



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

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

TONZBA Town of Newburgh

MUNICIPALITY: ZONING BOARD of Appeals TAX MAP ID: 95-1-45.22 Hotel
(Section-Block-Lot)

Local File #: Project Name: (45.12) Vacant parcel

Applicant: GREENWOOD GARDENS LLC

Address: PO Box 7417, Newburgh NY 12550

Attorney, Engineer, Architect: MASER Consulting

Location of Site: 15 CROSSROADS Court - Route 17K NYS Thruway 87

Size of Parcel: 516 (Street, highway, nearest intersection)
(VACANT Parcel 95-1-45.12-5.9 acres)

Present Zoning District: I/B Existing Lots: Proposed Lots/Units

TYPE OF REVIEW:

Special Use Permit\* (SUP):

Variance\* USE (VU):

185-14-B-1-(c) AREA (AV): SIGNAGE TOTAL SIGNAGE ALLOWED
185-14-B-2(A) Directional signs MORE THAN 3 FEET SQ Total Area
185-14-B-2(b) Directional sign CLOSER THAN 15 FT TO Property Line

Zone Change\* FROM: TO:

Zoning Amendment\*\* To Section:

Subdivision Major Minor

Sketch Preliminary Final

DATE: 2/13/13

Grace Cardone

Chairperson, Signature and Title
ZONING BOARD of Appeals

\*Cite Section of Zoning Regulations where pertinent.

FOR COUNTY USE ONLY

County ID #

TOWN OF NEWBURGH

*Crossroads of the Northeast*

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

APPLICATION TO THE ZONING BOARD OF APPEALS, TOWN OF NEWBURGH

DATED: February 11, 2013

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

I (WE) Greenwood Gardens, LLC PRESENTLY

RESIDING AT NUMBER P.O. Box 7417, Newburgh, NY 12550

TELEPHONE NUMBER (845) 567-9100

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

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

1. LOCATION OF THE PROPERTY:

(S-B-L) 95-1-45.22 & 45.12 (TAX MAP DESIGNATION)

Existing Hilton Garden Inn, Crossroads Court off of  
N.Y.S. Route 17K, Town of Newburgh, NY (STREET ADDRESS)

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 PROVISION OF THE ZONING LAW APPLICABLE, (INDICATE THE SECTION AND SUBSECTION OF THE ZONING LAW APPLICABLE BY NUMBER; DO NOT QUOTE THE LAW).

Town Code § 185-14(b)(1)(c) permits a sign or signs freestanding or attached to a building announcing a business establishment, so long as the total area of the signage does not exceed one half of the total length of street frontage of the lot in

linear feet. Town Code § 185-14(b)(2)(a),(b) permits one freestanding identification sign at each point of access to the lot which may be illuminated and shall have an area of not more than three square feet apiece, as well as freestanding internal directional signs which may be illuminated and shall have an area of not more than three square feet apiece.

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:       N/A      

b) OR DENIAL (REFERRAL) BY THE PLANNING BOARD OF THE TOWN OF NEWBURGH OF AN APPLICATION TO THE BOARD, SEE ACCOMPANYING NOTICE DATED:       November 16, 2012      

4. DESCRIPTION OF VARIANCE SOUGHT: The applicant is requesting the placement of 396.0 square feet of additional signage for a freestanding tower identification sign, for a total of 421.75 square feet of signage. The proposed signage is greater than half the total length of the street frontage, requiring a variance in accordance with Town Code 185-14(B)(1)(c), which would permit half of 86.2 square feet, or 43.1 square feet of signage. The applicant is also requesting the placement of 2.0 square feet of additional signage with 5.0 square feet of total signage for a directional sign located at the driveway entrance. This proposed directional signage is greater than 3.0 square feet, requiring a variance in accordance with Town Code § 185-14(B)(2)(b), which permits 3.0 square feet of directional signage. The applicant is also requesting the placement of the directional sign 2.8 feet from the property line. This proposed location is less than 15 feet from the property line, requiring a variance in accordance with Town Code § 185-14(B)(1)(c), which would permit signage not to be located closer than 15 feet from any street line.

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

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

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

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

N/A

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

N/A

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

N/A

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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 surrounding businesses have similar signs both freestanding and attached to their buildings. Therefore, this requested signage would not be inconsistent with the character of the Interchange Business District. There would be limited potential negative visual impacts. Due to the nature of the site, the freestanding identification signage would primarily be visible only when passing the site on the New York State Thruway and the directional signage would be primarily visible when passing the site on NYS Route 17K.

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

In accordance with the signage requirements established by Hilton corporate, the signage requirements for a Hilton Garden Inn include signage for the Hilton brand. As a result of the shape of the lot, the amount of street frontage is not enough under the current zoning. Consequently, an insufficient sign is the only possibility within the code and a variance must be sought. Since there are no other feasible means of obtaining the necessary signage, lot area and positioning, this variance must be sought. The benefit sought by the applicant cannot be achieved by any other method.

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c) THE REQUESTED AREA VARIANCE IS NOT SUBSTANTIAL BECAUSE:

The substantiality of a variance cannot be judged solely by a comparison of the percentage deviation from the mandated requirements of the zoning law. Instead, the overall effect of granting the relief is the appropriate inquiry. Here, as a result of the limited frontage for this parcel, the proposed freestanding identification signage will be visible primarily from the NYS Thruway. Furthermore, as a result of the insufficient frontage and limited space, the signage which would be available under the code would be insufficient. In regard to the directional signage, the Town's Zoning Code permits 3.0 square feet of directional signage, and the proposed signage is only 5.0 square feet. Further, the directional signage is permitted when the signage is located more than 15.0 feet from the property line, and relief is only requested for 12.2 feet from the proposed location. This is not a significant difference. Further, the identification signage would primarily be visible from the NYS Thruway and NYS Route 17K. Therefore, if granted, exceeding the allowable signage by 378.65 square feet total would not be substantial in the IB zoning district.

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

As noted above, because of the insufficient frontage of the lot, the amount of signage permitted by the Town Code would be insufficient. The surrounding businesses have signs of similar size. The directional signage will be primarily visible on Crossroads Court, and the identification signage on the eastern property boundary abuts the NYS Thruway, where the identification signage will primarily be visible. This variance is not substantial and will have no adverse impacts on the district.

e) THE HARDSHIP HAS NOT BEEN SELF CREATED BECAUSE:

As noted by Terry Rice in his Practice Commentaries for Town Law § 274-b, this factor is perhaps the most misunderstood factor in the balancing test. The fact that the property is purchased with knowledge of applicable zoning renders any difficulty self-created. However, just because a difficulty is self-created does not require the denial of the variances. Here it is important to note that the variances are required solely because of the limitation contained in the Town's Zoning Code, and that all other aspects of the proposed development meets the Code's requirements.

7. ADDITIONAL REASONS (IF PERTINENT):

Please see the attached signage design images and a copy of the narrative that accompanied the Planning Board application.

*Martin Milano*

\_\_\_\_\_  
Martin Milano, Managing Member  
Greenwood Gardens, LCC  
PETITIONER (S) SIGNATURE

STATE OF NEW YORK: COUNTY OR ORANGE:

SWORN TO THIS 11<sup>th</sup> DAY OF February 2013

MARIAN L. WADE  
Notary Public, State of New York  
Qualified in Orange County  
Registration No. 01WA6209932  
Commission Expires August 3, 2013

*Marian L. Wade*

\_\_\_\_\_  
NOTARY PUBLIC

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

TOWN OF NEWBURGH  
ZONING BOARD OF APPEALS

PROXY

Martin Milano, DEPOSES AND SAYS THAT

HE/SHE RESIDES AT P.O. Box 7417, Newburgh, NY 12550

IN THE COUNTY OF Orange AND STATE OF New York

AND THAT HE/SHE IS THE OWNER IN FEE OF Greenwood Gardens, LLC

WHICH IS THE PREMISES DESCRIBED IN THE FOREGOING APPLICA-

TION AND THAT HE/SHE HAS AUTHORIZED Maser Consulting, and Drake  
Loeb Heller Kennedy Gogerty Gaba & Rodd PLLC

TO MAKE THE FOREGOING APPLICATION AS DESCRIBED THEREIN.

DATED: 2/11/13

Mart Milano  
Martin Milano  
OWNER'S SIGNATURE

Marian L. Wade  
WITNESS' SIGNATURE

STATE OF NEW YORK: COUNTY OF ORANGE:

SWORN TO THIS 11<sup>th</sup> DAY OF February 20 13

Marian L. Wade  
NOTARY PUBLIC

MARIAN L. WADE  
Notary Public, State of New York  
Qualified in Orange County  
Registration No. 01WA6209932  
Commission Expires August 3, 2013

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

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

1. APPLICANT/SPONSOR <b>GREENWOOD GARDENS, LLC</b>	2. PROJECT NAME <b>HILTON GARDEN INN SIGNAGE</b>
3. PROJECT LOCATION: Municipality: <b>TOWN OF NEWBURGH</b> County: <b>ORANGE</b>	
4. PRECISE LOCATION (Street address and road intersections, prominent landmarks, etc., or provide map) <b>AT THE EXISTING HILTON GARDEN INN, CROSSROADS COURT, OFF OF NEW YORK STATE ROUTE 17K, TOWN OF NEWBURGH.</b>	
5. IS PROPOSED ACTION: <input type="checkbox"/> New <input type="checkbox"/> Expansion <input checked="" type="checkbox"/> Modification/alteration	
6. DESCRIBE PROJECT BRIEFLY: <b>THE APPLICANT PROPOSES TO ERECT IDENTIFICATION SIGNAGE VISIBLE FROM THE NEW YORK STATE THRUWAY AND DIRECTIONAL SIGNAGE AT THE HOTEL DRIVEWAY ENTRANCE OFF THE CROSSROADS COURT CUL-DE-SAC AT THE APPLICANT'S HILTON GARDEN INN HOTEL WHICH IS CURRENTLY EXISTING.</b>	
7. AMOUNT OF LAND AFFECTED: Initially ___ acres    Ultimately ___ acres <b>N/A</b>	
8. WILL PROPOSED ACTION COMPLY WITH EXISTING ZONING OR OTHER LAND USE RESTRICTIONS? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No    If No, describe briefly: <b>THE APPLICANT REQUESTS THE PLACEMENT OF A 40 FOOT TALL FREESTANDING IDENTIFICATION SIGN, EACH SIDE EQUALING 198 SQUARE FEET FOR A TOTAL OF 396 SQUARE FEET, VISIBLE FROM THE NYS THRUWAY, AS WELL AS FREESTANDING 5.0 SQUARE FOOT DIRECTIONAL SIGN AT THE HOTEL DRIVEWAY ENTRANCE OFF THE CROSSROADS COURT CUL-DE-SAC, LOCATED 2.8 FEET FROM THE PROPERTY LINE.</b>	
9. WHAT IS PRESENT LAND USE IN VICINITY OF PROJECT? <input type="checkbox"/> Residential <input type="checkbox"/> Industrial <input checked="" type="checkbox"/> Commercial <input type="checkbox"/> Agriculture <input type="checkbox"/> Park/Forest/Open Space <input type="checkbox"/> Other Describe: <b>THE SITE IS SURROUNDED BY COMMERCIAL USES TO NORTH, EAST (ACROSS THE NYS THRUWAY) AND WEST (ORANGE COUNTY CHOPPERS) AND SOUTH IS VACANT WOODLAND.</b>	
10. DOES ACTION INVOLVE A PERMIT APPROVAL, OR FUNDING, NOW OR ULTIMATELY, FROM ANY OTHER GOVERNMENTAL AGENCY (FEDERAL, STATE OR LOCAL?) <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No    If yes, list agency(s) and permits/Approvals: <b>N/A</b>	
11. DOES ANY ASPECT OF THE ACTION HAVE A CURRENTLY VALID PERMIT OR APPROVAL? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If yes, list agency(s) and permits/Approvals:	
12. AS A RESULT OF PROPOSED ACTION WILL EXISTING PERMIT/APPROVAL REQUIRE MODIFICATION? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> <b>SITE PLAN AMENDMENT</b>	
I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE TO THE BEST OF MY KNOWLEDGE	
Applicant/Sponsor Name: <b>GREENWOOD GARDENS, LLC</b>	Date: <b>FEBRUARY 11, 2013</b>
Signature: <i>Mat Kuhn</i>	

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



**PART II – ENVIRONMENTAL ASSESSMENT (To be completed by Agency)**

A. DOES ACTION EXCEED ANY TYPE I THRESHOLD IN 6 NYCRR, PART 617.12? If yes, coordinate the review process and use the FULL EAF.  Yes  No

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

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

C1. Existing air quality, surface or groundwater quality or quantity, noise levels, existing traffic patterns, solid waste production or disposal, potential for erosion, drainage or flooding problems? Explain briefly:

C2. Aesthetic, agricultural, archeological, historic, or other natural or cultural resources, or community or neighborhood character? Explain briefly:

C3. Vegetation or fauna, fish, shellfish or wildlife species, significant habitats, or threatened or endangered species? Explain briefly:

C4. A community's existing plans or goals as officially adopted, or a change in use or intensity of use of land or other natural resources? Explain briefly:

C5. Growth, subsequent development, or related activities likely to be induced by the proposed action? Explain briefly:

C6. Long term, short term, cumulative, or other effects not identified in C1-C5? Explain briefly:

C7. Other impacts (including changes in use of either quantity or type of energy? Explain briefly:

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

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

**INSTRUCTIONS:** For each adverse effect identified above, determine whether it is substantial, large, important, or otherwise significant. Each effect should be assessed in connection with its (a) setting (i.e., urban or rural); (b) probability of occurring; (c) duration; (d) irreversibility; (e) geographic scope; and (f) magnitude. If necessary, add attachments or reference supporting materials. Ensure that explanations contain sufficient detail to show that all relevant adverse impacts have been identified and adequately addressed.

- Check this box if you have identified one or more potentially large or significant adverse impacts which **MAY** occur. Then proceed directly to the FULL EAF and/or prepare a Positive Declaration.
- Check this box if you have determined, based on the information and analysis above and any supporting documentation, that the proposed action **WILL NOT** result in any significant adverse environmental impacts **AND** provide on attachments as necessary, the reasons supporting this determination:

Name of Lead Agency

Print or type Name of Responsible Officer in Lead Agency

Title of Responsible Officer

Signature of Responsible Officer in Lead Agency

Signature of Preparer (if different from responsible officer)

DATE:

**DRAKE LOEB HELLER  
KENNEDY GOGERTY  
GABA & RODD PLLC**  
ATTORNEYS AT LAW

555 Hudson Valley Avenue, Ste. 100  
New Windsor, New York 12553

Phone: 845-561-0550

Fax: 845-561-1235

www.drakeloeb.com

James R. Loeb  
Richard J. Drake  
Glen L. Heller\*  
Marianna R. Kennedy  
Gary J. Gogerty  
Stephen J. Gaba  
Adam L. Rodd  
Dominic Cordisco  
Timothy P. McElduff, Jr.  
Ralph L. Puglielle, Jr.

February 11, 2013

Zoning Board of Appeals  
1496 New York 300  
Town of Newburgh, New York 12550  
Attn: Board Members

Nicholas A. Pascale  
Benjamin M. Wilkinson

\*LL.M. in Taxation

Re: Hilton Garden Inn, Proposed Signage Application  
Our File No.: 13722 - 64796

Dear Board Members:

The applicant, Greenwood Gardens, LLC, the owner of the Hilton Garden Inn, respectfully submits a variance application to erect freestanding directional and identification signage at the applicant's Hilton Garden Inn, located at 15 Crossroads Court, Town of Newburgh, New York. The applicant is requesting the placement of 396.0 square feet of additional signage for a freestanding tower identification sign, for a total of 421.75 square feet of signage. The proposed signage is greater than half the total length of the street frontage, requiring a variance in accordance with Town Code 185-14(B)(1)(c), which would permit half of 86.2 square feet, or 43.1 square feet of signage. The applicant is also requesting the placement of 2.0 square feet of additional signage with 5.0 square feet of total signage for a directional sign located at the driveway entrance to the Hilton Garden Inn. This proposed directional signage is greater than the permitted 3.0 square feet of directional signage, requiring a variance in accordance with Town Code § 185-14(B)(2)(b). The applicant is also requesting the placement of the directional sign 2.8 feet from the property line. This proposed location is less than 15 feet from the property line, requiring a variance in accordance with Town Code § 185-14(B)(1)(c), which does not permit signage located closer than 15 feet from any street line.

The proposal is for the additional signage on the existing tax lots (S-B-L 95-1-45.22 and 12). The lots have frontage on N.Y.S. 17K and the NYS Thruway. The site is located in an IB (Interchange Business) zoning district which permits signage for businesses not to exceed 1/2 of the total length of street frontage of the lot in linear feet. The lot is currently improved by Hilton Garden Inn, with access from N.Y.S. Route 17K via Crossroads Court.

Writer's Direct

Phone: 845-458-7316

Fax: 845-458-7317

dcordisco@drakeloeb.com

The Planning Board provided a referral letter on November 16, 2012, and we request to be placed on the next available Zoning Board of Appeals agenda. If you have any questions or comments, please feel free to contact me.

Very truly yours,



DOMINIC CORDISCO

DRC/tmp/64796-270929

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

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

28 Bruen Place  
P.O. Box 610  
Goshen, NY 10924  
Phone (845) 294-9447  
mat@dddllaw.com  
Fax (845) 294-6553  
(Not for Service of Process)

Successor Law Firm To:  
Alexander Appelbaum, P.C., Florida, N.Y. (1915-1988)  
Ludmerer & Vumo, Esqs., Warwick, N.Y.

December 18, 2012

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

RB: Hilton Garden Inn 12.06  
95-1-45.12 & 45.22 (Zone IB)  
Crossroads Court

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Members of the Board:

I write to you as the attorney for the Town of Newburgh Planning Board. The above referenced applicant appeared before the planning board on November 15, 2012 with a site plan application that includes a proposal to construct three signs on the premises. Several variances relative to square footage, height and setback requirements are needed in order for the applicant to construct the signs of the size and location proposed. Therefore, the planning board is referring this matter to your board for consideration of the following variances:

*Directional Sign*

- Variance for square footage (5 feet is proposed and 4 feet is the maximum);
- Variance for the sign location (2.8 feet from the property line is proposed and 15 feet is required);

*Pylon Sign*

- Variance for the total site signage (421.75 square feet is proposed and 46.1 square feet is the maximum allowed);

*Freestanding Pylon Sign*

- Variance for the sign location (0 feet is proposed and a 15 foot setback is required);
- Variance for the sign not being on the same parcel as the business it is advertising.

The planning board believes that it would be appropriate for you to handle these variance

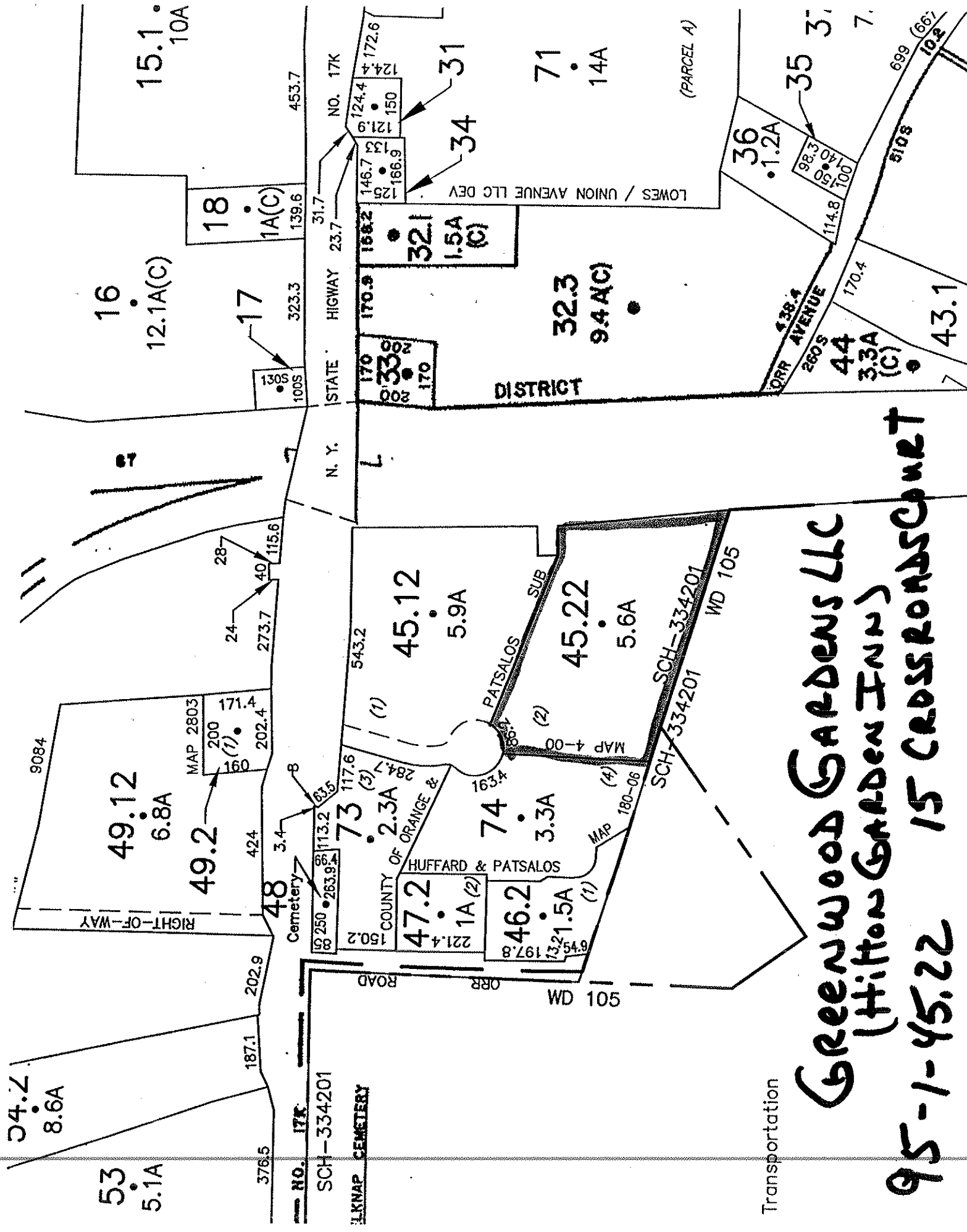
applications on a uncoordinated review basis under SEQRA. The planning board has no other particular issues to bring to your attention and no recommendations to make to you in regard to this referral.

Very truly yours,

MICHAEL H. DONNELLY

MHD/lrm

cc: Town of Newburgh Planning Board & Consultants  
Town of Newburgh Code Compliance Department  
Maser Consulting, P.A.



**Greenwood Gardens LLC**  
**(Hilton Garden Inns)**  
**95-1-45.22 15 Crossroads Court**