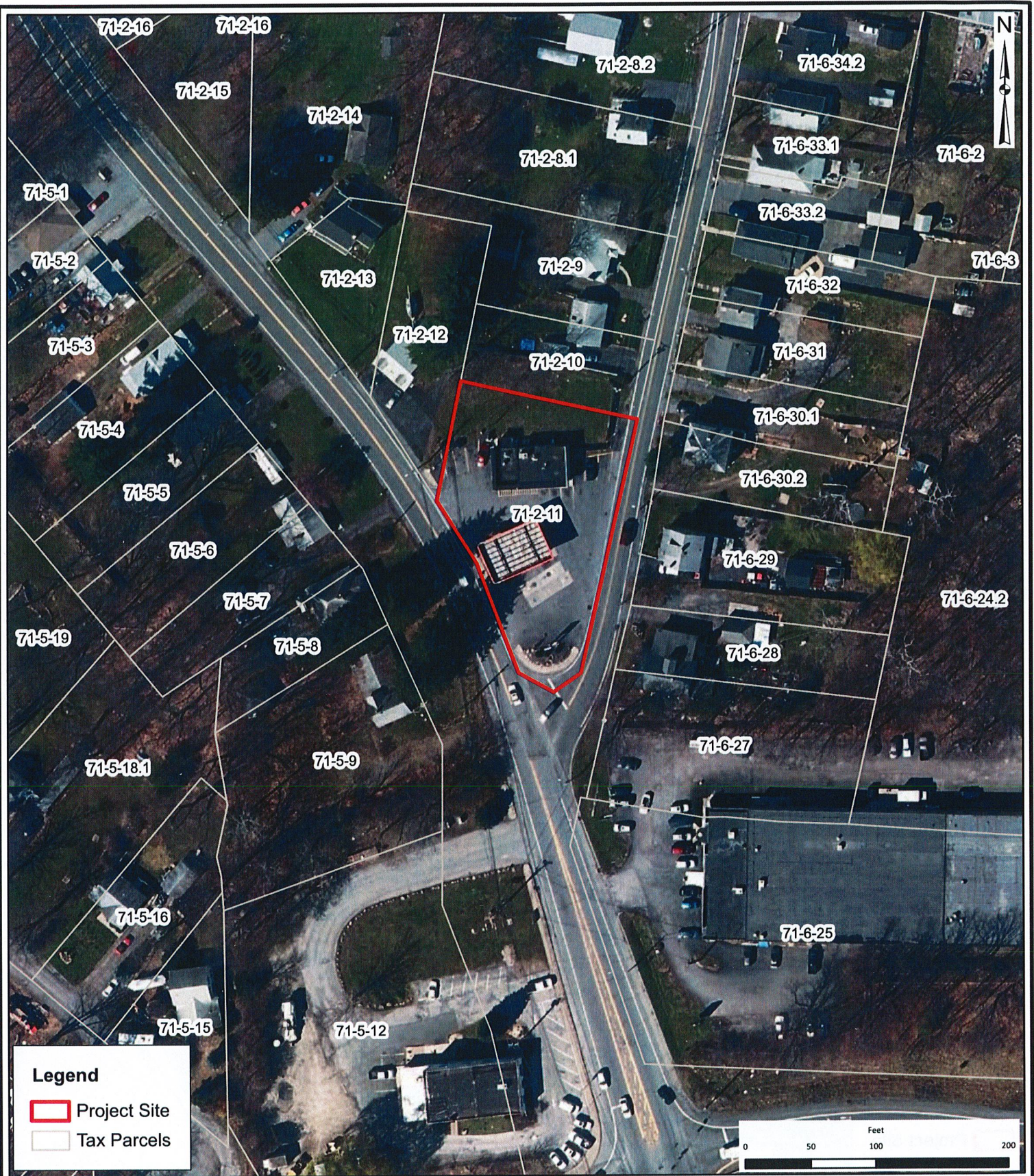
North Country Office:
 375 Bay Road, Queensbury, NY 12804
 Phone: (518) 812-0513

Plank Road - GasLand

USGS Location Map

Town of Newburgh, Orange County, New York

Drawn:	SPL
Date:	04/09/2020
Scale:	1 inch = 2,000 feet
Project:	82018.00
Figure:	1



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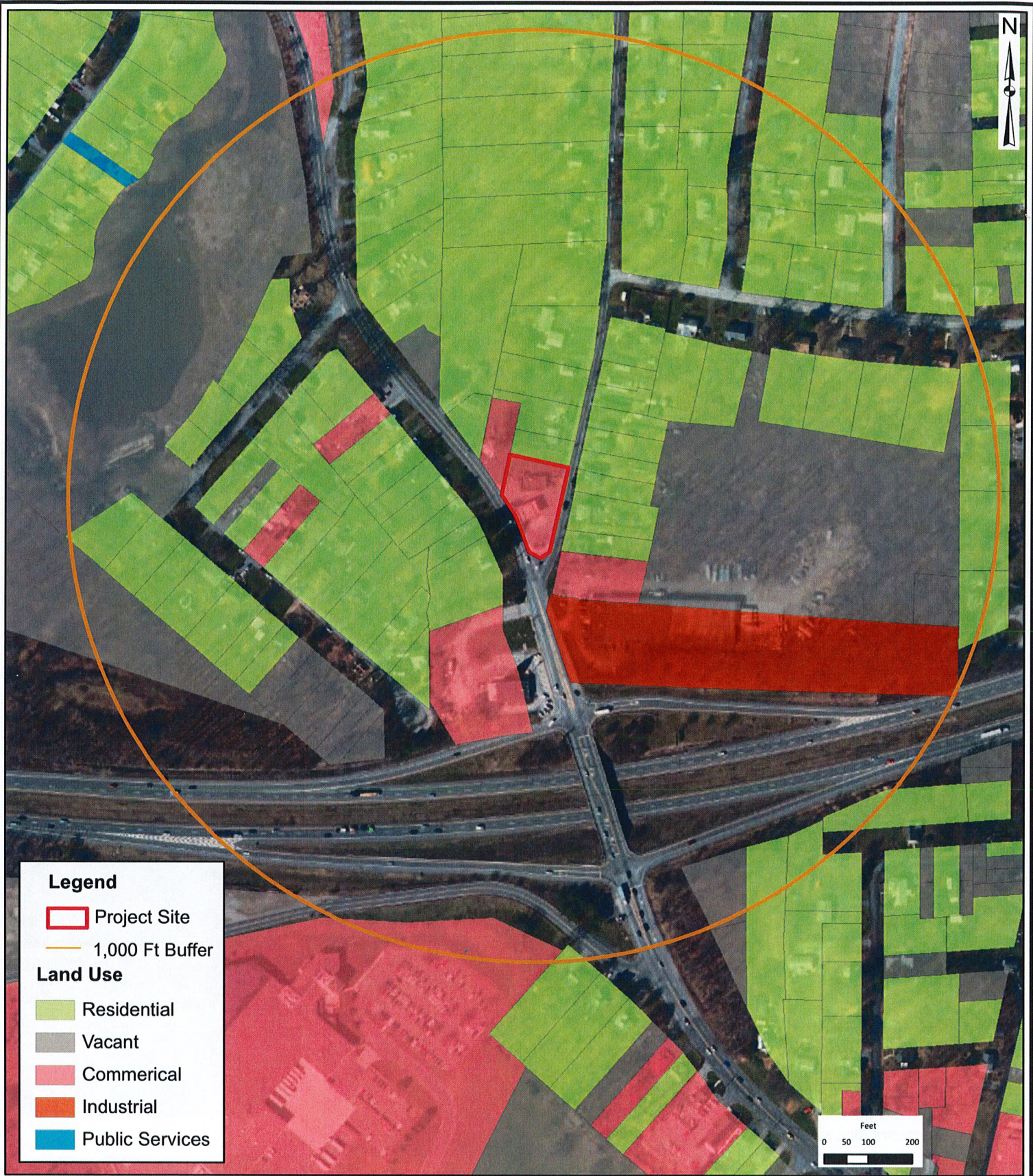
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Plank Road - GasLand

Orthophoto Tax Map

Town of Newburgh, Orange County, New York

Drawn:	SPL
Date:	04/09/2020
Scale:	1 inch = 100 feet
Project:	82018.00
Figure:	2



Legend

- Project Site
- 1,000 Ft Buffer

Land Use

- Residential
- Vacant
- Commerical
- Industrial
- Public Services

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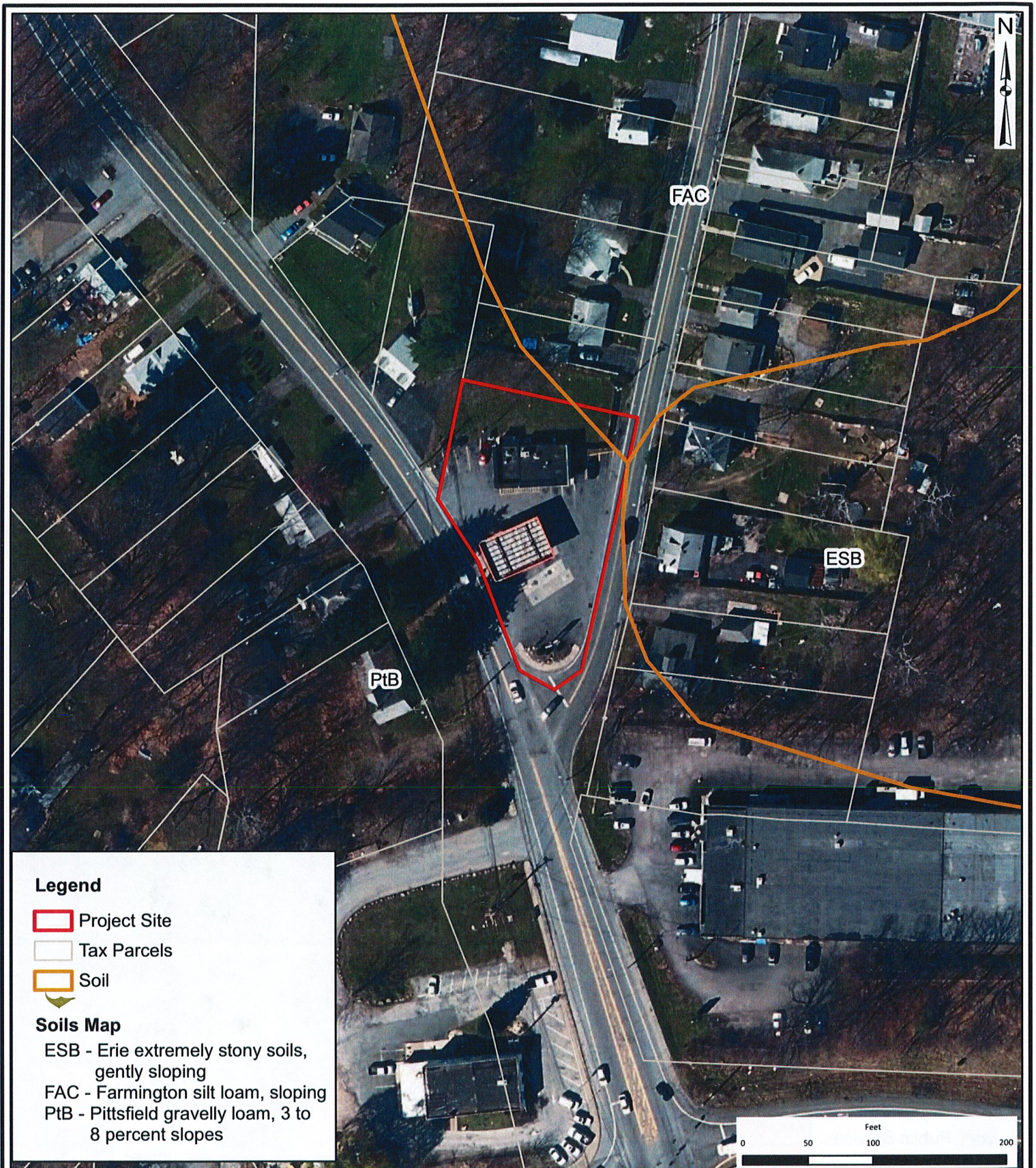
North Country Office:
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Plank Road - GasLand

Land Use Map

Town of Newburgh, Orange County, New York

Drawn:	SPL
Date:	04/09/2020
Scale:	1 inch = 300 feet
Project:	82018.00
Figure:	3



Legend

- Project Site
- Tax Parcels
- Soil

Soils Map

- ESB - Erie extremely stony soils, gently sloping
- FAC - Farmington silt loam, sloping
- PtB - Pittsfield gravelly loam, 3 to 8 percent slopes

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Plank Road - GasLand

Soils Map

Town of Newburgh, Orange County, New York

Drawn:	SPL
Date:	04/09/2020
Scale:	1 inch = 100 feet
Project:	82018.00
Figure:	4



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Phone: (518) 812-0513

Plank Road - GasLand

Wetland, Streams and Floodplain Map

Town of Newburgh, Orange County, New York

Drawn:	SPL
Date:	04/09/2020
Scale:	1 inch = 300 feet
Project:	82018.00
Figure:	5



Environmental Resource Mapper

Base Map: **Topographical** Using this ma

Search

Tools

Layers and Legend

State Regulated Wetland Checkzone

Significant Natural Communities

Natural Communities Near This Location

Rare Plants or Animals

Other Wetland Layers

Reference Layers

Tell Me More...

Need A Permit?

Contacts



Agencies
Services

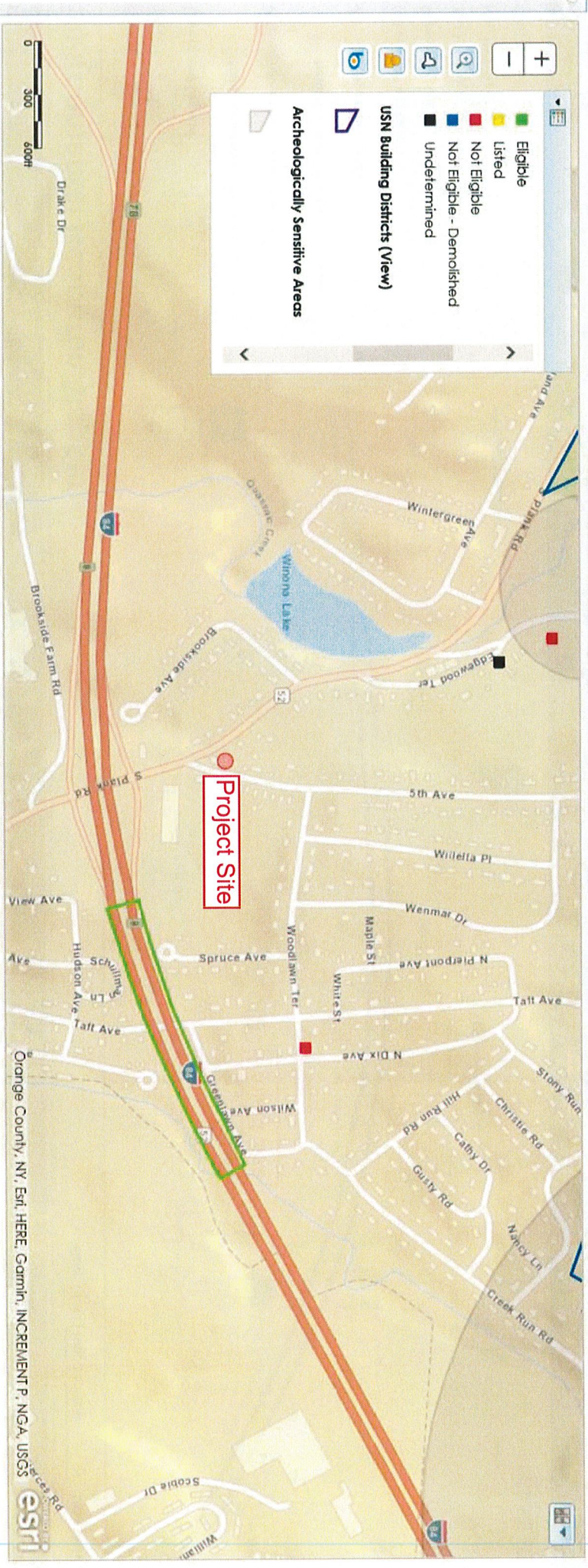
App Directory

Counties

Events

Programs

Figure 6



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Figure 7

ATTACHMENT A
Suffolk County Loading Rates

COUNTY OF SUFFOLK



STEVEN BELLONE
SUFFOLK COUNTY EXECUTIVE

SUFFOLK COUNTY
DEPARTMENT OF HEALTH SERVICES
DIVISION OF ENVIRONMENTAL QUALITY

**STANDARDS FOR APPROVAL OF PLANS
AND CONSTRUCTION FOR
SEWAGE DISPOSAL SYSTEMS FOR
OTHER THAN SINGLE-FAMILY RESIDENCES**

Originally Issued on July 15, 2008

James L. Tomarken, MD, MPH, MBA, MSW
Commissioner of Health Services

Walter Dawydiak, PE, JD
Acting Director of Environmental Quality

TABLE 1 - PROJECT DENSITY LOADING RATES & DESIGN SEWAGE FLOW RATES
 (Based upon gross floor area in square feet (sf) unless otherwise noted)

Structure Use	Density Load	Kitchen/Gray Load	Hydraulic Load
FOOD SERVICE			
Bar (in restaurant)	10 gpd/seat	5 gpd/seat	15 gpd/seat
Bar, Tavern, Disco (no fixed seating)	10 gpd/occupant ¹	5 gpd/occupant ¹	15 gpd/occupant ¹
Bar (outdoor/seasonal)	5 gpd/seat	2.5 gpd/seat	7.5 gpd/seat
Cafeteria (open to public)	See Primary use + 5 gpd/seat	2.5 gpd/seat	Primary use + 7.5 gpd/seat
Cafeteria/Continental Breakfast (not open to public)	See Primary Use	2.5 gpd/seat	Primary use + 2.5 gpd/seat
Snack Bar	See Primary Use	0.12 gpd/sf	Primary use + 0.12 gpd/sf
Juice Bar	See Primary Use	2.5 gpd/seat	Primary use + 2.5 gpd/seat
Catering Hall	5 gpd/seat	2.5 gpd/seat	7.5 gpd/seat
Outside Patio Dining	5 gpd/seat	10 gpd/seat	15 gpd/seat
Restaurant (full service or single services > 16 seats ²)	10 gpd/seat	20 gpd/seat	30 gpd/seat
Wet store w/ food (Deli/take-out with max 16 seats single service ²)	0.03 gpd/sf	0.12 gpd/sf	0.15 gpd/sf
Convenience store/Market/Farm Stand	0.03 gpd/sf	0.02 gpd/sf	0.05 gpd/sf
Commercial Bakery	0.04 gpd/sf	0.02 gpd/sf	0.06 gpd/sf
Wine/Beer Tasting (in a winery/brewery only)	5 gpd/occ	2.5 gpd/occ	7.5 gpd/occ
GENERAL INDUSTRIAL			
General Industrial ³	0.04 gpd/sf	Industrial process water ⁴	0.04 gpd/sf
Greenhouse	0.03 gpd/sf	N/A	0.03 gpd/sf
MEDICAL			
Drug Rehabilitation	75 gpd/bed	See note ⁵	75 gpd/bed
Mental Health Residence	75 gpd/bed	See note ⁵	75 gpd/bed
Hospital	300 gpd/bed	See note ⁵	300 gpd/bed
Nursing Home	150 gpd/bed	See note ⁵	150 gpd/bed
Assisted Living	110 gpd/bed	See note ⁵	110 gpd/bed
Medical office space	0.10 gpd/sf	N/A	0.10 gpd/sf
Dialysis Center	0.10 gpd/sf	Dialysis process water ⁴	0.10 gpd/sf
Veterinary ⁶	0.10 gpd/sf + 10 gpd/animal boarding	N/A	0.10 gpd/sf + 10 gpd/animal boarding

MUNICIPAL SERVICES			
Library, firehouse, precinct, museum, art gallery (w/ meeting rooms)	0.03 gpd/sf + 5 gpd/occupant ¹ for meeting rooms	2.5 gpd/occupant ¹	0.03 gpd/sf + 5 gpd/occupant ¹ + 2.5 gpd/occupant ¹
Library, firehouse, precinct, museum, art gallery (w/o meeting rooms)	0.03 gpd/sf	2.5 gpd/occupant ¹	0.03 gpd/sf + 2.5 gpd/occupant ¹
OFFICE			
Non-medical office space	0.06 gpd/sf		0.06 gpd/sf
RECREATION			
Bath house/comfort station	5 gpd/occupant ¹	5 gpd/shower/occupant ¹ + Food service ⁷	5 gpd/occupant ¹ + 5 gpd/shower/occupant ¹ + Food service ⁷
Bowling alley/tennis court/racquetball	100 gpd/court or alley	Food service ⁷	100 gpd/court or alley + Food service ⁷
Miniature golf	15 gpd/parking space	Food service ⁷	15 gpd/parking space + Food service ⁷
Ice/roller Skating Rink	15 gpd/skater ¹ + 5 gpd/specator ¹	Food service ⁷	15 gpd/skater ¹ + 5 gpd/specator ¹ + Food service ⁷
Recreation	15 gpd/parking space	Food service ⁷	15 gpd/parking space + Food service ⁷
Spa/Fitness Center/ Karate/Dance/etc. (w/ showers & amenities)	0.1 gpd/sf	0.2 gpd/sf + Food service ⁷	0.3 gpd/sf + Food service ⁷
Spa/Fitness Center/ Karate/Dance/etc. (w/o showers & amenities)	0.1 gpd/sf	Food service ⁷	0.1 gpd/sf + Food service ⁷
Marina	10 gpd/boat slip	Food service ⁷	10 gpd/boat slip + Food service ⁷
OTB	5 gpd/person	Food service ⁷	5 gpd/person + Food service ⁷
Theater	3 gpd/seat	Food service ⁷	3 gpd/seat + Food service ⁷
Horse Farm ⁶	0.04 gpd/sf + 10 gpd/stall		0.04 gpd/sf + 10 gpd/stall
Camp Ground	10 gpd/camper	5 gpd/shower/camper	10 gpd/camper + 5 gpd/shower/camper
Billiard Hall	5 gpd/occ	2.5 gpd/occ	7.5 gpd/occ
RESIDENTIAL			
Single Family Residence	300 gpd		300 gpd
Two Family Residence	600 gpd		600 gpd
Rooming house	75 gpd/bed		75 gpd/bed

Motel/Hotel unit up to 400 sq.ft. gross floor area w/o kitchenette (w/kitchenette see Housing Unit)	100 gpd/unit		100 gpd/unit
Motel/Hotel unit > 400 sq.ft. gross floor area w/o kitchenette (w/kitchenette see Housing Unit)	150 gpd/unit		150 gpd/unit
Housing Unit ⁸ up to 600 sq.ft. gross floor area	150 gpd/unit		150 gpd/unit
Housing Unit ⁸ between 601-1200 sq.ft. gross floor area	225 gpd/unit		225 gpd/unit
Housing Unit ⁸ > 1200 sq.ft. gross floor area	300 gpd/unit		300 gpd/unit
PRC unit up to 600 sq.ft. gross floor area	100 gpd/unit		100 gpd/unit
PRC unit between 600-1600 sq.ft. gross floor area	150 gpd/unit		150 gpd/unit
PRC unit between 1600-2000 sq.ft. gross floor area	225 gpd/unit		225 gpd/unit
PRC unit > 2000 sq.ft. gross floor area	300 gpd/unit		300 gpd/unit
RETAIL			
Dry store	0.03 gpd/sf		0.03 gpd/sf
Wet store w/o Food (Hair salon, nail salon, pet shop w/o animal boarding, etc.)	0.03 gpd/sf	0.07 gpd/sf	0.1 gpd/sf
Car Dealership	0.03 gpd/sf for showroom/offices + 0.04 gpd/sf for maintenance/storage areas		0.03 gpd/sf for showroom/offices + 0.04 gpd/sf for maintenance/storage areas
Massage/Tanning	0.03 gpd/sf		0.03 gpd/sf
Tattoo Parlor	0.03 gpd/sf		0.03 gpd/sf
SCHOOL			
Boarding school/ Dormitory	75 gpd/capita ¹	2.5 gpd/capita ¹	77.5 gpd/capita ¹
Day School	5 gpd/capita ¹	2.5 gpd/capita ¹	7.5 gpd/capita ¹
MISCELLANEOUS			
Car Wash	0.04 gpd/sf	Car wash process water ⁴	0.04 gpd/sf
Laundromat	0.03 gpd/sf	Laundromat process water ⁴	0.03 gpd/sf

Funeral Home	0.05 gpd/sf	Funeral Home process water ⁴	0.05 gpd/sf
House of Worship (w/ meeting rooms)	1.5 gpd/seat + 5 gpd/occupant ¹ for meeting rooms	2.5 gpd/occupant ¹	1.5 gpd/seat + 5 gpd/occupant ¹ + 2.5 gpd/occupant ¹
House of Worship (w/o meeting rooms)	1.5 gpd/seat	2.5 gpd/occupant ¹	1.5 gpd/seat + 2.5 gpd/occupant ¹
Public Storage ⁹	0.04 gpd/sf		0.04 gpd/sf
Animal boarding ⁶	0.03 gpd/sf + 10 gpd/animal		0.03 gpd/sf + 10 gpd/animal
Winery/Brewery	0.04 gpd/sf	Winery/Brewery process water ⁴	0.04 gpd/sf

- ¹ Occupancy ratings can be determined using New York State Uniform Fire Prevention and Building Code as a guide.
- ² Single Service means disposable plates, silverware & cups. Takeout seating is for waiting patrons and is not convertible to full seating or for density credit at full service restaurants.
- ³ General industrial buildings may contain up to 15% related office space without applying a proportionate office density loading or flow rating to the space. If office space exceeds 15% of gross floor area, then a proportionate office density loading or flow rating must be applied to the entire office space.
- ⁴ Process waters require a separate permit and disposal facilities – Consult Department.
- ⁵ A grease trap shall be provided for this installation which is sized at 20 gpd/bed.
- ⁶ A separate sewage disposal system shall be provided for wastewater generated from animal boarding, horse stalls, or kennel areas.
- ⁷ Food (kitchen) flow is added according to the type of food service in the establishment.
- ⁸ Motel/Hotel with Kitchenettes, Cottages, Apartments, Condominiums, Mobile Homes, Trailers, or Co-Ops.
- ⁹ Public storage density and/or design flow may be reduced if restrictive covenants are recorded on the parcel.

Note: The above table is subject to amendment from time to time as data becomes available to the Department. The table will be republished as an addendum to these standards if and when revised.

ATTACHMENT B
USFWS IPaC Resource List

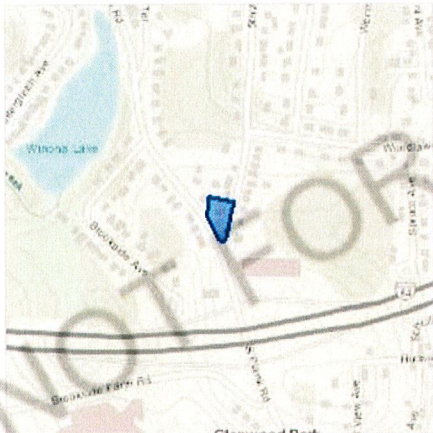
IPaC resource list

This report is an automatically generated list of species and other resources such as critical habitat (collectively referred to as *trust resources*) under the U.S. Fish and Wildlife Service's (USFWS) jurisdiction that are known or expected to be on or near the project area referenced below. The list may also include trust resources that occur outside of the project area, but that could potentially be directly or indirectly affected by activities in the project area. However, determining the likelihood and extent of effects a project may have on trust resources typically requires gathering additional site-specific (e.g., vegetation/species surveys) and project-specific (e.g., magnitude and timing of proposed activities) information.

Below is a summary of the project information you provided and contact information for the USFWS office(s) with jurisdiction in the defined project area. Please read the introduction to each section that follows (Endangered Species, Migratory Birds, USFWS Facilities, and NWI Wetlands) for additional information applicable to the trust resources addressed in that section.

Location

Orange County, New York



Local office

New York Ecological Services Field Office

☎ (607) 753-9334

📠 (607) 753-9699

3817 Luker Road

Cortland, NY 13045-9385

<http://www.fws.gov/northeast/nyfo/es/section7.htm>

Endangered species

This resource list is for informational purposes only and does not constitute an analysis of project level impacts.

The primary information used to generate this list is the known or expected range of each species. Additional areas of influence (AOI) for species are also considered. An AOI includes areas outside of the species range if the species could be indirectly affected by activities in that area (e.g., placing a dam upstream of a fish population, even if that fish does not occur at the dam site, may indirectly impact the species by reducing or eliminating water flow downstream). Because species can move, and site conditions can change, the species on this list are not guaranteed to be found on or near the project area. To fully determine any potential effects to species, additional site-specific and project-specific information is often required.

Section 7 of the Endangered Species Act **requires** Federal agencies to "request of the Secretary information whether any species which is listed or proposed to be listed may be present in the area of such proposed action" for any project that is conducted, permitted, funded, or licensed by any Federal agency. A letter from the local office and a species list which fulfills this requirement can **only** be obtained by requesting an official species list from either the Regulatory Review section in IPaC (see directions below) or from the local field office directly.

For project evaluations that require USFWS concurrence/review, please return to the IPaC website and request an official species list by doing the following:

1. Draw the project location and click CONTINUE.
2. Click DEFINE PROJECT.
3. Log in (if directed to do so).
4. Provide a name and description for your project.
5. Click REQUEST SPECIES LIST.

Listed species

¹ and their critical habitats are managed by the [Ecological Services Program](#) of the U.S. Fish and Wildlife Service (USFWS) and the fisheries division of the National Oceanic and Atmospheric Administration (NOAA Fisheries²).

Species and critical habitats under the sole responsibility of NOAA Fisheries are **not** shown on this list. Please contact [NOAA Fisheries](#) for [species under their jurisdiction](#).

1. Species listed under the [Endangered Species Act](#) are threatened or endangered; IPaC also shows species that are candidates, or proposed, for listing. See the [listing status page](#) for more information.
2. [NOAA Fisheries](#), also known as the National Marine Fisheries Service (NMFS), is an office of the National Oceanic and Atmospheric Administration within the Department of Commerce.

The following species are potentially affected by activities in this location:

Mammals

NAME

STATUS

Indiana Bat *Myotis sodalis*

Endangered

There is **final** critical habitat for this species. Your location is outside the critical habitat.

<https://ecos.fws.gov/ecp/species/5949>

Northern Long-eared Bat *Myotis septentrionalis*
No critical habitat has been designated for this species.
<https://ecos.fws.gov/ecp/species/9045>

Threatened

Flowering Plants

NAME

STATUS

Small Whorled Pogonia *Isotria medeoloides*
No critical habitat has been designated for this species.
<https://ecos.fws.gov/ecp/species/1890>

Threatened

Critical habitats

Potential effects to critical habitat(s) in this location must be analyzed along with the endangered species themselves.

THERE ARE NO CRITICAL HABITATS AT THIS LOCATION.

Migratory birds

Certain birds are protected under the Migratory Bird Treaty Act

¹ and the Bald and Golden Eagle Protection Act².

Any person or organization who plans or conducts activities that may result in impacts to migratory birds, eagles, and their habitats should follow appropriate regulations and consider implementing appropriate conservation measures, as described [below](#).

1. The [Migratory Birds Treaty Act](#) of 1918.
2. The [Bald and Golden Eagle Protection Act](#) of 1940.

Additional information can be found using the following links:

- Birds of Conservation Concern <http://www.fws.gov/birds/management/managed-species/birds-of-conservation-concern.php>
- Measures for avoiding and minimizing impacts to birds <http://www.fws.gov/birds/management/project-assessment-tools-and-guidance/conservation-measures.php>
- Nationwide conservation measures for birds <http://www.fws.gov/migratorybirds/pdf/management/nationwidestandardconservationmeasures.pdf>

The birds listed below are birds of particular concern either because they occur on the [USFWS Birds of Conservation Concern](#) (BCC) list or warrant special attention in your project location. To learn more about the levels of concern for birds on your list and how this list is generated, see the FAQ [below](#). This is not a list of every bird you may find in this location, nor a guarantee that every bird on this list will be found in your project area. To see exact locations of where birders and the general public have sighted birds in and around your project area, visit the [E-bird data mapping tool](#) (Tip: enter your location, desired date range and a species on your list). For projects that occur off the Atlantic Coast, additional maps and models detailing the relative occurrence and abundance of bird species on your list are

available. Links to additional information about Atlantic Coast birds, and other important information about your migratory bird list, including how to properly interpret and use your migratory bird report, can be found [below](#).

For guidance on when to schedule activities or implement avoidance and minimization measures to reduce impacts to migratory birds on your list, click on the PROBABILITY OF PRESENCE SUMMARY at the top of your list to see when these birds are most likely to be present and breeding in your project area.

NAME

BREEDING SEASON (IF A BREEDING SEASON IS INDICATED FOR A BIRD ON YOUR LIST, THE BIRD MAY BREED IN YOUR PROJECT AREA SOMETIME WITHIN THE TIMEFRAME SPECIFIED, WHICH IS A VERY LIBERAL ESTIMATE OF THE DATES INSIDE WHICH THE BIRD BREEDS ACROSS ITS ENTIRE RANGE. "BREEDS ELSEWHERE" INDICATES THAT THE BIRD DOES NOT LIKELY BREED IN YOUR PROJECT AREA.)

Bald Eagle *Haliaeetus leucocephalus*

This is not a Bird of Conservation Concern (BCC) in this area, but warrants attention because of the Eagle Act or for potential susceptibilities in offshore areas from certain types of development or activities.

<https://ecos.fws.gov/ecp/species/1626>

Breeds Sep 1 to Aug 31

Black-billed Cuckoo *Coccyzus erythrophthalmus*

This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.

<https://ecos.fws.gov/ecp/species/9399>

Breeds May 15 to Oct 10

Black-capped Chickadee *Poecile atricapillus praticus*

This is a Bird of Conservation Concern (BCC) only in particular Bird Conservation Regions (BCRs) in the continental USA

Breeds Apr 10 to Jul 31

Canada Warbler *Cardellina canadensis*

This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.

Breeds May 20 to Aug 10

Prairie Warbler *Dendroica discolor*

This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.

Breeds May 1 to Jul 31

Red-headed Woodpecker *Melanerpes erythrocephalus*

This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.

Breeds May 10 to Sep 10

Rusty Blackbird *Euphagus carolinus*

This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.

Breeds elsewhere

Wood Thrush *Hylocichla mustelina*

This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.

Breeds May 10 to Aug 31

Yellow-bellied Sapsucker *sphyrapicus varius*

This is a Bird of Conservation Concern (BCC) only in particular Bird Conservation Regions (BCRs) in the continental USA
<https://ecos.fws.gov/ecp/species/8792>

Breeds May 10 to Jul 15

Probability of Presence Summary

The graphs below provide our best understanding of when birds of concern are most likely to be present in your project area. This information can be used to tailor and schedule your project activities to avoid or minimize impacts to birds. Please make sure you read and understand the FAQ "Proper Interpretation and Use of Your Migratory Bird Report" before using or attempting to interpret this report.

Probability of Presence (■)

Each green bar represents the bird's relative probability of presence in the 10km grid cell(s) your project overlaps during a particular week of the year. (A year is represented as 12 4-week months.) A taller bar indicates a higher probability of species presence. The survey effort (see below) can be used to establish a level of confidence in the presence score. One can have higher confidence in the presence score if the corresponding survey effort is also high.

How is the probability of presence score calculated? The calculation is done in three steps:

1. The probability of presence for each week is calculated as the number of survey events in the week where the species was detected divided by the total number of survey events for that week. For example, if in week 12 there were 20 survey events and the Spotted Towhee was found in 5 of them, the probability of presence of the Spotted Towhee in week 12 is 0.25.
2. To properly present the pattern of presence across the year, the relative probability of presence is calculated. This is the probability of presence divided by the maximum probability of presence across all weeks. For example, imagine the probability of presence in week 20 for the Spotted Towhee is 0.05, and that the probability of presence at week 12 (0.25) is the maximum of any week of the year. The relative probability of presence on week 12 is $0.25/0.25 = 1$; at week 20 it is $0.05/0.25 = 0.2$.
3. The relative probability of presence calculated in the previous step undergoes a statistical conversion so that all possible values fall between 0 and 10, inclusive. This is the probability of presence score.

To see a bar's probability of presence score, simply hover your mouse cursor over the bar.

Breeding Season (■)

Yellow bars denote a very liberal estimate of the time-frame inside which the bird breeds across its entire range. If there are no yellow bars shown for a bird, it does not breed in your project area.

Survey Effort (l)

Vertical black lines superimposed on probability of presence bars indicate the number of surveys performed for that species in the 10km grid cell(s) your project area overlaps. The number of surveys is expressed as a range, for example, 33 to 64 surveys.

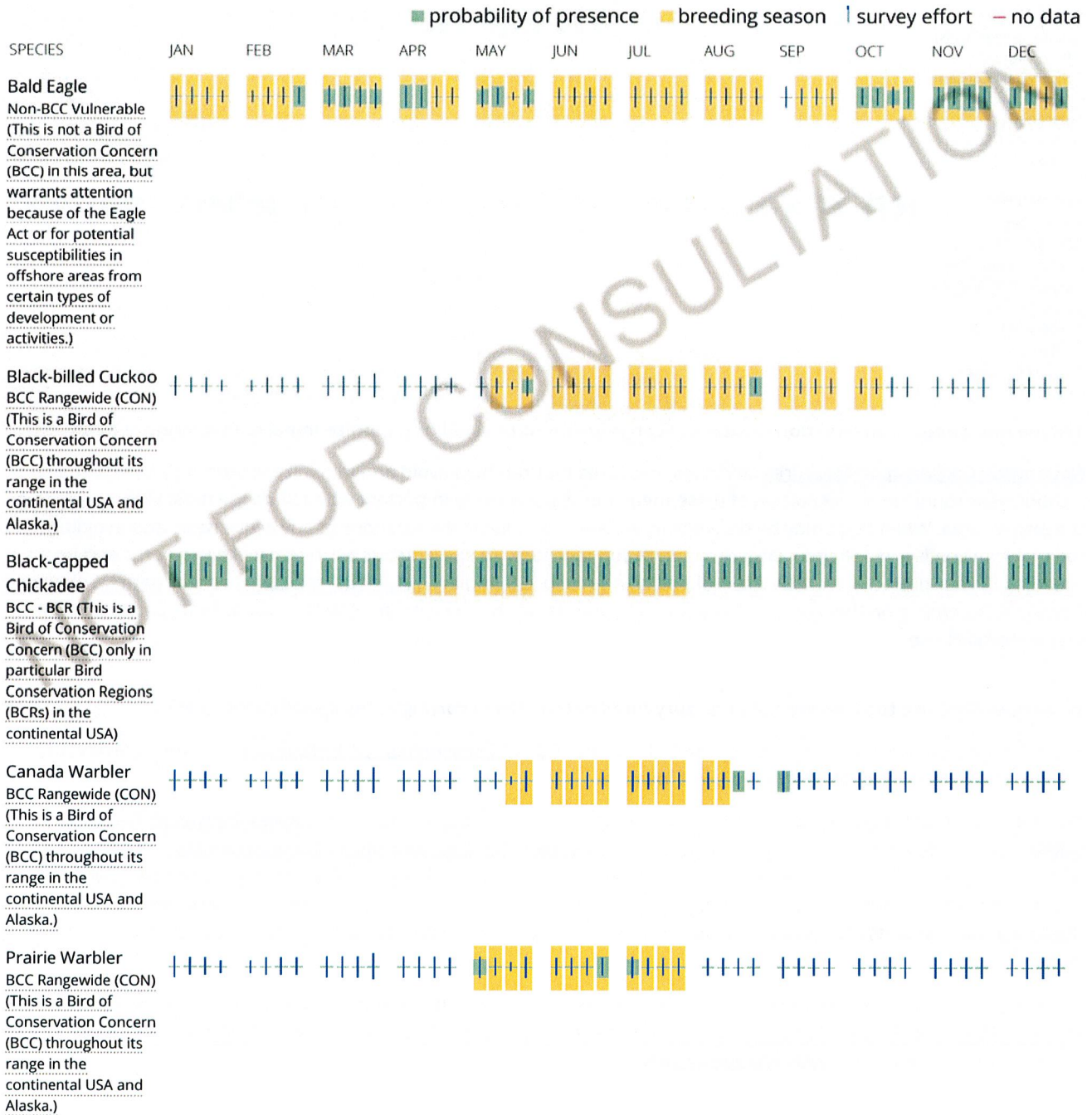
To see a bar's survey effort range, simply hover your mouse cursor over the bar.

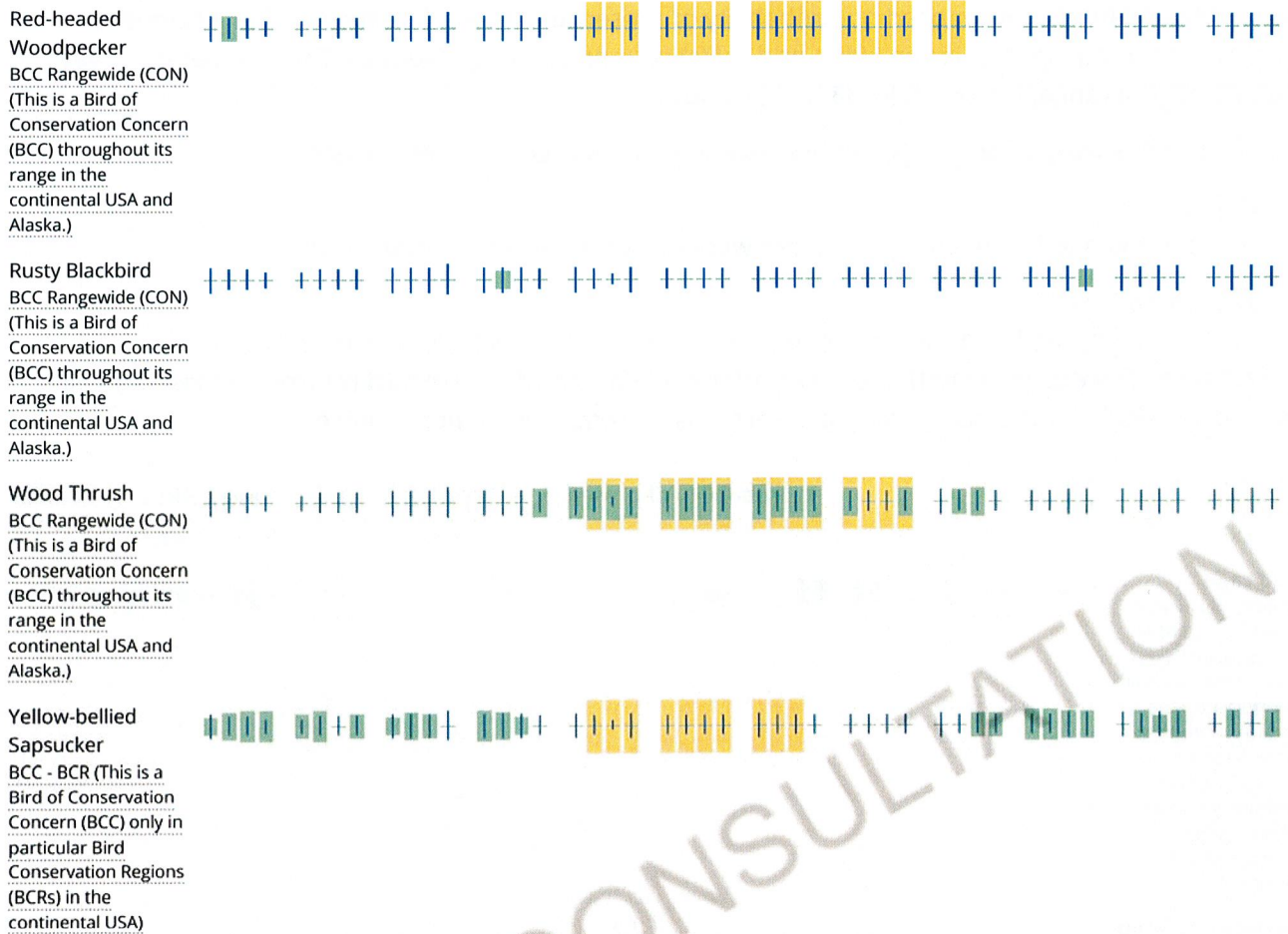
No Data (-)

A week is marked as having no data if there were no survey events for that week.

Survey Timeframe

Surveys from only the last 10 years are used in order to ensure delivery of currently relevant information. The exception to this is areas off the Atlantic coast, where bird returns are based on all years of available data, since data in these areas is currently much more sparse.





Tell me more about conservation measures I can implement to avoid or minimize impacts to migratory birds.

[Nationwide Conservation Measures](#) describes measures that can help avoid and minimize impacts to all birds at any location year round. Implementation of these measures is particularly important when birds are most likely to occur in the project area. When birds may be breeding in the area, identifying the locations of any active nests and avoiding their destruction is a very helpful impact minimization measure. To see when birds are most likely to occur and be breeding in your project area, view the Probability of Presence Summary. [Additional measures](#) and/or [permits](#) may be advisable depending on the type of activity you are conducting and the type of infrastructure or bird species present on your project site.

What does IPaC use to generate the migratory birds potentially occurring in my specified location?

The Migratory Bird Resource List is comprised of USFWS [Birds of Conservation Concern \(BCC\)](#) and other species that may warrant special attention in your project location.

The migratory bird list generated for your project is derived from data provided by the [Avian Knowledge Network \(AKN\)](#). The AKN data is based on a growing collection of [survey, banding, and citizen science datasets](#) and is queried and filtered to return a list of those birds reported as occurring in the 10km grid cell(s) which your project intersects, and that have been identified as warranting special attention because they are a BCC species in that area, an eagle ([Eagle Act](#) requirements may apply), or a species that has a particular vulnerability to offshore activities or development.

Again, the Migratory Bird Resource list includes only a subset of birds that may occur in your project area. It is not representative of all birds that may occur in your project area. To get a list of all birds potentially present in your project area, please visit the [AKN Phenology Tool](#).

What does IPaC use to generate the probability of presence graphs for the migratory birds potentially occurring in my specified location?

The probability of presence graphs associated with your migratory bird list are based on data provided by the [Avian Knowledge Network \(AKN\)](#). This data is derived from a growing collection of [survey, banding, and citizen science datasets](#).

Probability of presence data is continuously being updated as new and better information becomes available. To learn more about how the probability of presence graphs are produced and how to interpret them, go to the Probability of Presence Summary and then click on the "Tell me about these graphs" link.

How do I know if a bird is breeding, wintering, migrating or present year-round in my project area?

To see what part of a particular bird's range your project area falls within (i.e. breeding, wintering, migrating or year-round), you may refer to the following resources: [The Cornell Lab of Ornithology All About Birds Bird Guide](#), or (if you are unsuccessful in locating the bird of interest there), the [Cornell Lab of Ornithology Neotropical Birds guide](#). If a bird on your migratory bird species list has a breeding season associated with it, if that bird does occur in your project area, there may be nests present at some point within the timeframe specified. If "Breeds elsewhere" is indicated, then the bird likely does not breed in your project area.

What are the levels of concern for migratory birds?

Migratory birds delivered through IPaC fall into the following distinct categories of concern:

1. "BCC Rangewide" birds are [Birds of Conservation Concern](#) (BCC) that are of concern throughout their range anywhere within the USA (including Hawaii, the Pacific Islands, Puerto Rico, and the Virgin Islands);
2. "BCC - BCR" birds are BCCs that are of concern only in particular Bird Conservation Regions (BCRs) in the continental USA; and
3. "Non-BCC - Vulnerable" birds are not BCC species in your project area, but appear on your list either because of the [Eagle Act](#) requirements (for eagles) or (for non-eagles) potential susceptibilities in offshore areas from certain types of development or activities (e.g. offshore energy development or longline fishing).

Although it is important to try to avoid and minimize impacts to all birds, efforts should be made, in particular, to avoid and minimize impacts to the birds on this list, especially eagles and BCC species of rangewide concern. For more information on conservation measures you can implement to help avoid and minimize migratory bird impacts and requirements for eagles, please see the FAQs for these topics.

Details about birds that are potentially affected by offshore projects

For additional details about the relative occurrence and abundance of both individual bird species and groups of bird species within your project area off the Atlantic Coast, please visit the [Northeast Ocean Data Portal](#). The Portal also offers data and information about other taxa besides birds that may be helpful to you in your project review. Alternately, you may download the bird model results files underlying the portal maps through the [NOAA NCCOS Integrative Statistical Modeling and Predictive Mapping of Marine Bird Distributions and Abundance on the Atlantic Outer Continental Shelf](#) project webpage.

Bird tracking data can also provide additional details about occurrence and habitat use throughout the year, including migration. Models relying on survey data may not include this information. For additional information on marine bird tracking data, see the [Diving Bird Study](#) and the [nanotag studies](#) or contact [Caleb Spiegel](#) or [Pam Loring](#).

What if I have eagles on my list?

If your project has the potential to disturb or kill eagles, you may need to [obtain a permit](#) to avoid violating the Eagle Act should such impacts occur.

Proper Interpretation and Use of Your Migratory Bird Report

The migratory bird list generated is not a list of all birds in your project area, only a subset of birds of priority concern. To learn more about how your list is generated, and see options for identifying what other birds may be in your project area, please see the FAQ "What does IPaC use to generate the migratory birds potentially occurring in my specified location". Please be aware this report provides the "probability of presence" of birds within the 10 km grid cell(s) that overlap your project; not your exact project footprint. On the graphs provided, please also look carefully at the survey effort (indicated by the black vertical bar) and for the existence of the "no data" indicator (a red horizontal bar). A high

survey effort is the key component. If the survey effort is high, then the probability of presence score can be viewed as more dependable. In contrast, a low survey effort bar or no data bar means a lack of data and, therefore, a lack of certainty about presence of the species. This list is not perfect; it is simply a starting point for identifying what birds of concern have the potential to be in your project area, when they might be there, and if they might be breeding (which means nests might be present). The list helps you know what to look for to confirm presence, and helps guide you in knowing when to implement conservation measures to avoid or minimize potential impacts from your project activities, should presence be confirmed. To learn more about conservation measures, visit the FAQ "Tell me about conservation measures I can implement to avoid or minimize impacts to migratory birds" at the bottom of your migratory bird trust resources page.

Facilities

National Wildlife Refuge lands

Any activity proposed on lands managed by the [National Wildlife Refuge](#) system must undergo a 'Compatibility Determination' conducted by the Refuge. Please contact the individual Refuges to discuss any questions or concerns.

THERE ARE NO REFUGE LANDS AT THIS LOCATION.

Fish hatcheries

THERE ARE NO FISH HATCHERIES AT THIS LOCATION.

Wetlands in the National Wetlands Inventory

Impacts to [NWI wetlands](#) and other aquatic habitats may be subject to regulation under Section 404 of the Clean Water Act, or other State/Federal statutes.

For more information please contact the Regulatory Program of the local [U.S. Army Corps of Engineers District](#).

THERE ARE NO KNOWN WETLANDS AT THIS LOCATION.

Data limitations

The Service's objective of mapping wetlands and deepwater habitats is to produce reconnaissance level information on the location, type and size of these resources. The maps are prepared from the analysis of high altitude imagery. Wetlands are identified based on vegetation, visible hydrology and geography. A margin of error is inherent in the use of imagery; thus, detailed on-the-ground inspection of any particular site may result in revision of the wetland boundaries or classification established through image analysis.

The accuracy of image interpretation depends on the quality of the imagery, the experience of the image analysts, the amount and quality of the collateral data and the amount of ground truth verification work conducted. Metadata should be consulted to determine the date of the source imagery used and any mapping problems.

Wetlands or other mapped features may have changed since the date of the imagery or field work. There may be occasional differences in polygon boundaries or classifications between the information depicted on the map and the actual conditions on site.

Data exclusions

Certain wetland habitats are excluded from the National mapping program because of the limitations of aerial imagery as the primary data source used to detect wetlands. These habitats include seagrasses or submerged aquatic vegetation that are found in the intertidal and subtidal zones of estuaries and nearshore coastal waters. Some deepwater reef communities (coral or tubercid worm reefs) have also been excluded from the inventory. These habitats, because of their depth, go undetected by aerial imagery.

Data precautions

Federal, state, and local regulatory agencies with jurisdiction over wetlands may define and describe wetlands in a different manner than that used in this inventory. There is no attempt, in either the design or products of this inventory, to define the limits of proprietary jurisdiction of any Federal, state, or local government or to establish the geographical scope of the regulatory programs of government agencies. Persons intending to engage in activities involving modifications within or adjacent to wetland areas should seek the advice of appropriate federal, state, or local agencies concerning specified agency regulatory programs and proprietary jurisdictions that may affect such activities.

ATTACHMENT C
NYSOPRHP Correspondence



**Parks, Recreation,
and Historic Preservation**

ANDREW M. CUOMO
Governor

ERIK KULLESEID
Commissioner

May 15, 2020

Caren LoBrutto
Chazen Companies
21 Fox Street
Poughkeepsie, ny 12601

Re: SEQRA
42 S. Plank Road Service Station Renovation
42 S Plank Rd, Newburgh, NY 12550
20PR02966

Dear Caren LoBrutto:

Thank you for requesting the comments of the Division for Historic Preservation of the Office of Parks, Recreation and Historic Preservation (OPRHP) as part of your SEQRA process. These comments are those of OPRHP and relate only to Historic/Cultural resources. They do not include potential environmental impacts to New York State Parkland that may be involved in or near your project. Such impacts must be considered as part of the environmental review of the project pursuant to the State Environmental Quality Review Act (New York Environmental Conservation Law Article 8) and its implementing regulations (6 NYCRR Part 617).

If this project will involve state or federal permitting, funding or licensing, it may require additional review for potential impacts to architectural and archaeological resources, in accordance with Section 106 of the National Historic Preservation Act or Section 14.09 of NYS Parks Recreation and Historic Preservation Law.

Based on the information provided, OPHRP has no concerns regarding the proposed project under SEQRA. Should the project design be changed, we recommend further consultation with this office.

If you have any questions, please don't hesitate to contact me.

Sincerely,

Philip A. Perazio, Historic Preservation Program Analyst - Archaeology Unit
Phone: 518-268-2175
e-mail: philip.perazio@parks.ny.gov

via email only

cc: Town of Newburgh Planning Board

Division for Historic Preservation

P.O. Box 189, Waterford, New York 12188-0189 • (518) 237-8643 • parks.ny.gov

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. Puglielle, Jr.
Nicholas A. Pascale

Alana R. Bartley
Aaron C. Fitch
Judith A. Waye
Michael Martens

Jennifer L. Schneider
Managing Attorney

*L.L.M. in Taxation

October 20, 2021

BY EMAIL ONLY

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

Re: Gas Land / 42 South Plank Road / Planning Board Project No. 21-23

Dear Chairman Scalzo and Board Members:

At the Planning Board's October 7, 2021 meeting, the Planning Board resolved to refer this application to the Zoning Board of Appeals. Gas Land Petroleum, is looking to modernize their existing location at 42 South Plank Road by constructing a new, one-story, 2,300 SF convenience store (located approximately 18 feet north of the existing 1,564 SF, one-story, convenience store, which would be demolished) with associated site improvements (landscaping, parking, vehicular safety upgrades). The 0.531-acre parcel is identified as parcel 71-2.11 on the Town of Newburgh Tax Map and is located at the intersection of S. Plank Road and 5th Avenue. The site was rezoned to Zoning District Business (B) on October 26, 2020. In addition to the existing building, the tax parcel is currently developed with 8 fuel pumps (8 fueling stations)[1] and 13 parking spaces, including 8 spaces at the fuel pumps.

The following is a list of variances required based on a review of the Bulk Tables and plans.

1) Front yard setback - NYS Route 52- 60 foot required where 41.3 is provided. Noted that exceptions to Town Code 185-18(C)(4)(b) allows a front yard depth of 50 feet for the average of all lots within 300 feet. Based on this analysis and existing adjoining structures the 50 foot front yard would be required.

2) Setback to intersection - 50 feet required where 22 feet is provided.

3) Town Code Section 185-13B(2)- no parking in required front or side yard adjacent to a Residential District. Variance required for parking spaces in both front yards.

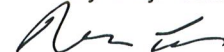
4) Minimum required setback to parked car - 10 feet required where 4.5 feet is provided.

5) While not listed on the variance schedule, it appears that the canopy will require variances from the 40 foot minimum required front yard/Fifth Ave. and minimum front yard setback from NYS Route 52 of 50 feet.

6) The Applicant should confirm that the in the ground fuel tanks are not within 15 feet of the property line or an additional variance will be required.

The Planning Board considers this application to be a SEQRA Type II action, and as such no further SEQRA review will be required. Thank you for your consideration of this matter.

Very Truly Yours,



Dominic Cordisco

cc:

David A. Donovan, Esq., Attorney for the ZBA
Town of Newburgh Planning Board
Patrick J. Hines, Planning Board Consulting Engineer

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

STATE OF NEW YORK: COUNTY OF ORANGE:

I Alexander Cruise, being duly sworn, depose and say that I did on or before
November 9, 2021, post and will thereafter maintain at
42 S Plank Rd 71-2-11 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.


Alexander Cruise

Sworn to before me this 8
day of November, 2021.

Jordan Futyma

JORDAN FUTYMA
Notary Public, State of New York
Registration #01FU6341032
Qualified In Dutchess County
Commission Expires May 2, 2024




TOWN OF NEWBURGH
ORDINANCE NO. 10
AN ORDINANCE TO AMEND THE ZONING ORDINANCES OF THE TOWN OF NEWBURGH, OHIO, TO ALLOW FOR THE CONSTRUCTION OF A RESIDENTIAL HOME IN THE R-1 ZONE.

WHEREAS, the Zoning Ordinance of the Town of Newburgh, Ohio, currently prohibits the construction of a residential home in the R-1 Zone; and

WHEREAS, it is the desire of the Board of Trustees to amend the Zoning Ordinance to allow for the construction of a residential home in the R-1 Zone;

THEREFORE, the Board of Trustees hereby enacts the following ordinance:

SECTION 1. The Zoning Ordinance of the Town of Newburgh, Ohio, is amended to allow for the construction of a residential home in the R-1 Zone.

SECTION 2. This ordinance shall take effect upon the date of its passage.

ATTEST:
_____ Mayor







TOWN OF NEWBURGH

Committee of the Board
ZONING BOARD OF APPEALS
21 Hudson Valley Professional Plaza
Newburgh, NY 12550

OFFICE OF ZONING BOARD
TELEPHONE 845-566-4901
FAX LINE 845-564-7802

NOTICE OF HEARING

NOTICE is hereby given that, pursuant to Section 267-a (1) of the Town Law, State of New York and Section 135-55A (1) of the Zoning Ordinances of the Town of Newburgh, a Public Hearing will be held by the Zoning Board of Appeals of the Town of Newburgh, New York on Tuesday the 23rd day of November, 2021 at 7:00 P.M., in the Town Hall, 1496 Route 300, Town of Newburgh, New York, to act upon the following appeal:

APPLICATION of Sun Land Petroleum Inc. (Planning Board Referral) for area variances of the front yard to NYS Route 52, the setback to the intersection, parking in both front yards, minimum front yard setbacks for the canopy on Route 52 and Fifth Ave and confirmation the underground fuel tank meet the

PREMISES LOCATED at 42 S Plank Rd 71-2-11 B Zone in the Town of Newburgh, New York.

TAKE NOTICE that the applicant should appear at the hearing and all persons interested in any way may appear and be heard by the Board.

BY ORDER of the Zoning Board of Appeals dated the 9th day of November, 2021.

Michael Green
(APPLICANT)

*Any members of the public that plan on attending the meeting are required to wear a mask.

