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STATE OF NEW YORK : COUNTY OF ORANGE  
TOWN OF NEWBURGH PLANNING BOARD

----- X  
In the Matter of

DUNKIN DONUTS  
(2014-02)

301 State Route 32  
Section 14; Block 1; Lot 32  
IB Zone

----- X  
INITIAL APPEARANCE  
SITE PLAN

Date: February 6, 2014  
Time: 7:42 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman  
FRANK S. GALLI  
KENNETH MENNERICH  
JOHN A. WARD

ALSO PRESENT: MICHAEL H. DONNELLY, ESQ.  
PATRICK HINES  
PAUL RUGGIERO

APPLICANT'S REPRESENTATIVE: JOSEPH MINUTA

----- X  
MICHELLE L. CONERO  
10 Westview Drive  
Wallkill, New York 12589  
(845) 895-3018

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DUNKIN DONUTS

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CHAIRMAN EWASUTYN: The last item on the agenda this evening is Dunkin Donuts. It's located on Route 52 -- excuse me, Route 32 in the IB Zone. It's a site plan being represented by Joseph Minuta.

MR. MINUTA: Good evening, Mr. Chairman, Members of the Board, Consultants. Joseph Minuta, I'm representing LZL Equities, Dunkin Donuts, for the project at 301 Route 32 in the Town of Newburgh. I have with me this evening Lisa Carina from my office, and Michael Nafash is the owner of Dunkin Donuts.

The plan -- the initial concept of this was to take this existing site and revitalize it. It's really a corner of Newburgh that there's three existing developments that are flourishing there and we have this flower shop that's been vacant for many, many years.

The intent here is to -- our first concept is raising the entire site, building a brand new Dunkin Donuts, brand new site plan, new amenities as far as landscaping, hardscaping, et cetera. That's our first concept. We'd like to have a drive-through for that.

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DUNKIN DONUTS

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The second concept is to simply raise the site as it is and simply have a drive-up. Now, there's a traffic impact on both of those, and that's why we bring this to you as a concept approval or concept plan for this evening.

I did receive Mr. Hines' comments on that and we have met with Zibby Zachariah from DOT. She's been to my office to look at the site plan.

The plan initially -- this is the existing. We enter in off Route 32 here. Route 300, as you know, makes a left-hand turn coming from the Town at this location. There used to be a curb cut here. That was previously closed at some point in time. After we had developed our concept plan, actually raised the site and placed a new site, we received commentary that DOT would like to have a secondary means of egress on the Route 300 side which was located here, adjacent to the current driveway.

So sticking with the concept that we'd like to have, this is really the one. This will provide us a cueing lane all the way around the building up to the drive-through area here.

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DUNKIN DONUTS

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Parking is adequate for the site and number of occupants and square footage.

On the site itself, one of the difficult factors of the site is that it has a sanitary disposal system on it. I have met with the Department of Health and they do accept an infiltrator system as long as we can prove that it will work, and we'll design it in accordance with that. So that would be an underpaving system.

Again, the site was previously approved as a restaurant. The Department of Health has those records. We met with them probably two months ago on that. They have no issues with the site as far as it's current use and the proposed use as long as we can prove that it works.

We have provided a mason -- a stonewall along the existing perimeter of the property and we've relocated all of the items on the site. We have a concrete enclosure pad which is in the distance here on the site for our dumpster locations. We have a loading area off the side of the site that allows for loading and unloading of items into the store. Then the back portion

1 DUNKIN DONUTS 5  
2 of this parking lot, we consider this primarily  
3 for some of the employees. The remainder of the  
4 lot would be for patrons. So to that extent the  
5 site works in and of itself. That's option  
6 number one.

7 One of the difficulties we found with  
8 opening this curb cut is that in order to create  
9 this concept we have to regrade the property, and  
10 in doing so it grazes this portion of the  
11 property. So we have a retaining wall along the  
12 edge here. We don't believe we're going to be  
13 able to get the grades to make it down to Route  
14 300 on this side. That would then make this the  
15 only curb cut available, unless in this period of  
16 getting the site accomplished we might be able to  
17 provide a shared access to the current roadway  
18 that accesses the Town property.

19 That's primarily the concept of what  
20 we'd like to do.

21 CHAIRMAN EWASUTYN: Comments from Board  
22 Members. Frank Galli?

23 MR. GALLI: That one, Joe, has the  
24 drive-through in it?

25 MR. MINUTA: This is the drive-through

1 DUNKIN DONUTS 6

2 concept, yes.

3 MR. GALLI: How many cars can be

4 stacked there, roughly?

5 MR. MINUTA: Roughly five, six cars.

6 MR. GALLI: Does the gentleman who owns

7 this one own the one on 207?

8 MR. MINUTA: Yes, he does.

9 MR. GALLI: I noticed the one on 207

10 stacks out into the highway.

11 MR. MINUTA: It's a busy site, a much

12 smaller site, if I'm not mistaken.

13 MR. NAFASH: It will be busier than

14 this site. That one is busier.

15 MR. GALLI: Then you had a concept

16 without the drive-through?

17 MR. MINUTA: The concept without the

18 drive-through is simply to leave the existing

19 site as it is, landscaping -- well, we'd upgrade

20 landscaping of course. Essentially the exact

21 same parking area would remain. We would utilize

22 the same sanitary disposal system. We'll have

23 that tested of course. And then we would raise

24 the existing site basically from the grade up,

25 utilizing existing foundation and basement space

1 DUNKIN DONUTS 7

2 and build the brand new prototype.

3 MR. GALLI: The drive-in changes the

4 use of what it is.

5 MR. MINUTA: What's that?

6 MR. GALLI: The drive-through will

7 change the use of what it is.

8 MR. MINUTA: As far as fast food versus

9 the convenience portion. Yes.

10 MR. GALLI: That's all I have, John, on

11 it.

12 CHAIRMAN EWASUTYN: Ken Mennerich?

13 MR. MENNERICH: The road, if you were

14 able to connect into the Town's driveway going in

15 there, where would that run?

16 MR. MINUTA: The preferred route would

17 be right off the back here and then through here.

18 So we'd have a straight shot from this curb cut

19 all the way back down.

20 MR. GALLI: Where is the recreation

21 department on the map?

22 MR. MINUTA: The courthouse is here and

23 then the recreation department is in the back.

24 MR. WARD: What's the elevation there?

25 MR. MINUTA: Of which?

1 DUNKIN DONUTS 8

2 MR. WARD: If you made it go into the  
3 recreation.

4 MR. MINUTA: Let's see here. We've got  
5 412 at the property line here and we're looking  
6 at the top side of this as 425. So basically we  
7 have a 13 foot drop in grade from this point to  
8 this point over -- I forget what the distance is.  
9 Over 165 feet.

10 CHAIRMAN EWASUTYN: John Ward?

11 MR. WARD: With your drive-through, you  
12 had it where the cars are angled?

13 MR. HINES: It's a one way in, one way  
14 out.

15 MR. MINUTA: That is correct on that  
16 concept.

17 MR. WARD: I'm looking at it as a guy  
18 goes in in the morning, gets his coffee, or an  
19 employee or whatever, backs into the line of cars  
20 with the drive-through right there.

21 MR. MINUTA: This here?

22 MR. WARD: Where your back parking is.

23 MR. MINUTA: The angled back parking.  
24 Correct. This is the drive-through lane.  
25 There's two lanes. There's a bypass lane and a



1 DUNKIN DONUTS 9

2 drive-through lane. So with the angled

3 parking --

4 MR. WARD: Okay.

5 CHAIRMAN EWASUTYN: Pat Hines?

6 MR. HINES: There's a couple issues on

7 the site. The drive-through makes it a fast food

8 use and not a restaurant use as shown on the bulk

9 table. The fast food use is not permitted in the

10 B Zone and would require a use variance referral

11 from the building department I believe.

12 MR. DONNELLY: 274 of the Town Law

13 doesn't allow the Planning Board to approve this.

14 You have to get turned down by Jerry.

15 MR. MINUTA: Okay.

16 MR. HINES: Just to let you know, there

17 were other uses -- fast food uses recently before

18 the Zoning Board that were not successful in the

19 B Zone. Just take that into consideration.

20 MR. MINUTA: Thank you.

21 MR. HINES: Our comments did note and

22 Ken Wersted had issues with the traffic flow.

23 That has to be looked at. The stacking before

24 the menu board, it might be able to be moved

25 around. Even the one on 207, the menu boards are

1 DUNKIN DONUTS 10

2 around the back. I happen to drive by there  
3 every day. Often times it's filled up out onto  
4 207.

5 The septic system, obviously if it's  
6 going to be under the pavement does need County  
7 Health Department approval. It can't be locally  
8 approved.

9 I notice the stonewall stops in the  
10 vicinity of the court parking lot. I think there  
11 needs to be -- if it moves forward, put a barrier  
12 there. The last thing you want is for that to  
13 become the cut through.

14 MR. MINUTA: Certainly.

15 MR. HINES: That needs to be blocked  
16 off, a guide rail, extended stonewall. It just  
17 looks like it would be the attractive way to get  
18 in or out of there when cars are stacked.

19 MR. MINUTA: Fair enough. There is  
20 curbing there, but I agree.

21 MR. HINES: It doesn't go all the way.

22 MR. MINUTA: Okay. You know what, the  
23 -- yeah.

24 MR. HINES: That needs to be looked at.  
25 But I think the biggest hurdles are the zoning

1 DUNKIN DONUTS 11

2 issues on the site that you're up against.

3 MR. MINUTA: Thank you, Pat.

4 CHAIRMAN EWASUTYN: Mike, how do we  
5 proceed with this? Do we first ask him to go to  
6 the Building Department and be denied and then  
7 referred to the ZBA for a use variance?

8 MR. DONNELLY: Yes.

9 CHAIRMAN EWASUTYN: At what point in  
10 time do they -- I guess we already said --

11 MR. DONNELLY: They'll have to send it  
12 to the County Planning Department for the first  
13 referral. We can ask and I'll ask Dave Donovan  
14 to ask the Planning Board to report on both, if  
15 they would, so it doesn't have to be sent twice.  
16 If they have the use variance, they can return  
17 here and we'll pick up from there. If they do  
18 not get the use variance and want to modify the  
19 plan without the drive-through, then they can  
20 continue on here.

21 The only other issue is how large is  
22 the building?

23 MR. MINUTA: 1,600 square feet.

24 MR. DONNELLY: Type II.

25 MR. HINES: Even the other use would

1 DUNKIN DONUTS 12  
2 require zoning variances because it's changing  
3 the use and it loses it's protection. It has two  
4 front yards because it's a corner lot under the  
5 code. So either of the uses currently proposed  
6 would need some form of ZBA action.

7 MR. MINUTA: Just a question with  
8 regard to the existing use. If there's no drive-  
9 through, it's not then considered -- I'm just  
10 trying to understand it straight.

11 MR. HINES: It's eating and drinking.  
12 It's an allowable use. It doesn't --

13 MR. MINUTA: Which is the current  
14 existing use which was approved there.

15 MR. HINES: What is the current  
16 existing use?

17 MR. MINUTA: The original use was a  
18 restaurant and then a flower shop.

19 MR. HINES: What is it currently used  
20 for?

21 MR. MINUTA: Currently it's vacant.

22 MR. HINES: It doesn't have any of the  
23 zoning protection.

24 MR. DONNELLY: It might depending on  
25 how long it lapsed. I think what Pat is saying

1 DUNKIN DONUTS 13  
2 is correct, if it's lost that protection, and it  
3 sounds likely that it has, if you're a restaurant  
4 then you'll have to get a variance from the  
5 current bulk table requirements for a restaurant.  
6 If you get the use variance for fast food, there  
7 are no bulk requirements, the Zoning Board will  
8 have to set them for the use. Either way you'll  
9 need to ask for those bulk requirements as well  
10 as the use variance.

11 MR. MINUTA: Understood.

12 MR. HINES: Without the drive-through  
13 it's an allowable use, you just have the bulk  
14 table issues.

15 MR. DONNELLY: Which is an area  
16 variance.

17 MR. MINUTA: Excellent.

18 CHAIRMAN EWASUTYN: So for the record,  
19 would you announce what action you're going to be  
20 taking this evening?

21 MR. MINUTA: Drive-through?

22 MR. NAFASH: Would we be granted access  
23 to the Town's right-of-way?

24 MR. MINUTA: You have to take that up  
25 separately.

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DUNKIN DONUTS

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MR. NAFASH: If we don't know that answer, it's tough for me to answer. Why do I have to get a Zoning Board approval for something I'm going to get denied here?

MR. HINES: This isn't the Board that can give you that permit. You may want to visit the Town Board for the ability to access off of Town property.

MR. MINUTA: For the record, we have had that conversation with the Town Attorney regarding this and they floated that and recommended we come here first.

CHAIRMAN EWASUTYN: And there's nothing we're able to do at this time.

MR. DONNELLY: There's no SEQRA action required. This is under 4,000 square feet.

MR. MINUTA: Very well. I believe -- just for your knowledge, I believe our intent is to have a drive-through. It's obviously a better scenario for the owner. If we can do that and we're successful with the Zoning Board, obviously we'll be back to see you. In either case we'll be back to see you.

CHAIRMAN EWASUTYN: Right now just nice

1 DUNKIN DONUTS 15

2 meeting you and we heard from you. I mean that  
3 politely.

4 MR. MINUTA: I understand that. As I  
5 explained, it was a concept.

6 MR. MENNERICH: Joe, on the concept,  
7 use of the Town's driveway, certainly from a  
8 planning sense that seems preferable to having  
9 another entrance going onto 300.

10 MR. MINUTA: I would agree with that.  
11 I don't know what the flavor of the Town Board  
12 would be. If that's your preference and if the  
13 Board agrees, we could sort of take that, carry  
14 that to them and say this is a preferred route.  
15 That would obviously help support our case here.

16 CHAIRMAN EWASUTYN: Generally speaking;  
17 Mike Donnelly, I don't think we take positions  
18 one way or the --

19 MR. DONNELLY: We usually don't make  
20 recommendations to the Town Board on issues  
21 within their command unless it's an overlay zone  
22 that requires a report from the Planning Board.

23 CHAIRMAN EWASUTYN: That's true with  
24 the ZBA also.

25 MR. MINUTA: Very well.

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DUNKIN DONUTS

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MR. GALLI: Just convince them it's  
good planning sense.

MR. MINUTA: Thank you.

(Time noted: 7:57 p.m.)

C E R T I F I C A T I O N

I, Michelle Conero, a Shorthand  
Reporter and Notary Public within and for  
the State of New York, do hereby certify  
that I recorded stenographically the  
proceedings herein at the time and place  
noted in the heading hereof, and that the  
foregoing is an accurate and complete  
transcript of same to the best of my  
knowledge and belief.

\_\_\_\_\_

DATED: February 27, 2014





**McGOEY, HAUSER and EDSALL  
CONSULTING ENGINEERS P.C.**

RICHARD D. MCGOEY, P.E. (NY & PA)

WILLIAM J. HAUSER, P.E. (NY, NJ & PA)

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**TOWN OF NEWBURGH  
PLANNING BOARD  
REVIEW COMMENTS**

**PROJECT: DUNKIN DONUTS (301 ROUTE 32)**  
**PROJECT NO.: 14-2**  
**PROJECT LOCATION: SECTION 14, BLOCK 1, LOT 43**  
**PROJECT REPRESENTATIVE: JOSEPH MINUTA**  
**REVIEW DATE: 31 JANUARY 2014**  
**MEETING DATE: 6 FEBRUARY 2014**

1. The proposed fast food use is not permitted in the B Zone and will require a Use Variance from the Zoning Board of Appeals, if it is allowed.
2. The site is a corner lot. In accordance with Section 185-17, two front yards exist along with two front yard setbacks.
3. Since the project will require a Use Variance, the bulk tables for the use do not exist in the Town of Newburgh Code. Should Applicants pursue a variance, they may wish to have the Zoning Board of Appeals set bulk requirements for the site.
4. The queuing lane for the drive thru does not appear to provide adequate stacking for vehicles entering off of Route 32 (note recent Dunkin Donuts drive thru Route 207 in New Windsor often stacks into state highway).
5. A Subsurface Sanitary Sewer Disposal System appears to be proposed under pavement. This will require specialized design and most likely Health Department approval for the alternative system.
6. Ken Wersted's comments on egress and ingress to the site should be received as both driveways are located in close proximity to a major intersection. NYSDOT approval for access is required.
7. The Applicant's Representative is requested to provide a definitive barrier between the adjoining Town owned property and this site such that cut through traffic does not occur.
8. Additional comments will be provided upon submission of detailed plans.

**REGIONAL OFFICES**

- 111 Wheatfield Drive • Milford, Pennsylvania 18337 • 570-296-2765 •
- 540 Broadway • Monticello, New York 12701 • 845-794-3399 •

Town of Newburgh  
Dunkin Donuts

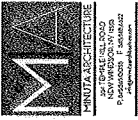
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Respectfully submitted,

**McGoey, Hauser and Edsall  
Consulting Engineers, P.C.**

---

Patrick J. Hines, Associate



For Planning Board Review / Not For Permit or Construction

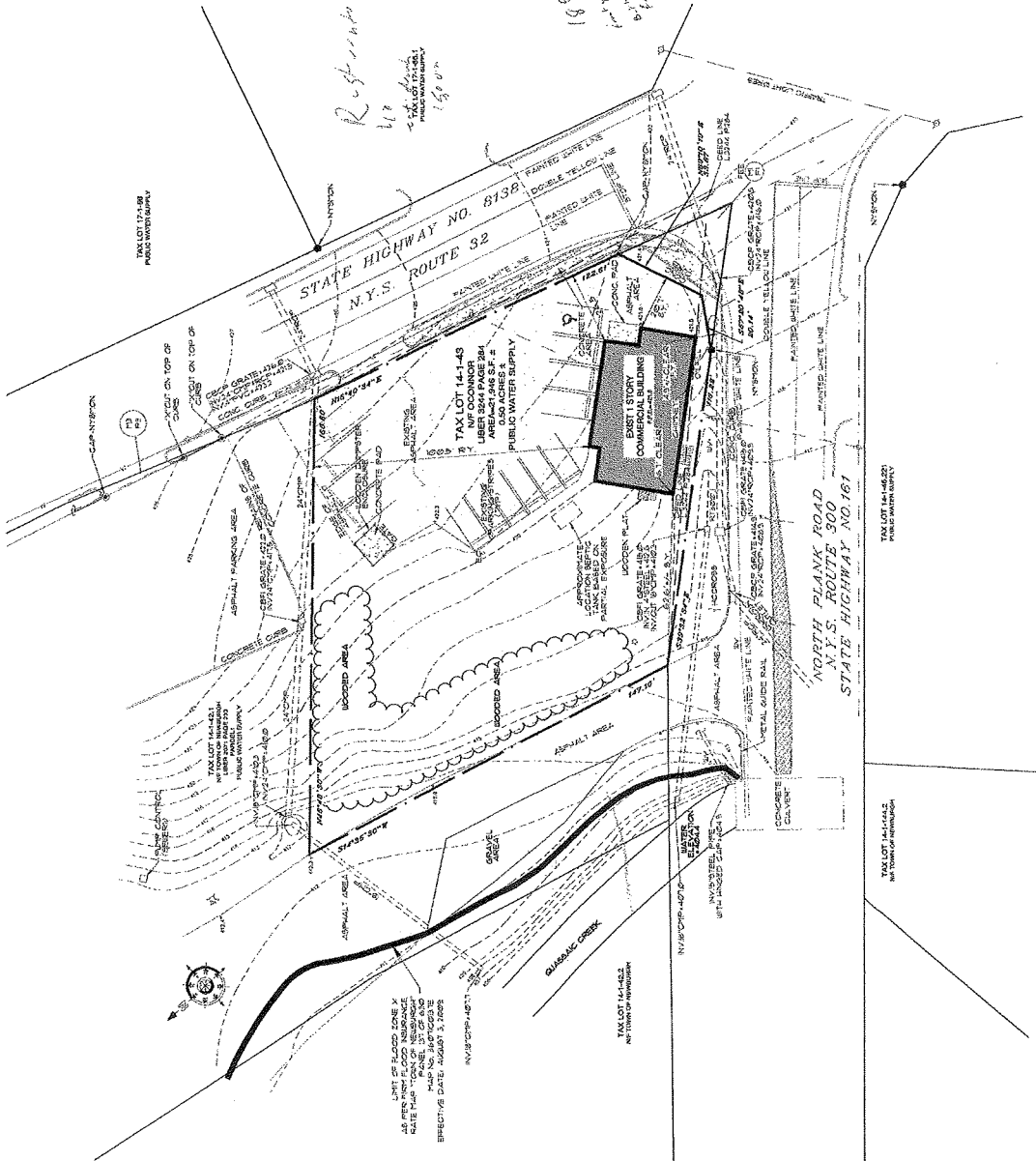
L2L Equities / Dunkin Donuts (Town of Newburgh Project # 2014-02)

Dwelling: 00,000

S-1

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| ZONING INFORMATION                                |           | Business 9 DISTRICT                                     |          |
|---|-----------|---|----------|
| Zone:   |           | Use:  |          |
| Permitted with:                                   |           | Uses Subject to Site Plan Review by the Planning Board: |          |
| <b>MINIMUM REQUIREMENTS</b>                       |           |   |          |
| Lot Area  | Required  | Existing  | Proposed |
| Lot Width   | Required  | Existing  | Proposed |
| Lot Depth   | Required  | Existing  | Proposed |
| <b>YARD SETBACKS</b>                              |           |   |          |
| Front   | Required  | Existing  | Proposed |
| Rear  | Required  | Existing  | Proposed |
| Side  | Required  | Existing  | Proposed |
| <b>MAXIMUM PERMITTED</b>                          |           |   |          |
| Maximum Floor Area Per Dwelling Unit              | Permitted | Existing  | Proposed |
| Dwelling Units Per Acre                           | Permitted | Existing  | Proposed |
| Lot Building Coverage                             | Permitted | Existing  | Proposed |
| Building Height                                   | Permitted | Existing  | Proposed |
| Lot Surface Coverage                              | Permitted | Existing  | Proposed |
| ** INDICATES PRE-EXISTING NONCONFORMING CONDITION |           |   |          |
| ** INDICATES VARIANCE NEEDED                      |           |   |          |



*Reference*

*117*

*158*

*159*

THE OWNER HAS REVIEWED AND IS IN CONFORMANCE WITH THE PLAT:

SIGNATURE \_\_\_\_\_

DATE \_\_\_\_\_

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NOTE: INFORMATION ON THIS PLAN HAS BEEN TAKEN FROM A PROPERTY SURVEY PREPARED BY DAKEN J. STRIDIRON, P.L.C., N.Y. LIC. # 090481 FOR THE N/A-434 DATED: DECEMBER 11, 2013

S-1 Existing Site Plan (Option #2 of Narrative)

Scale: 1" = 200'

PLANNING BOARD APPROVAL  
SECT. 14, BULK 1, LOT: 43









McGOEY, HAUSER and EDSALL  
CONSULTING ENGINEERS P.C.

RICHARD D. McGOEY, P.E. (NY & PA)  
WILLIAM J. HAUSER, P.E. (NY, NJ & PA)  
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Town of Newburgh  
Dunkin Donuts

Respectfully submitted,

***McGoey, Hauser and Edsall  
Consulting Engineers, P.C.***

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Patrick J. Hines, Associate