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DAVID E. DECKER
MELISSA L. COWAN
JUSTIN W. VAN HOUTEN

HOBART J. SIMPSON (1975-2016)

(ALSO ADMITTED IN)

* Of Counsel
** Special Counsel

Writer's Direct No.
(845) 569-4377

Writer's E-Mail
jfurst@cmrlaw.com

July 1, 2022

RE: Potential Drive-Thru: Dunkin Donuts
Our File No.: 15368-66569

Dear: Chairman Scalzo and Members of the ZBA:

I represent Laxmi Estates II, LLC ("Laxmi") in connection with its desire to locate a new Dunkin Donuts with a drive-thru at 5277 Route 9W with an Orange County Tax map designation of Section 20, Block 2, Lot 40 (the "Property"). The Property contains an existing building that was previously utilized as a car wash facility and is currently owned by Laxmi. The Property is located on the west side of Route 9W, just north of Devito Drive across the street from a garden center, within the Town's Business (B) zoning district. My client is seeking approvals to permit a Dunkin Donuts with a drive-thru at the Property. Now, more than ever, it is vital for businesses like Dunkin Donuts to have a drive-thru.

At this juncture, we are seeking an interpretation from ZBA that would allow for the construction of a Dunkin Donuts with a drive-thru. Included with the enclosed ZBA Application is a Referral Letter, dated June 27, 2022, requesting an interpretation and the removal of a condition from the ZBA's prior interpretation.

Chairman Scalzo and Members of the ZBA

July 1, 2022

Page 2

Prior Approvals

The subject Property has a history of approvals for a Dunkin Donuts. In April of 2005, the ZBA determined that a proposed Dunkin Donuts with Baskin Robbins Ice Cream store constituted a retail use with an accessory “food preparation shop.” The ZBA determined that this was NOT a “fast food” use. The 2005 ZBA Decision is attached as Exhibit A. This is important because the Code only permits “fast food” in the Interchange Business (IB) zoning district. Thus, no use variance was needed as retail uses with accessory food preparation shops are permitted in the subject B zoning district.

The 2005 ZBA Decision also contained a condition that no drive-thru window could be installed. This seemed to be based upon the preference of some of the ZBA members at that time, but the Code did not appear to prohibit a drive-thru with a retail use.

In 2008, the Property obtained Conditional Final Site Plan Approval from the Planning Board for a Dunkin Donuts and Baskin Robbins (without a drive-thru). However, this approved project was never built. In 2013-2014, the owner attempted to revive the Planning Board’s prior approval and add a drive-thru. That application was referred to the ZBA for a use variance, but the application was later withdrawn.

Relevant Code Provisions

The Code defines “drive-thru” as “*any business facility* where all or any part of the business is based on customers driving up to a window to obtain their orders or walking into a facility or to a window to pick up a small number of items.” (emphasis added). §185-42 of the Code enumerates several conditions that a proposed drive-thru must meet but there is nothing that limits a “drive-thru” to “fast food” uses. Furthermore, the Code contains no definition for “fast food.”

In short, there is no provision in the Code that would suggest the proposed Dunkin Donuts cannot have a drive-thru window.

Other Drive-Thrus in the Town

Other properties located in the Town’s Business (B) zoning district have been recently approved with drive-thrus. For example, Cortland Commons (located on 9W just north of Cortland Drive) obtained site plan approval in 2017 for a retail and fast-food use, with a drive-thru, but no use variance was necessary. A Dunkin Donuts was even presented as the portion of the project that would include the drive-thru.

Chairman Scalzo and Members of the ZBA
July 1, 2022
Page 3

In August of 2020, a Ready Coffee, with drive-thru, was approved within the existing shopping plaza at 61 North Plank Road. It appears the Building Inspector made a determination that the Ready Coffee did not constitute a "fast food" place and it was permitted to have a drive-thru. Both Cortland Commons and Ready Coffee are located in the Business (B) zoning district.

The Requested Interpretation

Given the above, we are requesting an interpretation from the ZBA that the proposed Dunkin Donuts is permitted to have a drive-thru window. Accordingly, we are also requesting that the ZBA lift the condition from the 2005 ZBA decision that prohibits a drive-thru.

There is simply nothing in the Code that would suggest the proposed Dunkin Donuts cannot include a drive-thru window. The recent approvals of Ready Coffee and Cortland Commons further demonstrate that coffee shops with drive-thrus are permitted in the B District.

In furtherance of our above, please the following enclosed:

1. A completed ZBA Application w/ proxy statement.
2. The Code Compliance Officer's Referral Letter.
3. Eleven copies of the proposed site plan.
4. The Deed for the property.
5. Photographs of the property.
6. A short-form EAF
7. A receipt for the application fee and public hearing fee.

Very truly yours,


JOHN W. FURST, ESQ.

JWF/jed/2125004

cc: Amish Patel, Laxmi Estates II, LLC

EXHIBIT A

**TOWN OF NEWBURGH
ZONING BOARD OF APPEALS**

-----X
In the matter of the application of:

DECISION OF RESOLUTION

JOSEPH O' BRIEN.
(KRISHNA DONUTS, INC.)

Tax Map # 20-2-40

for an interpretation that the proposed business
is a "food preparation shop use" in a "B" Zone
-----X

The property which is the subject of this application is located at 5277 Route 9W, Newburgh, New York and is designated on the tax map as Section 20, Block 2, Lot 40. It is located in the "B" District.

Applicant has applied to the Town of Newburgh Planning Board for site plan approval of a new 4,900 square foot building containing a Dunkin Donuts/Baskin Robbins. The Planning Board refers the instant matter for this Board's consideration of a use variance allowing the operation of a Dunkin Donuts/Baskin Robbins as a "fast food" business or for an interpretation that the type of business proposed falls within the defined "food preparation shop use" authorized under one of the uses subject to site plan review by the Planning Board within the "B" zoning district.

A public hearing on the application was scheduled for June 24, 2004 at the Town Hall, 1496 Route 300, Newburgh, New York. Notice of said public hearing, including the subject, date, place and time, was duly published and mailed. Proper affidavits of publication and mailing have been received from the applicant.

The public hearing was held on June 24, 2004. The applicant and applicant's attorney Elizabeth Stradar, Esq. of Northrop, Stradar, and Glenn appeared at the public hearing and testified before the Board. The testimony and exhibits at the public hearing established that applicant is currently the owner of a Dunkin Donuts/Baskin Robbins in the City of Newburgh and proposes to build a new Dunkin Donuts/Baskin Robbins on land which formerly was a car wash and has fallen into serious disrepair. The Board determined that applicant's proposal falls within the defined "food preparation shop use" as authorized under one of the uses subject to site plan review by the Planning Board within the "B" zoning district. "Food preparation shop" is defined at page 18508 of the Code as follows: "A business devoted to the preparation of food to

be consumed primarily off premises, including but no limited to delicatessens and bakeries. This use may be located within a large use such as a convenience or grocery store.” The proposed Dunkin Donuts/Baskin Robbins will retail baked goods baked on the premises, ice cream, sandwiches, and hot and cold beverages and the like. In support of applicant’s proposal, applicant submitted the most recent census information available, a 2002 United States Census Bureau’s definitions of Limited-Service Restaurants. The census information distinguished donut and ice cream shops from retail stores which sell hamburgers, hot dogs, pizza, chicken and specialty cuisines, which are considered by the bureau to be “fast food” establishments. In further support of applicant’s proposal, this Board noted that similar businesses such as Bagel World, Stewart’s Shops and Mary Jane’s Diary Bar exist nearby, and the character of the neighborhood will not be altered by applicant’s business.

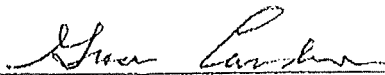
RESOLUTION

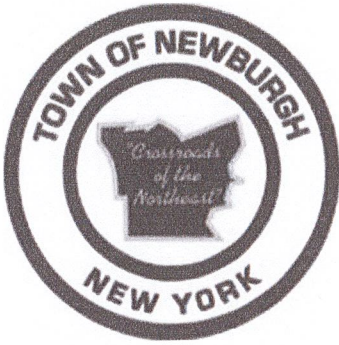
The Board determines that applicant’s business falls within the definition of “food preparation shop use” and grants the operation of applicant’s business on the condition that no drive-thru window be installed in the future.

Present and Voting on motion to define applicant’s business as a “food preparation shop”

Grace Cardone	Aye
Paul Blanchard	Absent
Ruth Eaton	Aye
Michael Maher	Aye
Robert Kunkel	Aye
John McKelvey	Aye

Dated: April , 2005
Newburgh, New York


GRACE CARDONE, Chairwoman
Town of Newburgh, Zoning
Board of Appeals



TOWN OF NEWBURGH

Crossroads of the Northeast

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

APPLICATION

DATED: June 30, 2022

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

I (WE) Laxmi Estates II, LLC PRESENTLY
RESIDING AT NUMBER 445 Robinson Avenue, ^{suite 101} Newburgh, NY 12550
TELEPHONE NUMBER (845) 565-1100

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

- USE VARIANCE
- AREA VARIANCE (S)
- INTERPRETATION OF THE ORDINANCE
- SPECIAL PERMIT

1. LOCATION OF THE PROPERTY:

20-2-40 (TAX MAP DESIGNATION)
5277 Route 9W (STREET ADDRESS)
Business (B) (ZONING DISTRICT)

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

See attached narrative.

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:

4. DESCRIPTION OF VARIANCE SOUGHT: _____

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:

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:

- 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:

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

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

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


7. ADDITIONAL REASONS (IF PERTINENT):

TOWN OF NEWBURGH
ZONING BOARD OF APPEALS


PROXY

Amish Patel, DEPOSES AND SAYS THAT
HE/SHE RESIDES AT 445 Robinson Ave. suite 101, Newburgh
IN THE COUNTY OF Orange AND STATE OF New York
AND THAT HE/SHE IS THE OWNER IN FEE OF 5277 Route 9W
Newburgh, NY, 12550
WHICH IS THE PREMISES DESCRIBED IN THE FOREGOING APPLICA-
TION AND THAT HE/SHE HAS AUTHORIZED Catania, Mahon & Rider, PLLC
TO MAKE THE FOREGOING APPLICATION AS DESCRIBED THEREIN.

DATED: 6/29/2022



OWNER'S SIGNATURE



WITNESS' SIGNATURE

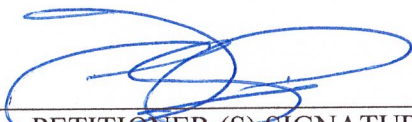
STATE OF NEW YORK: COUNTY OF ORANGE:

SWORN TO THIS 29th DAY OF June 2022



NOTARY PUBLIC

PATRICIA A. PICONE
Notary Public, State of New York
Qualified in Orange County
No. 01PI5013338
Commission Expires July 15, 2023



PETITIONER (S) SIGNATURE

STATE OF NEW YORK: COUNTY OF ORANGE:

SWORN TO THIS 29th DAY OF June 2022



NOTARY PUBLIC

PATRICIA A. PICONE
Notary Public, State of New York
Qualified in Orange County
No. 01PI5013338
Commission Expires July 15, 2023

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

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

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

Town of Newburgh Code Compliance

OWNER INFORMATION ***BUILT WITH OUT A PERMIT*** **YES / NO**

NAME: _____ Laxmi Estates II llc **Application #** _____ **N/A**

ADDRESS: _____ 445 Robison Ave Suite 101 Newburgh NY 12550

PROJECT INFORMATION: *Interpretation* USE VARIANCE

TYPE OF STRUCTURE: _____ **5277 Rt. 9W Newburgh NY 12550**

SBL: _____ 20-2-40 **ZONE:** _____ B **ZBA Application #** _____

TOWN WATER: **YES** / NO **TOWN SEWER:** YES / **NO** N/A

	MINIMUM	EXISTING	PROPOSED	VARIANCE	VARIANCE PERCENTAGE
LOT AREA					
LOT WIDTH					
LOT DEPTH					
FRONT YARD					
REAR YARD					
SIDE YARD					
MAX. BUILDING HEIGHT					
BUILDING COVERAGE					
SURFACE COVERAGE					

INCREASING DEGREE OF NON-CONFORMITY - 185-19-C-1 _____ **YES / NO**
 2 OR MORE FRONT YARDS FOR THIS PROPERTY _____ **YES / NO**
 CORNER LOT - 185-17-A _____ **YES / NO**

ACCESSORY STRUCTURE:

GREATER THEN 1000 S.F. OR BY FORMULA - 185-15-A-4 _____ **YES / NO**
 FRONT YARD - 185-15-A _____ **YES / NO**
 STORAGE OF MORE THEN 4 VEHICLES _____ **YES / NO**
 HEIGHT MAX. 15 FEET - 185-15-A-1 _____ **YES / NO**
 10% MAXIMUM YARD COVERAGE - 185-15-A-3 _____ **YES / NO**

NOTES:

Requesting an interpretation for drive thru window usage and the removal of the restriction of no drive thru window is permitted in the decision and resolution by the ZBA dated April 2005

REVIEWED BY: _____ Joseph Mattina

DATE: _____ 27-Jun-22

ORANGE COUNTY CLERK'S OFFICE RECORDING PAGE

THIS PAGE IS PART OF THE INSTRUMENT - DO NOT REMOVE

TYPE IN BLACK INK:
NAME(S) OF PARTY(S) TO DOCUMENT

Joseph P. O'Brien
TO
Laxmi Estates II
LLC.

SECTION 20 BLOCK 2 LOT 40



RECORD AND RETURN TO:
(name and address)

G. Sladnar Esq
PO 2395
Newburgh NY 12550
RD-

THIS IS PAGE ONE OF THE RECORDING

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

DO NOT WRITE BELOW THIS LINE

INSTRUMENT TYPE: DEED MORTGAGE SATISFACTION ASSIGNMENT OTHER

PROPERTY LOCATION

- 2089 BLOOMING GROVE (TN)
 - 2001 WASHINGTONVILLE (VLG)
 - 2289 CHESTER (TN)
 - 2201 CHESTER (VLG)
 - 2489 CORNWALL (TN)
 - 2401 CORNWALL (VLG)
 - 2600 CRAWFORD (TN)
 - 2800 DEERPARK (TN)
 - 3089 GOSHEN (TN)
 - 3001 GOSHEN (VLG)
 - 3003 FLORIDA (VLG)
 - 3005 CHESTER (VLG)
 - 3200 GREENVILLE (TN)
 - 3489 HAMPTONBURGH (TN)
 - 3401 MAYBROOK (VLG)
 - 3689 HIGHLANDS (TN)
 - 3601 HIGHLAND FALLS (VLG)
 - 3889 MINISINK (TN)
 - 3801 UNIONVILLE (VLG)
 - 4089 MONROE (TN)
 - 4001 MONROE (VLG)
 - 4003 HARRIMAN (VLG)
 - 4005 KIRYAS JOEL (VLG)
 - 4289 MONTGOMERY (TN)
 - 4201 MAYBROOK (VLG)
 - 4203 MONTGOMERY (VLG)
 - 4205 WALDEN (VLG)
 - 4489 MOUNT HOPE (TN)
 - 4401 OTISVILLE (VLG)
 - 4600 NEWBURGH (TN)
 - 4800 NEW WINDSOR (TN)
 - 5089 TUXEDO (TN)
 - 5001 TUXEDO PARK (VLG)
 - 5200 WALLKILL (TN)
 - 5489 WARWICK (TN)
 - 5401 FLORIDA (VLG)
 - 5403 GREENWOOD LAKE (VLG)
 - 5405 WARWICK (VLG)
 - 5600 WAWAYANDA (TN)
 - 5889 WOODBURY (TN)
 - 5801 HARRIMAN (VLG)
- CITIES
- 0900 MIDDLETOWN
 - 1100 NEWBURGH
 - 1300 PORT JERVIS
 - 9999 HOLD

NO PAGES 4 CROSS REF. _____
CERT. COPY _____ ADD'L X-REF: _____
MAP# _____ PGS. _____

PAYMENT TYPE: CHECK
CASH _____
CHARGE _____
NO FEE _____

Taxable
CONSIDERATION \$ 20,000.00
TAX EXEMPT _____
Taxable
MORTGAGE AMT. \$ _____
DATE _____

MORTGAGE TAX TYPE:
 (A) COMMERCIAL/FULL 1%
 (B) 1 OR 2 FAMILY
 (C) UNDER \$10,000
 (E) EXEMPT
 (F) 3 TO 6 UNITS
 (I) NAT. PERSON/CR. UNION
 (J) NAT. PER-CR. UN/1 OR 2
 (K) CONDO

DONNA L. BENSON
ORANGE COUNTY CLERK

RECEIVED FROM: Hardenburgh

RECORDED/FILED
11/09/2005/ 10:22:37
DONNA L. BENSON
County Clerk
ORANGE COUNTY, NY

FILE # 20050117687
DEED C / BK 11906 Pg 1132
RECORDING FEES 207.00
TTX# 003247 T TAX 1,160.00
Receipt#495814 pete



THIS INDENTURE, made the 2nd day of October, 2005

BETWEEN

JOSEPH O'BRIEN, residing at 37 Conklin Hill Rd., Milton, NY 12547,

party of the first part, and

LAXMI ESTATES II, LLC, having a place of business at 266 Main St., Suite 2, Cornwall, NY 12518,

party of the second part.

WITNESSETH, that the party of the first part, in consideration of Ten Dollars and for 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, successors and assigns of the party of the second part forever subject to any existing mortgages as of the date above,

ALL that certain plot, piece or parcel of land, pieces or parcels of land, with the buildings and improvements thereon erected, situate, lying and being in the Town of Newburgh, located at 5277 Route 9W, Newburgh, designated on the Orange County Tax Map as Section 20, Block 2, Lot 40, as described in the annexed Schedule "A," formerly owned by Orange County, sold "as is" with no guarantees.

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;

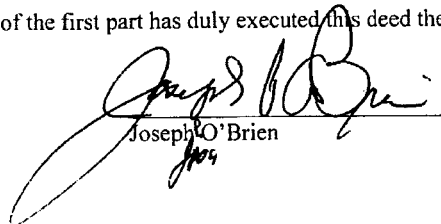
TO HAVE AND TO HOLD the premises granted unto the party of the second part, or the heirs, successors and assigns of the party of the second part forever.

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 anyway 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 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.


Joseph O'Brien

STATE OF NEW YORK)
)ss.:
COUNTY OF ORANGE)

Joseph P. O'Brien

On the 27th day of October, 2005, before me, the undersigned, a notary public in and for the State, personally known to me, or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.


Notary Public

JAMES V. RINALDI
No. 8580050
Notary Public, State of New York
Qualified in Orange Co.
Commission Expires Mar. 30, 2006

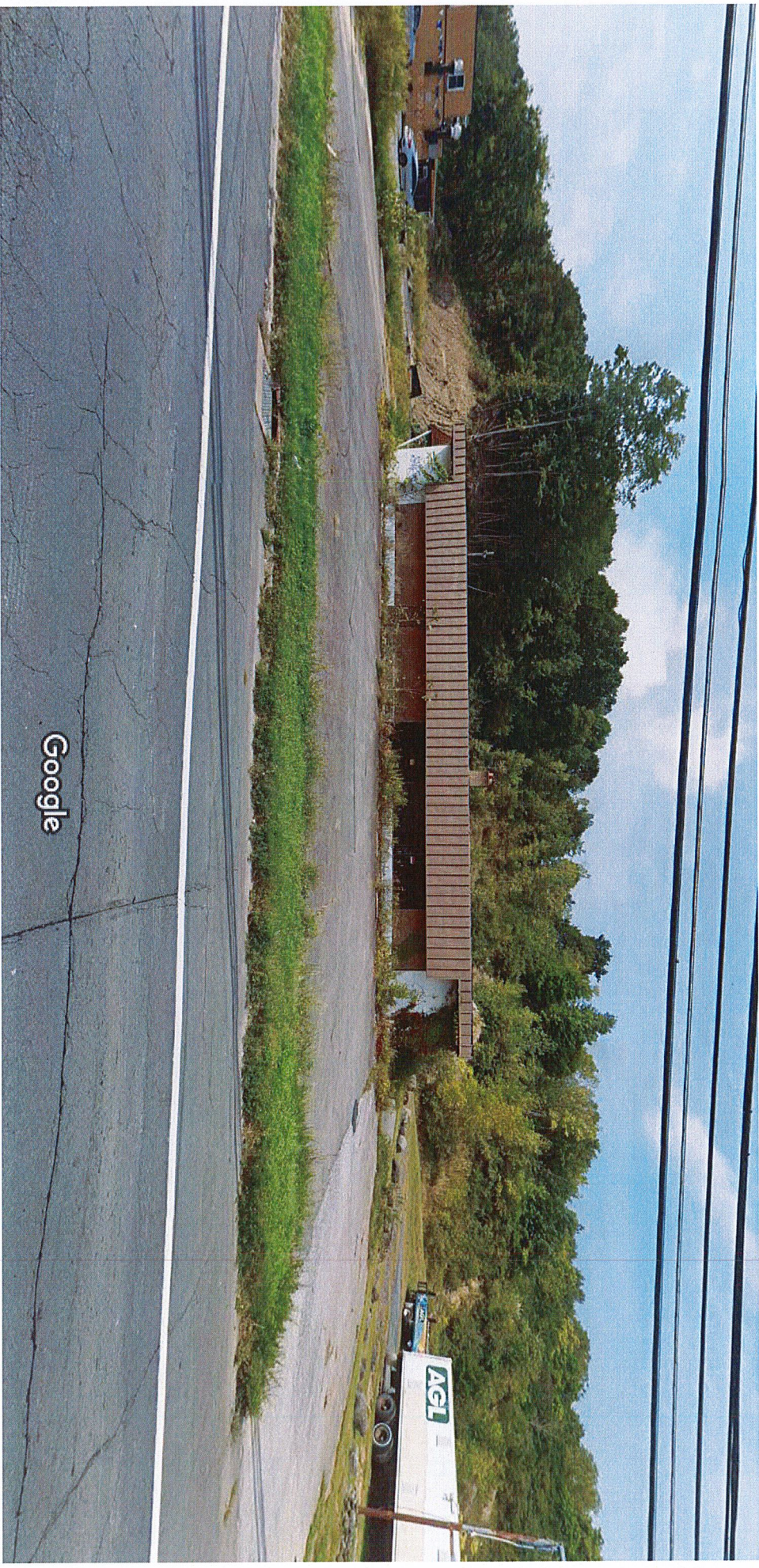
**DESCRIPTION
LANDS OF
JOSEPH O'BRIEN
5277 ROUTE 9W, TOWN OF NEWBURGH, NY**

ALL that piece or parcel of land, with buildings and improvements thereon, situate, lying and being in the Town of Newburgh, County of Orange, State of New York and being bounded and described as follows:

BEGINNING at a point in the northwesterly line of U.S. Route 9W, said point being on the division line between the lands now or formerly of Cutrone, Felicello and Gerentine on the southwest and the parcel herein described on the northeast; thence, along the last said division line, N 65°05'13" W 497.01 feet to a point on the division line between the lands now or formerly of Zaines and Gianetta on the northwest and the parcel herein described on the southeast; thence, along the last said division line, N 24°35'07" E 185.41 feet to a point on the division line between the lands now or formerly of Fendarden Associates on the northeast and the parcel herein described on the southwest; thence, along the last said division line, S 63°19'12" E 483.77 feet to a point in the aforementioned northwesterly line of U.S. Route 9W; thence, along the last said line, on a curve to the right having a radius of 1880 feet and an arc length of 171.17 feet to the point or place of beginning, containing 2.01 acres of land more or less.

Google Maps

5277 Rte 9W



Google

Image capture: Sep 2021 © 2022 Google

Newburgh, New York

Google

Street View - Sep 2021

Google Maps

5279 Rte 9W

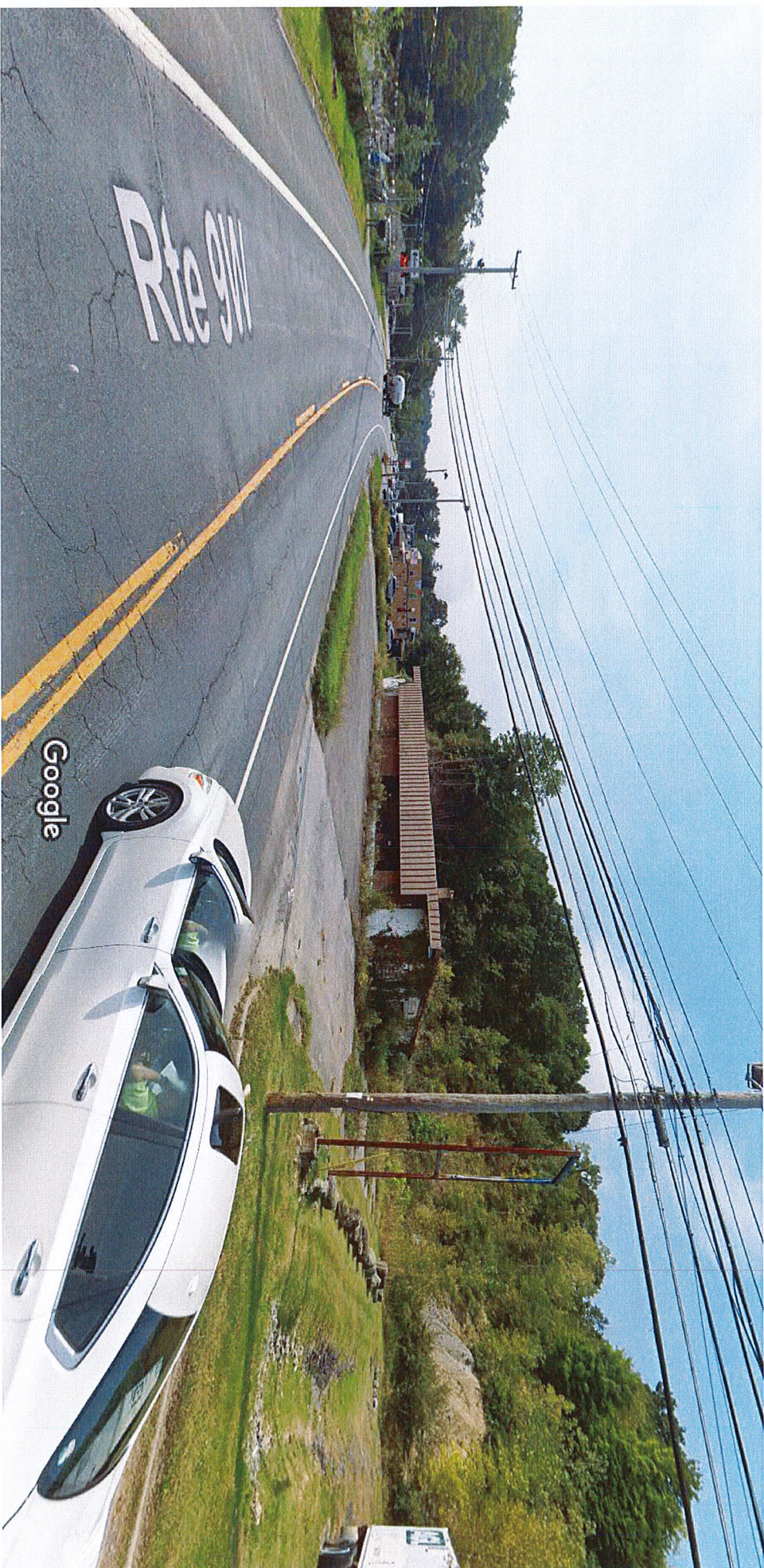


Image capture: Sep 2021 © 2022 Google

Newburgh, New York

Google

Street View - Sep 2021

Google Maps

5270 Rte 9W



Image capture: Sep 2021 © 2022 Google

Newburgh, New York

Google

Street View - Sep 2021

Google Maps 5270 Rte 9W

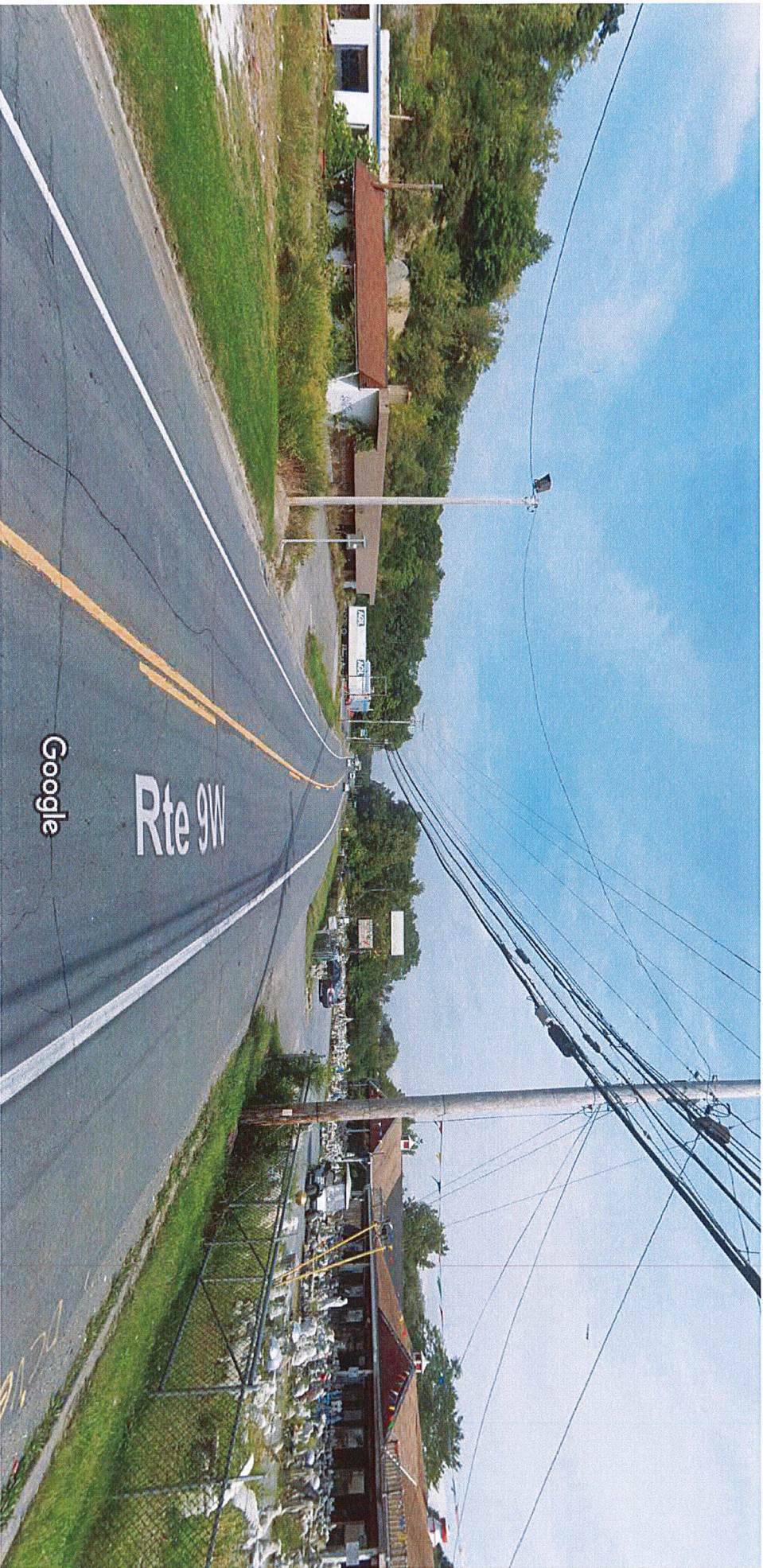


Image capture: Sep 2021 © 2022 Google

Newburgh, New York

Google

Street View - Sep 2021

Short Environmental Assessment Form

Part 1 - Project Information

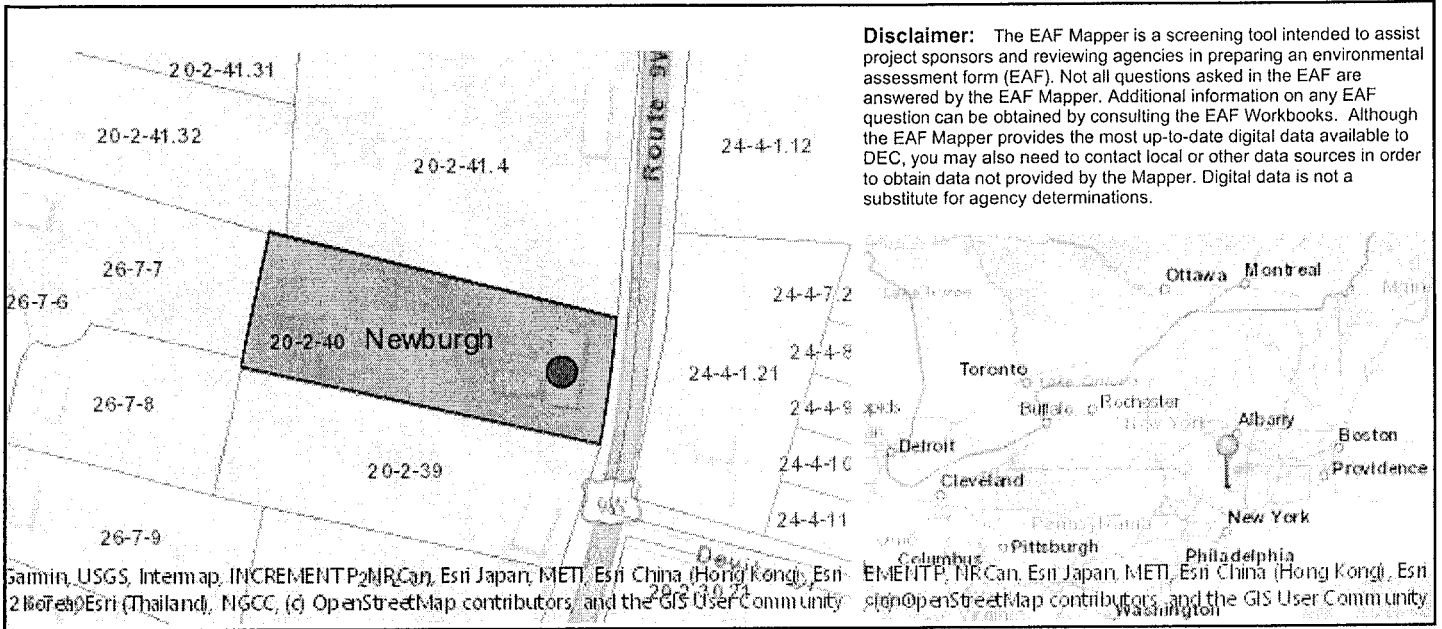
Instructions for Completing

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				
Lazxmi Estates II, LLC ("Laxmi")				
Name of Action or Project: Interpretation from the ZBA that would allow for the construction of a Dunkin Donuts with a drive-thru				
Project Location (describe, and attach a location map): Property Located at 5277 Route 9W, Newburgh, NY (Section 20, Block 2, Lot 40)				
Brief Description of Proposed Action: Applicant is seeking approvals to permit a Dunkin Donuts with a drive-thru at the Property.				
Name of Applicant or Sponsor: Lazxmi Estates II, LLC ("Laxmi")		Telephone: (914) 213-9333 E-Mail: amishpatel@shiumc.com		
Address: 445 Robinson Avenue – Suite 1108				
City/PO: Newburgh		State: NY	Zip Code: 12550	
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:			NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/>
3. a. Total acreage of the site of the proposed action? _____ 2.0 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? _____ none 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 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, a. A permitted use under the zoning regulations? b. Consistent with the adopted comprehensive plan?	NO	YES	N/A
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6. Is the proposed action consistent with the predominant character of the existing built or natural landscape?	NO	YES	
	<input type="checkbox"/>	<input 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	YES	
	<input checked="" type="checkbox"/>	<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	YES	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
	<input checked="" 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	YES	
	<input type="checkbox"/>	<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	YES	
	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
11. Will the proposed action connect to existing wastewater utilities? If No, describe method for providing wastewater treatment: _____ _____	NO	YES	
	<input type="checkbox"/>	<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	YES	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
	<input type="checkbox"/>	<input checked="" 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? If Yes, identify the wetland or waterbody and extent of alterations in square feet or acres: _____ _____ _____	NO	YES	
	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
	<input type="checkbox"/>	<input type="checkbox"/>	



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]	Yes
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 15 [Threatened or Endangered Animal - Name]	Indiana Bat
Part 1 / Question 16 [100 Year Flood Plain]	No
Part 1 / Question 20 [Remediation Site]	Yes

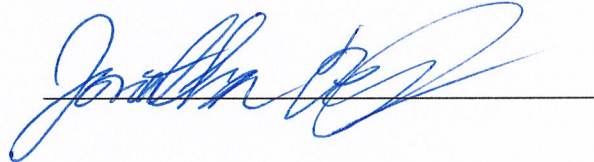
**AFFIDAVIT OF POSTING(S) OF
NOTICE OF PUBLIC HEARING
AT THE PROPERTY**

STATE OF NEW YORK: COUNTY OF ORANGE:

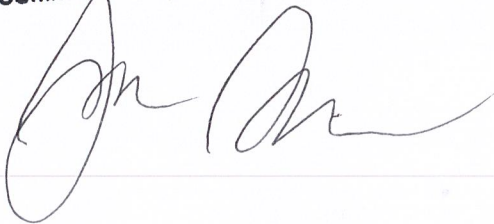
I Jonathan DeJoy, Esq., being duly sworn, depose and say that I did on or before
July 14, 2022, post and will thereafter maintain at
5277 Route 9w 20-2-40 B Zone in the Town of Newburgh, New York, at or near the front
property line(s) and within view of each fronting street a copy(ies) of the Notice of Public Hearing, which
notice was in the form attached hereto.

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

Sworn to before me this 6th
day of July, 2022.



JULIE A. DURKIN
Notary Public, State of New York
No. 01DU6314887
Qualified in Dutchess County
Commission Expires 11/17/2020



Jonathan DeJoy

From: Jonathan DeJoy
Sent: Wednesday, July 6, 2022 2:03 PM
To: Jonathan DeJoy



Sent from my iPhone