



Steven M. Neuhaus
County Executive

Orange County Department of Planning
Submittal Form for Mandatory Review of Local Planning Action
as per NYS General Municipal Law §239-l, m, & n

Referral ID#:
(County Use Only)

This form is to be completed by the local board having jurisdiction. Submittals from applicants will not be accepted unless coordinated with both the local board having jurisdiction and the County Department of Planning.

Please include all materials that are part of a "full statement" as defined by NYS GML §239-m (i.e. "all materials required by and submitted to the referring body as an application on a proposed action").

Municipality:	Town of Newburgh	Tax Map #:	95-1-8
Local Referring Board:	Zoning Board of Appeals	Tax Map #:	
Applicant:	JMDH Real Estate of Newburgh LLC	Tax Map #:	
Project Name:	Restaurant Depot	Local File No.:	Planning Board
Location of Project Site:	1281 Route 300	Size of Parcel*:	9 Acres
Reason for County Review: ON NYS Route 300		Current Zoning District (include any overlays): IB	

Type of Review:

Comprehensive Plan Update/Adoption

Zoning Amendment

Zoning District Change from _____ to _____

Ordinance Modification (cite section): _____

Local Law

Site Plan

Subdivision

Special Use Permit

Lot Line Change

Variance

Other

Sq. feet proposed (non-residential only): _____

Which approval is the applicant currently seeking? SKETCH / PRELIM / FINAL (circle one)

Number of lots proposed: _____

Which approval is the applicant currently seeking? SKETCH / PRELIM / FINAL (circle one)

AREA / USE (circle one) MAXIMUM Amount of Signage at 15ft minimum setback for FREE STANDING Sign

Is this an update to a previously submitted referral? YES / NO (circle one)

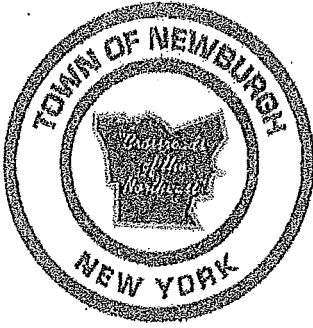
Local board comments or elaboration:

Signature of local official: *[Signature]* Date: 10/14/16 Chairperson: _____ Title: Zoning Board of Appeals

Municipal Contact Phone Number: 845-566-4901

If you would like the applicant to be cc'd on this letter, please provide the applicant's address:

Please return, along with full statement, to: Orange County Dept. of Planning 124 Main St. Goshen, NY 10924
Question or comments, call: 845-615-3840 or email: planning@orangecountygov.com



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: October 11, 2016

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

I (WE) JMDH REAL ESTATE OF NEWBURGH, LLC PRESENTLY
RESIDING AT NUMBER 15-24 132ND STREET, COLLEGE POINT, NY 11356
TELEPHONE NUMBER (718) 559-4290

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:

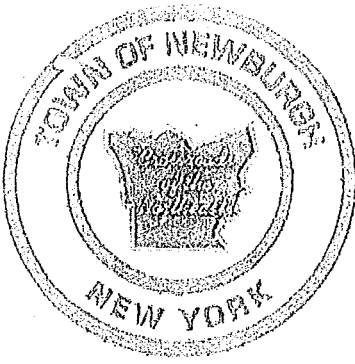
95-1-8 (TAX MAP DESIGNATION)

1281 Route 300 (STREET ADDRESS)

IB (ZONING DISTRICT)

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

§ 185-14B(c)



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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: 10/13/2016

4. DESCRIPTION OF VARIANCE SOUGHT: MONUMENT SIGN LOCATED

12 FEET FROM FRONT PROPERTY LINE (15 FT REQUIRED) + 605.9 SF OF TOTAL SIGNAGE (552.9 SF PERMITTED)

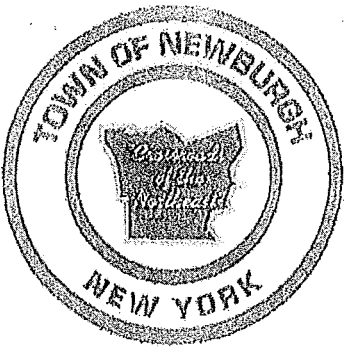
5. IF A USE VARIANCE IS REQUESTED: STRICT APPLICATION OF THE ZONING LAW WOULD PRODUCE UNNECESSARY HARDSHIP IN THAT:

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

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

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

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



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

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 MONUMENT SIGN WILL BE LOCATED CONSISTENT WITH OTHER SIGNS ON NYS ROUTE 300
- SIGNAGE ON BUILDING WILL PROVIDE VISIBILITY FROM NEIGHBORING ROADS

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:

- LOCATING MONUMENT SIGN 15 FEET FROM ^{FRONT PROPERTY LINE} WILL LIMIT VISIBILITY OF SIGN TO DRIVERS ALONG NYS ROUTE 300
- BUILDING SIGNAGE IS NECESSARY TO PROVIDE IDENTIFICATION FROM THE DRIVEWAY & FROM INTERSTATE 84 & INTERSTATE 87

c) THE REQUESTED AREA VARIANCE IS NOT SUBSTANTIAL BECAUSE:

- THE MONUMENT SIGN VARIANCE IS THE MINIMUM REQUIRED TO PROVIDE VISIBILITY OF SIGN TO DRIVERS (20% VARIANCE)
- BUILDING SIGNAGE IS NECESSARY TO PROVIDE VISIBILITY FROM INTERSTATE 84 & INTERSTATE 87 AND THE ACCESS DRIVEWAY.

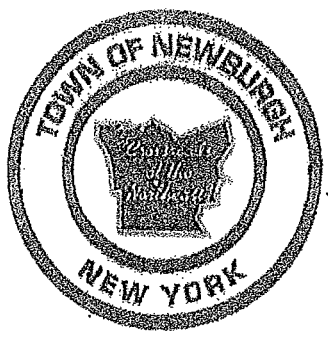
d) THE PROPOSED VARIANCE WILL NOT HAVE AN ADVERSE EFFECT OR IMPACT ON THE PHYSICAL OR ENVIRONMENTAL CONDITIONS IN THE NEIGHBORHOOD OR DISTRICT BECAUSE:

- SIGNAGE IS LOCATED WITHIN EXISTING COMMERCIALLY DEVELOPED AREA WITH SIGNIFICANT SITE LIGHTING & SIGNAGE.
- LOCATING MONUMENT SIGN 12 FEET OF RIGHT OF WAY ALLOWS VISIBILITY FOR DRIVERS FROM THE SOUTH, TO AVOID LAST SECOND, UNSAFE LANE CHANGES TO ENTER THE DRIVEWAY.

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

- THE EXISTING LOT HAS LIMITED VISIBILITY FROM PUBLIC ROADS, THE ADDITIONAL SIGNAGE WILL PROVIDE ADVANCE NOTICE TO PATRONS OF THE STORE.

CHANGES TO ENTER THE DRIVEWAY.



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OFFICE OF ZONING BOARD
(845) 566-4901

7. ADDITIONAL REASONS (IF PERTINENT):

Brin E.

PETITIONER (S) SIGNATURE

STATE OF NEW YORK: COUNTY OF ORANGE:

SWORN TO THIS 11th DAY OF OCTOBER 2016

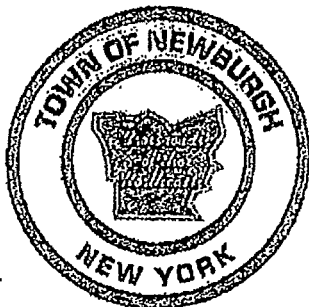
Brandy Gonzalez

NOTARY PUBLIC

BRANDY GONZALEZ
Notary Public - State of New York
No. 01GO6257818
Qualified in Queens County
My Commission Expires 3/19/20

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)



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OLD TOWN HALL
308 GARDNERTOWN ROAD
NEWBURGH, NEW YORK 12550

PROXY

BRIAN EMMERT, DEPOSES AND SAYS THAT
HE/SHE RESIDES AT 15-24 132ND STREET, COLLEGE POINT, NY 11356
IN THE COUNTY OF _____ AND STATE OF NY

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

JMDH REAL ESTATE OF NEWBURGH, LLC.

WHICH IS THE PREMISES DESCRIBED IN THE FOREGOING APPLICATION AND THAT HE/SHE HAS AUTHORIZED MERCURIO-NORON-TAROLI-MARSHALL, P.C.
TO MAKE THE FOREGOING APPLICATION AS DESCRIBED THEREIN.

DATED 10-11-2016 Brian Emmert

OWNER'S SIGNATURE

Don White

WITNESS' SIGNATURE

STATE OF NEW YORK: COUNTY OF ORANGE:

SWORN TO THIS 14th DAY OF October 2016

BRANDY GONZALEZ
Notary Public - State of New York
No. 01GO6257818
Qualified in Queens County
My Commission Expires 3/19/20

Brandy Gonzalez
NOTARY PUBLIC

Short Environmental Assessment Form

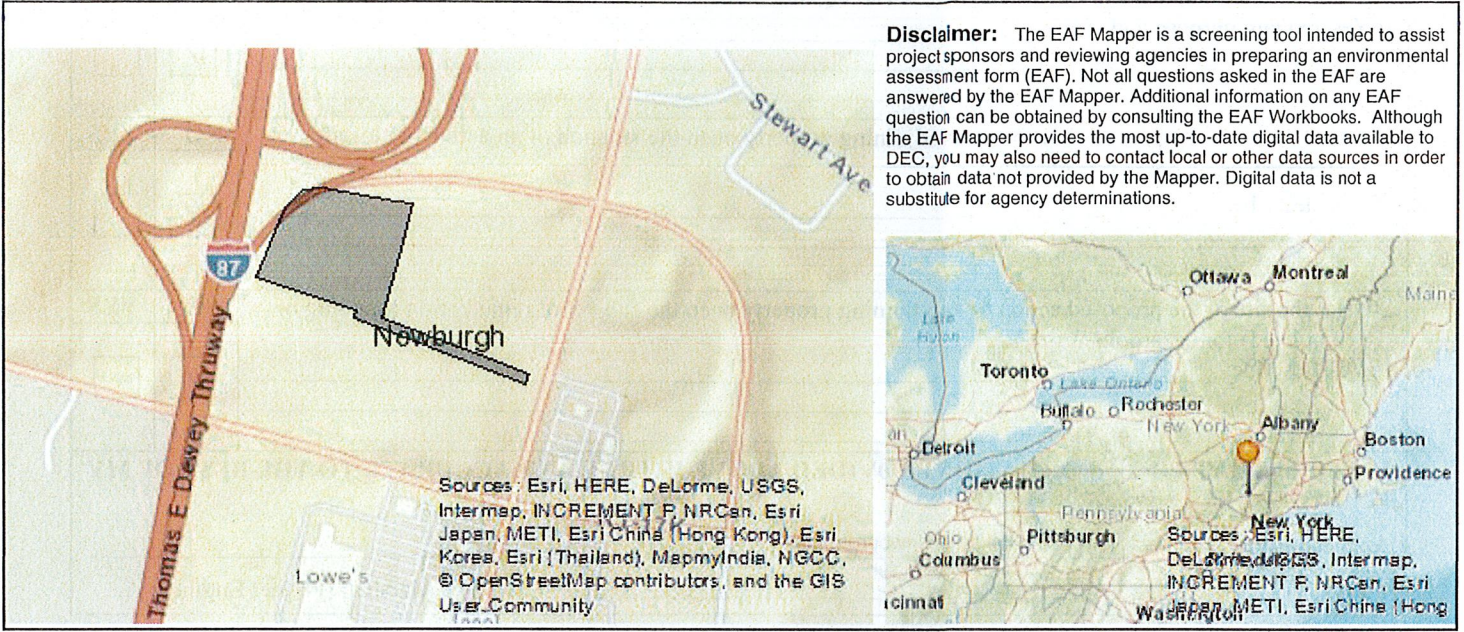
Part 1 - Project Information

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: Restaurant Depot Sign Variances							
Project Location (describe, and attach a location map): 1281 NYS Route 300, Town of Newburgh, Orange County							
Brief Description of Proposed Action: Proposed signage for previously approved commercial building. Area variance request for sign size and location.							
Name of Applicant or Sponsor: JDMH Real Estate of Newburgh, LLC		Telephone: 718-559-4290 E-Mail: LCohen@jetrord.com					
Address: 15-24 132nd Street							
City/PO: College Point		State: NY	Zip Code: 11356				
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.			<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th style="width: 50%;">NO</th> <th style="width: 50%;">YES</th> </tr> <tr> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> </table>	NO	YES	<input checked="" type="checkbox"/>	<input type="checkbox"/>
NO	YES						
<input checked="" type="checkbox"/>	<input type="checkbox"/>						
2. Does the proposed action require a permit, approval or funding from any other governmental Agency? If Yes, list agency(s) name and permit or approval:			<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th style="width: 50%;">NO</th> <th style="width: 50%;">YES</th> </tr> <tr> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> </table>	NO	YES	<input checked="" type="checkbox"/>	<input type="checkbox"/>
NO	YES						
<input checked="" type="checkbox"/>	<input type="checkbox"/>						
3. a. Total acreage of the site of the proposed action?		9.44 acres					
b. Total acreage to be physically disturbed?		0 acres					
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor?		9.44 acres					
4. Check all land uses that occur on, adjoining and near the proposed action.							
<input checked="" type="checkbox"/> Urban <input checked="" type="checkbox"/> Rural (non-agriculture) <input type="checkbox"/> Industrial <input checked="" type="checkbox"/> Commercial <input 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							

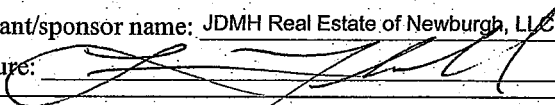


Part 1 / Question 7 [Critical Environmental Area]	No
Part 1 / Question 12a [National Register of Historic Places]	No
Part 1 / Question 12b [Archeological Sites]	No
Part 1 / Question 13a [Wetlands or Other Regulated Waterbodies]	Yes - Digital mapping information on local and federal wetlands and waterbodies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

<p>18. Does the proposed action include construction or other activities that result in the impoundment of water or other liquids (e.g. retention pond, waste lagoon, dam)?</p> <p>If Yes, explain purpose and size: _____</p> <p>_____</p> <p>_____</p>	<p>NO</p> <p><input checked="" type="checkbox"/></p>	<p>YES</p> <p><input type="checkbox"/></p>
<p>19. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility?</p> <p>If Yes, describe: _____</p> <p>_____</p> <p>_____</p>	<p>NO</p> <p><input checked="" type="checkbox"/></p>	<p>YES</p> <p><input type="checkbox"/></p>
<p>20. Has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) for hazardous waste?</p> <p>If Yes, describe: _____</p> <p>_____</p> <p>_____</p>	<p>NO</p> <p><input checked="" type="checkbox"/></p>	<p>YES</p> <p><input type="checkbox"/></p>

I AFFIRM THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE

Applicant/sponsor name: JDMH Real Estate of Newburgh, LLC Date: _____

Signature:  Lawrence Marshall (Project Engineer)

William G. Norton, L.S.
 Alphonse Mercurio, L.S.

Lawrence J. Marshall, P.E.
 John Tarolli, P.E., L.S.

Zachary A. Peters, P.E.
 Kenneth W. Vriesema, L.S.

Town of Newburgh Zoning Board of Appeals Variance Request Addendum – October 12, 2016

Relief Requested:

A. Description of Property and Property Use:

The project is located adjacent to the NYS Thruway Interchange 17 in the Town of Newburgh, County of Orange, State of New York. The project site is located on the westerly side of NYS Route 300 and is accessed by a private road known as Holiday Inn Drive. The site is designated as tax map parcel: Section 95, Block 1, Lot 8. The project site contains a total of 9.44 acres of land located in the IB zoning district. The building and associated parking and loading facilities were approved by the Town of Newburgh Planning Board on May 18, 2016 and are currently under construction.

The current application for site plan review by the Town of Newburgh Planning Board is for the proposed signage on the Restaurant Depot site. During the initial approval process, no signs were proposed on the site. The proposed signage for the site consists of a total of eleven (11) signs. These signs are outlined in the table below:

Sign	Content	Type	Illumination	Size (Sq.Ft.)	Height (Top)	Height (Bottom)
A	Logo	Wall Sign	Internal	78.6	33'-10"	23'-10"
B	Slogan	Wall Sign	Internal	60.0	30'-3.5"	27'-3.5"
C	Logo	Wall Sign	Internal	12.6	18'-5"	14'-5"
D	Logo	Wall Sign	Internal	113.1	34'-10"	22'-10"
E	Slogan	Wall Sign	Internal	60.0	30'-3.5"	27'-3.5"
F	Logo	Wall Sign	Internal	113.1	34'-10"	22'-10"
G	Slogan	Wall Sign	Internal	60.0	30'-3.5"	27'-3.5"
H	Logo	Wall Sign	Internal	78.6	33'-10"	23'-10"
I	Logo & Slogan	Monument Sign	Internal	32.00	4'-0"	1'-6"
J1	Directions	Directional Sign	None	3.00	3'-6"	2'-4"
J2	Directions	Directional Sign	None	3.00	3'-6"	2'-4"
Total Sign Area				614.0		
Total Advertising Sign Area				608.0		

Logo is the circular, blue, yellow, and white "Restaurant Depot" logo
 Slogan is the text "Where Restaurants Shop"

The sign locations are provided on the sign application packet prepared by Anchor Signs, Inc. and outlined as follows:



Signs A, B, and C are proposed to be mounted on the NYS Route 300 (easterly) side of the building.

Signs D, and E are proposed to be mounted on the northerly side of the building and will face the NYS Thruway.

Signs F, and G are proposed to be mounted on the westerly side of the building and will face the NYS Thruway.

Signs H is proposed to be mounted on the southerly side of the building and will face the entrance to the parking/loading areas.

Sign I is proposed to be installed near the entrance off of NYS Route 300.

Sign J1 is proposed to be installed near the customer parking entrance and will serve to direct customers into the intended parking area and deliveries to the loading area at the rear of the building.

Sign J2 is proposed to be installed near the southwesterly corner of the building and will serve to direct delivery vehicles to the intended loading area.

B. Variance Requested

In accordance with Section 185-14B(1)(c) of the Town of Newburgh Code, the following signs may be permitted on a site plan in the IB zoning district:

Business: a sign or signs, freestanding or attached to a building, announcing a business establishment on the same lot in a business district or advertising a service or a product available on the same lot in a business district, which may be illuminated. The total area of all such signs on a lot shall not exceed 1/2 of the total length of street frontage of the lot in linear feet. There shall not be more than one freestanding sign, which may not be located closer than 15 feet from any street line.

The existing parcel contains frontage on two streets, NYS Route 300 and NYS Thruway. The frontage for NYS Route 300 is narrow with a total width of 49.33 feet. The frontage on the NYS Thruway is significantly more with a total width of 1,056.52 feet. With a total street frontage of 1,105.85 linear feet, the permitted sign area is 552.9 square feet. The total proposed advertising sign area of 608.0 square feet exceeds the permitted area by 55.1 square feet.

An area variance for a total sign area exceeding the permitted sign area by 55.1 square feet is requested.

The proposed freestanding sign for the building is a monument style sign located near the entrance to the site on NYS Route 300. The sign is proposed to be installed 12 feet from street line.

An area variance of 3'-0" is requested for the setback of the freestanding sign.

C. Legal Criteria for Granting the Area Variance (Sign Area Variance):

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

The Restaurant Depot site is located within an area of the Town of Newburgh that is highly developed. The parcel is surrounded by three (3) hotels/motel, the 6-story Finkelstein &



Partners/Time Warner Cable building, and the exit ramp of the NYS Thruway. The existing Super 8 motel and Ramada Inn located along the easterly side of the Restaurant Depot parcel both have total sign areas that far exceed the maximum permitted areas of 20.6 square feet and approximately 113 square feet permitted, respectively.

The proposed signage is consistent in size and character with existing signage on neighboring commercial uses.

Due to the existing parcel having a very narrow access off of Route 300 to the store, the store will have virtually no visibility from NYS Route 300. To provide some notification of the store location to potential customers, Restaurant Depot has requested signs on the northwesterly corner of the proposed building. These signs will provide identification of the store for motorists on Interstate 84 and Interstate 87.

The signs proposed on the southeasterly corner of the building will serve to identify the store to customers driving up the access driveway.

The modest freestanding sign is provided to direct customers into the existing driveway serving the site.

b. The benefit sought by the applicant cannot be achieved by some method, feasible for the applicant to pursue, other than an area variance, because:

Due to the existing parcel having a very narrow access off of Route 300 and set back from Route 300 nearly 850 feet, the store will have virtually no visibility from NYS Route 300. To provide some notification of the store location to potential customers, Restaurant Depot has requested signs on the northwesterly corner of the proposed building. These signs will provide identification of the store for motorists on Interstate 84 and Interstate 87.

The signs proposed on the southeasterly corner of the building will serve to identify the store to customers driving up the access driveway.

The modest freestanding sign is provided to direct customers into the existing driveway serving the site.

Each of the proposed signs serve a distinct purpose and fill a need for the applicant. Removal of any of these signs will be detrimental to the operation of the store. The sizes of the signs cannot be reduced due to the scale of the building and distance it is set from neighboring roadways.

c. The requested area variance is not substantial because:

The variance sought represents an increase from the permitted sign area of less than 10%. The signs are consistent in size with neighboring uses and do not represent a substantial increase from the permitted sign area.

d. The proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district because:



There are no adverse physical or environmental impacts as a result of the requested variance. As previously stated, the variance requested is for sign area. Having larger signs on this site than permitted by the Town of Newburgh Zoning Code will not impact the neighboring commercial parcels or motorists on nearby roadways.

e. The hardship has not been self-created because:

The geometry of the existing parcel results in a commercial parcel with virtually no visibility of the store from NYS Route 300. Each of the proposed signs serve to notify potential customers on neighboring roadways of the store location, identification of the access location to the parcel, and identification of the building to customers driving up the driveway to the store. Each sign serves to fill a need for the store. The geometry of the parcel results in a unique building location and limited visibility.

D. Legal Criteria for Granting the Area Variance (Freestanding Sign Location):

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

The proposed freestanding sign location is consistent with the setback of neighboring signs along NYS Route 300. The proposed sign is located 12 feet from the street line and approximately 20 feet from the existing curb on the westerly side of NYS Route 300. The following chart provides a summary of the existing signs in the area and the approximate setback from the existing curb along the westerly side of NYS Route 300.

Business	Sign Setback from NYS Route 300 Curb
Restaurant Depot	20.0 feet
Denny's	21.0 feet
Super 8 Motel	22.7 feet
Hudson Valley Hotel	13.3 feet
Finkelstein & Partners	15.5 feet

The proposed sign is consistent in setback with existing neighboring signs along NYS Route 300.

b. The benefit sought by the applicant cannot be achieved by some method, feasible for the applicant to pursue, other than an area variance, because:

The freestanding sign proposed along NYS Route 300 is necessary for the safe entry of vehicles into the site. Without proper signage that is clearly visible from the roadway, motorists will either drive past the entrance or attempt unsafe, last second, maneuvers to enter the site. Due to existing off-site vegetation and grades on the adjoining property to the south and along NYS Route 300, the visibility of the proposed sign will be severely diminished if required to be set back 15 feet from the street line. Lack of proper visibility may result in customers attempting to access the left turn lane from NYS Route 300 at the last second to turn left into the site. Locating the freestanding



sign at 12 feet from the street line will significantly increase the visibility of the sign and reduce the likelihood of unsafe vehicle movements. See attached photograph for illustration of the visibility of the proposed sign.

c. The requested area variance is not substantial because:

The requested variance results in the freestanding sign being located approximately 20% closer to the street line than permitted in the zoning. The setback of the proposed sign is consistent with the neighboring signs along NYS Route 300.

d. The proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district because:

The proposed freestanding sign is consistent with existing signs along NYS Route 300 and will provide proper notification for northbound customers to safely enter the left turn lane to access the Restaurant Depot store.

e. The hardship has not been self-created because:

The existing vegetation, sign, and topography on Tax Map 95-1-15.1 limits the visibility of a sign placed at 15 feet from the street line. A setback of 12 feet will allow motorists to see the entire sign at the beginning of the left turn lane and safely enter the turn lane to access the site. The narrow, 50-foot-wide, access to the site limits the sign location to the area shown. Unlike most commercial developments along NYS Route 300, the Restaurant Depot has little to no visibility from the road at which customers will access. With the building set back over 1,000 feet from the road in which access is obtained and located behind three existing buildings, the freestanding sign along NYS Route 300 is vital to notifying customers of where they should turn to get to the store. The location shown provides the greatest amount of visibility while maintaining a setback from the road that is consistent with existing signs located on adjoining properties.

E. Conclusion

The proposed area variances will not result in any significant adverse impacts to the neighborhood, nor would the granting of the variance set an undesired precedent for any potential future applications.





Photograph 1: Visual representation of proposed freestanding sign from beginning of left turn lane on NYS Route 300



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

David A. Donovan
Michael H. Donnelly
Robert J. Dickover

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

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

October 13, 2016

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

RE: Restaurant Depot [JDMH Real Estate of Newburgh, LLC]
95-1-8 (Zone IB)
1281 NYS Route 300 (15.33)

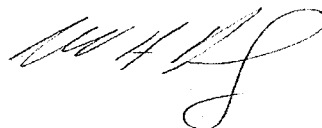
Members of the Board:

I write to you on behalf of the Town of Newburgh Planning Board. The above referenced applicant appeared before the planning board during its meeting of October 6, 2016 requesting amended site plan approval allowing the applicant to install signs on the premises. The total size and location of some of the signs will not meet the bulk requirements of the code. Therefore the planning board has asked me to refer this matter to you for consideration of the following variances:

- An area variance allowing a total sign area of 677 square feet where 552.93 is the maximum allowable square footage;
- An area variance allowing a monument sign to be located 12 feet from the front yard where 15 feet is required; and

The planning board has no particular matters to bring to your attention. It appears that your review of this matter under the New York State Environmental Quality Review Act may be reviewed on an uncoordinated review basis.

Very truly yours,



MICHAEL H. DONNELLY

MHD/lrm

cc: Town of Newburgh Planning Board
Mercurio, Norton, Tarolli & Marshall



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

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



BOOK/PAGE: 14024 / 1012
 INSTRUMENT #: 20160017531
 Receipt#: 2096301
 Clerk: CH
 Rec Date: 03/17/2016 09:47:09 AM
 Doc Grp: D
 Descrip: DEED
 Num Pgs: 8
 Rec'd Frm: LAND SVCS USA INC

Party1: ROUTE 300 NEWBURGH PARTNERS LLC
 Party2: JMDH REAL ESTATE OF NEWBURGH LLC
 Town: NEWBURGH (TN)
 95-1-8

Recording:	
Recording Fee	60.00
Cultural Ed	14.25
Records Management - Coun	1.00
Records Management - Stat	4.75
TP584	5.00
RP5217 All others - State	241.00
RP5217 - County	9.00
Sub Total:	335.00
Transfer Tax	
Transfer Tax - State	9400.00
Sub Total:	9400.00
Total:	9735.00
**** NOTICE: THIS IS NOT A BILL ****	
***** Transfer Tax *****	
Transfer Tax #: 6135	
Commercial Transfer Tax	
Consideration: 2350000.00	
Transfer Tax - State	9400.00
Total:	9400.00

Payment Type: Check
 Cash
 Charge
 No Fee

Comment: _____

Ann G. Rabbitt

Ann G. Rabbitt
 Orange County Clerk

STATE OF NEW YORK (COUNTY OF ORANGE) SS:
 I, ANN G. RABBITT, COUNTY CLERK AND CLERK OF THE
 SUPREME AND COUNTY COURTS, ORANGE COUNTY, DO
 HEREBY CERTIFY THAT I HAVE COMPARED THIS COPY WITH
 THE ORIGINAL THEREOF FILED OR RECORDED IN MY OFFICE
 ON March 17, 2016 AND THE SAME IS A CORRECT
 TRANSCRIPT THEREOF. IN WITNESS WHEREOF, I HAVE
 HEREUNTO SET MY HAND AND AFFIXED MY OFFICIAL SEAL.

Ann G. Rabbitt

COUNTY CLERK & CLERK OF THE SUPREME COUNTY COURTS,
 ORANGE COUNTY October 5, 2016

Record and Return To:

NACHMIAS MORRIS & ALT PC
 20 ASH ST SUITE 200
 CONSHOCKEN PA 19428

DEED

— New York Bargain and Sale Deed, with Covenant against Grantor's Acts — Individual or Corporation (Single Sheet)

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

THIS INDENTURE, made as of 11th day of **March**, in the year **2016**

BETWEEN

ROUTE 300 NEWBURGH PARTNERS, LLC, a New York limited liability company, having an address at 55 South Main Street, Liberty, NY 12754,

party of the first part, and

JMDH REAL ESTATE OF NEWBURGH, LLC, a Delaware limited liability company, having an address at 15-24 132nd Street, College Point, New York 11356, Attention: CEO,

party of the second part,

WITNESSETH, that the party of the first part, in consideration of

ten (10) dollars and other good and 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 along Route 300, Town of Newburgh, Orange County, New York bounded and described as set forth in EXHIBIT A attached hereto.

SAID PREMISES being known as and located Route 300, Town of Newburgh, Orange County, New York and designated as Section 95 Block 1 Lot 8.

SAID PREMISES being and intended to be the same premises conveyed to the party of the first part from Emily Kirwin, Angelo Fusco, Anthony M. Fusco, Jr., Armand Fusco and Allen Fusco all individually and as heirs at law of Anthony M. Fusco, Sr., deceased and Angelo Fusco and Anthony M. Fusco, Jr., Co-Executors of the Estate of Anthony M. Fusco, Sr., by deed dated July 20, 2004 and recorded on April 25, 2005 in the Offices of the Clerk of Orange County in Liber 11820, page 1772.

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.

SUBJECT TO the "Permitted Exceptions" set forth on Exhibit B attached hereto.

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

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

95-18

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

IN PRESENCE OF:

Name: _____

ROUTE 300 NEWBURGH PARTNERS, LLC
BY: CAMPUS CAPITAL CORP., Manager

By: _____
Name: IRWIN GITLIN
Title: President and Sole Shareholder

ACKNOWLEDGEMENT TAKEN IN NEW YORK STATE

State of New York, County of _____, ss:

On the ____ day of _____ in the year 201__, before me, the undersigned, personally appeared, _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

(signature and office of individual taking acknowledgement)

ACKNOWLEDGEMENT BY SUBSCRIBING WITNESS TAKEN IN NEW YORK STATE

State of New York, County of _____, ss:

On the ____ day of _____ in the year 201__, before me, the undersigned, a Notary Public in and for said state, personally appeared, _____, 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/she/they reside(s) in _____

(if the place of residence is in a city, include the street and street number is any, thereof) that he/she/they know(s) _____

to be the individual described in and who executed the foregoing instrument; that said subscribing witness was present and saw said

execute the same; and that said witness at the same time subscribed his/her/their name(s) as a witness thereto.

(signature and office of individual taking acknowledgement)

ACKNOWLEDGEMENT TAKEN IN NEW YORK STATE

State of New York, County of Sullivan, ss:

On the 11th day of March in the year 2016, before me, the undersigned, personally appeared, IRWIN GITLIN, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Pamela Jones
(signature and office of individual taking acknowledgement)

ACKNOWLEDGEMENT TAKEN OUTSIDE NEW YORK STATE

*State of _____, County of _____, ss:

*(Or insert District of Columbia, Territory, Possession or Foreign County)

On the ____ day of _____ in the year 201__, before me, the undersigned personally appeared, _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument, and that such individual make such appearance before the undersigned in the _____

(add the city or political subdivision and the state or country or other place the acknowledgement was taken).

(signature and office of individual taking acknowledgement)

PAMELA JONES
Notary Public in and for New York
Sullivan County Clerk's #2214
Commission Expires June 15, 2018

**Bargain and Sale Deed with
covenant against Grantor's Acts**

BLOCK 1
LOT 8
COUNTY Orange

ROUTE 300 NEWBURGH PARTNERS, LLC

TO

JMDH REAL ESTATE OF NEWBURGH, LLC

RETURN BY MAIL TO:

**Nachmias Morris & Alt, P.C.
20 Ash Street, Suite 200
Conshohocken, PA 19428
Attention: Austin S. Faberman, Esq.
610-629-6643**

EXHIBIT A
Premises

ALL that certain plot, piece or parcel of land, situate, lying and being in the Town of Newburgh, Orange County, New York, lying on the northeasterly side of New York State Route 17K and being more accurately bounded and described as follows:

BEGINNING in the northeasterly line of New York State Route 17K at a concrete highway monument set in the easterly line of the New York State Thruway, thence from the above located point of beginning, along the Thruway on the following seven (7) courses and distances:

1. North 21 degrees 24 minutes 00 seconds East 553.45 feet to a concrete monument;
2. North 35 degrees 33 minutes 50 seconds East 683.37 feet to a concrete highway monument;
3. North 52 degrees 52 minutes 20 seconds East 138.76 feet to a concrete monument;
4. South 85 degrees 23 minutes 20 seconds East 125.72 feet to a concrete monument;
5. South 67 degrees 22 minutes 40 seconds East 323.03 feet to a concrete monument;
6. South 72 degrees 19 minutes 40 seconds East 76.45 feet to a concrete monument;
7. South 72 degrees 19 minutes 40 seconds East 78.42 feet to a point;

THENCE along lands now or formerly of Louis & Jane Breitenbach on the following two (2) courses and distances:

1. South 26 degrees 02 minutes West along the southerly side of a wood road, 643.82 feet to a point;
2. South 57 degrees 17 minutes East 850.09 feet to a point in the northwesterly line of Union Avenue;

THENCE along the northwesterly line of Union Avenue, South 26 degrees 39 minutes West 108.62 feet to a concrete monument;

THENCE along the line of lands School District No. 11, on the following two (2) courses and distances:

1. North 63 degrees 12 minutes West 987.33 feet to a concrete monument;
2. South 26 degrees 34 minutes 50 seconds West 279.41 feet to a concrete monument;

THENCE along lands now or formerly of Grassi and Yazzo, North 65 degrees 10 minutes 10 seconds West 172.90 feet to a point;

THENCE South 22 degrees 29 minutes 00 minutes West 299.93 feet to a point in the northeasterly line of New York State Route 17K;

THENCE along the northeasterly line of New York State Route 17K on the following several courses and distances: North 64 degrees 14 minutes 20 seconds West 2.27 feet to a monument;

THENCE North 65 degrees 13 minutes 40 seconds West 303.35 feet to a concrete monument;

THENCE along lands formerly of R. Lindsay on the following three (3) courses and distances:

1. North 24 degrees 46 minutes 20 seconds East 100.00 feet to a point;

2. North 65 degrees 13 minutes 40 seconds West 100.00 feet to a point;
3. South 24 degrees 46 minutes 20 seconds West 106.73 feet to a point; thence along the northeasterly line of Route 17K,

THENCE along the northeasterly line of Route 17K, North 69 degrees 04 minutes 10 seconds West 17.45 feet to the point or place of BEGINNING.

CONTAINING 22.384 acres of land more or less.

EXCEPTING AND RESERVING THEREFROM:

ALL that certain plot, piece or parcel of land situate, lying and being in the Town of Newburgh, County of Orange and State of New York and being more particularly bounded and described as follows:

BEGINNING at the intersection of the northerly side of New York State Route 17K with the easterly side of Interstate Route 87 (a/k/a New York State Thruway);

THENCE from said point or place of beginning the following two (2) courses and distances along the easterly right of way line of Interstate Route 87:

1. North 21 degrees 24 minutes 00 seconds East a distance of 553.45 feet to a monument found;
2. North 35 degrees 33 minutes 50 seconds East a distance of 278.00 feet;

THENCE the following three (3) courses and distances along the lands reputedly of Fusco:

1. South 61 degrees 26 minutes 00 seconds East a distance of 580.89 feet;
2. South 26 degrees 34 minutes 50 seconds West a distance of 39.91 feet;
3. South 57 degrees 17 minutes 00 seconds East a distance of 993.09 feet;

THENCE along the westerly side of Union Avenue (a/k/a New York State Route 300), South 26 degrees 39 minutes 00 seconds West a distance of 58.34 feet;

THENCE the following two (2) courses and distances along the lands reputedly of Norstar Bank:

1. North 63 degrees 12 minutes 00 seconds West a distance of 987.33 feet;
2. South 26 degrees 34 minutes 50 seconds West a distance of 279.41 feet;

THENCE the following two (2) courses and distances along the lands reputedly of Hajny:

1. North 65 degrees 10 minutes 10 seconds West a distance of 172.90 feet;
2. South 22 degrees 29 minutes 00 seconds West a distance of 299.93 feet;

THENCE the following three (3) courses and distances along the northerly side of said New York State Route 17K:

1. North 64 degrees 14 minutes 20 seconds West a distance of 2.27 feet;
2. North 65 degrees 13 minutes 40 seconds West a distance of 303.35 feet;

3. North 69 degrees 04 minutes 10 seconds West a distance of 117.67 feet to the point or place of BEGINNING, as surveyed by Howard W. Weeden, P.L.S., Walden, New York, on April 30, 2002 and containing 12.396 acres of land more or less.

FURTHER EXCEPTING AND RESERVING all lands appropriated by the State of New York for highway purposes described as follows:

All that piece or parcel of property hereinafter designated as Parcel No. 675, being a portion of Section 95, Block 1, Lot 8 as shown on the Official Tax Map, revised 2001 situate in the Town of Newburgh, County of Orange, State of New York, as shown on the accompanying map and described as follows:

BEGINNING at a point on the southeasterly boundary of the existing New York State Thruway, Catskill Section-subdivision 5, said point being 126.0 +/- meters distant southerly, measured at right angles, from Station 2+028.3 +/- of the hereinafter described survey baseline for the reconstruction of the New York State Thruway, Catskill Section-Subdivision 5;

THENCE through the property of Anthony M. Fusco and Monroe Seifer (reputed owners) the following four (4) courses and distances:

1. North 49 degrees 18 minutes 46 seconds East, 45.7 meters to a point 96.501 meters distant southerly, measured at right angles, from station 2+063.217 of said baseline
2. North 60 degrees 40 minutes 26 seconds East, 45.451 meters to a point 75.584 meters distant southerly, measured at right angles, from station 2+103.035 of said baseline;
3. North 74 degrees 16 minutes 09 minutes East, 45.451 meters to a point 62.640 meters distant southerly measured at right angles from station 2+146.889 of said baseline;
4. North 83 degrees 20 seconds 19 minutes East 53.3 +/- meters to a point on the southerly boundary of said existing highway, the last mentioned point being 54.3 +/- meters distant southerly, measured at right angles from station 2+208.0 +/- of said baseline,

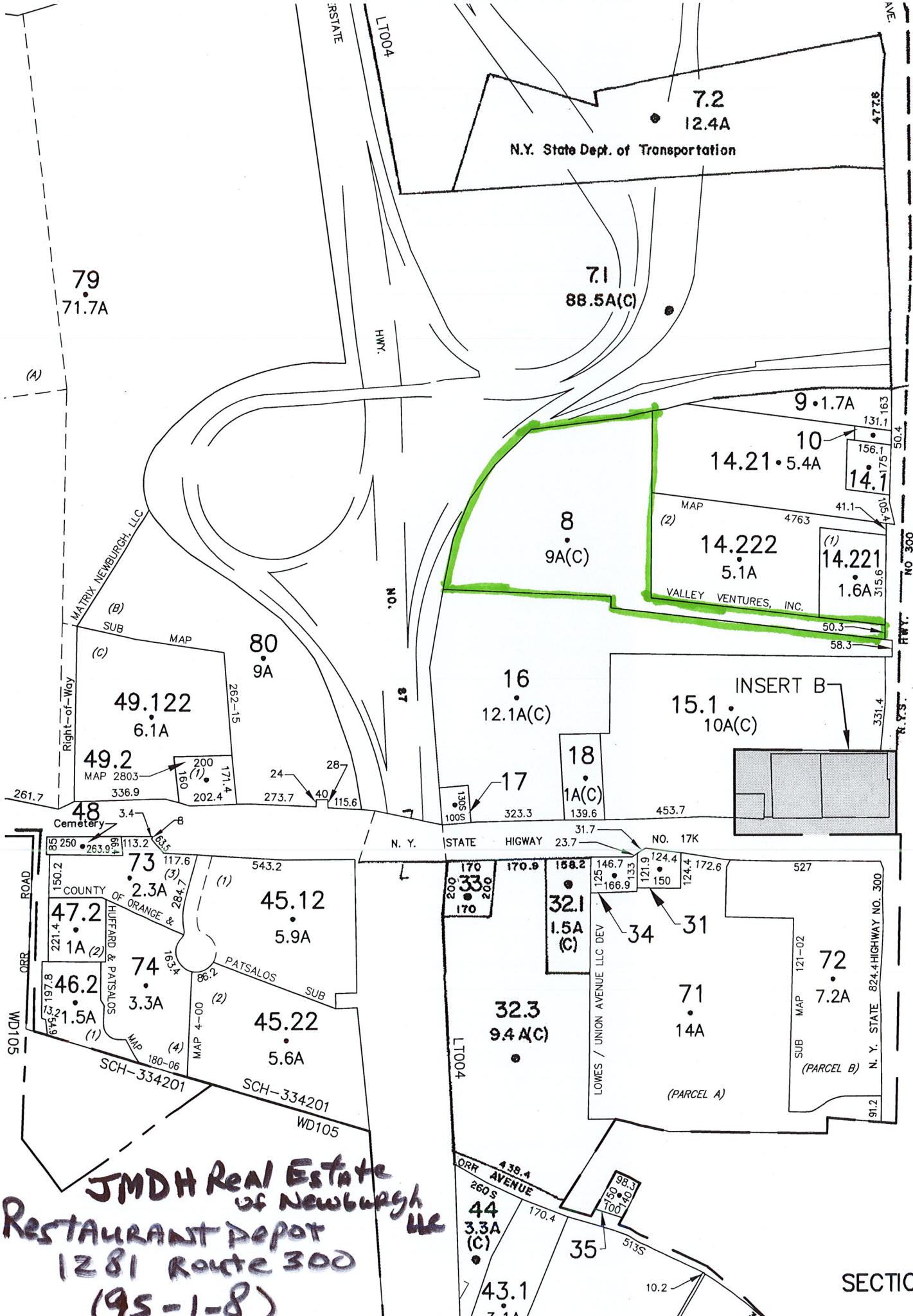
THENCE along the last mentioned boundary of said existing highway, the following four (4) courses and distances:

1. Westerly 81.6 +/- meters to a point 39.1 +/- meters distant southerly, measured at right angles, from station 2+120.3 +/- of said baseline
2. Westerly 38.3 +/- meters to a point 42.7 meters distant southerly, measured at right angles, from station 2+082.1 +/- of said baseline
3. Southwesterly 42.3 +/- meters to a point 73.7 +/- meters distant southerly, measured at right angles, from station 2+053.3 +/- of said baseline;
4. Southwesterly 58.0 +/- meters to the point of BEGINNING, being 3,913.5 square meters more or less.

FURTHER EXCEPTING AND RESERVING lands appropriated by the State of New York for State Highway 9391 Union Avenue Route 17K Connection Project pursuant to Damage Map No. 11, Parcel 11, Notices of Appropriation recorded in Liber 2380 Cp. 223 and Liber 2412 Cp. 269.

**Exhibit B
Permitted Exceptions**

1. Restrictive covenants, conditions, grants, agreements or easements of record as follows:
 - a. Omitted.
 - b. Utility Easement Grant to Central Hudson Gas & Electric Corporation recorded 7/23/1931 in Liber 720 Cp. 213.
 - c. Easement Agreement for right of way made between Anthony M. Fusco and Sr., Monroe Syfer d/b/a Newburgh Associates and Norstar Bancorp Inc., dated 4/2/1983 recorded 4/13/1983 in Liber 2248 Cp. 362.
 - d. Reciprocal Right of Way and Easement Agreement made between The Estate of Anthony M. Fusco, deceased, Monroe Seifert and Wabno Hospitaties Corp., dated as of 10/ 4/2002 recorded 10/8/2002 in Liber 6019 Cp. 285.
 - e. Permanent Slope Easement appropriated by New York State Department of Transportation, pursuant to Notice of Appropriation, recorded 2/18/2004 in Liber 11389 Cp. 1201 and recited in deed recorded in Liber 11820 Cp. 1772.
2. Unrecorded rights, if any, in favor of any electric light or telephone company to maintain guy wires extending from the described premises to poles located on the roads on which the described premises abut.
3. Underground encroachments and easements, if any, including pipes and drains, and such rights as may exist for entry upon said premises to maintain and repair the same.
4. Survey dated 12/04/02 by Howard Weeden shows premises no variations or encroachments except:
 - a. Drive serving premises to South runs through southerly portion of subject premises;
 - b. Stone wall on southwest line outside of bounds; and
 - c. Chainlink fence near northwest, north and northeast line outside of bounds.



JMDH Real Estate
of Newburgh, NY
RESTAURANT DEPOT
1281 ROUTE 300
(95-1-8)