

2344-13



Edward A. Dinnic
County Executive

Orange County Department of Planning

Submission Form for Mandatory Review of Local Planning Action

as per NYS General Municipal Law §239-1,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
Local Referring Board:	Zoning Board of Appeals
Applicant:	Newburger, LLC (Burger King)
Project Name:	
Location of Project Site:	80 Route 17K, Newburgh NYS Hwy Route 17K

Tax Map #:	95-1-23
Tax Map #:	
Tax Map #:	
Local File No.:	ZBA2013-18
Size of Parcel:	175' x 225' 39,375
*If more than one parcel, please include sum of all parcels.	
Current Zoning District (include any overlays):	I/B

Reason for County Review: w/in 500ft Route 17K

Type of Review:

- Comprehensive Plan Update/Adoption
- Zoning Amendment
 - Zoning District Change from _____ to _____
 - Ordinance Modification (cite section): _____
- Local Law
- Site Plan Sq. feet proposed (non-residential only): _____
Which approval is the applicant currently seeking? SKETCH / PRELIM / FINAL (circle one)
- Subdivision Number of lots proposed: _____
Which approval is the applicant currently seeking? SKETCH / PRELIM / FINAL (circle one)
- Special Use Permit
- Lot Line Change
- Variance AREA USE (circle one) SIGNAGE - MAXIMUM ALLOWED
- Other

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

Local board comments or elaboration:

Grace Cardone

4/1/13

Chairperson,
Zoning Board of Appeals

Signature of local official

Date

Title

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:

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: MARCH 15, 2013

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

NEWBURGER, LLC

I (WE) ~~FAMILY SIGNS OF KINGSTON, INC.~~ PRESENTLY
PO BOX 6969 SYRACUSE, NY 13217
RESIDING AT NUMBER 154 LATHAM AVE KINGSTON NY 12401

TELEPHONE NUMBER 845-341-8710 1-800-348-1074

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

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

1. LOCATION OF THE PROPERTY:

95-1-23 (TAX MAP DESIGNATION)

80 ROUTE 17 K (STREET ADDRESS)

COM 1 TB (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).

185-14-B-1-C SHALL NOT EXCEED
1/2 OF STREET FRONTAGE

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: VARIANCE FOR SIGN AREA EXCEEDING CODE 148 SQ FT PROPOSED

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:

ADDING SMALL AMOUNT OF ADDITIONAL SIGNAGE
ON THE WALLS, AREA IS ALL COMMERCIAL
IN NATURE

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:

BURGER KING REQUIRES CERTAIN SIGNAGE
TO MEET CORPORATE REQUIREMENTS
FOR FRANCHISEE

c) THE REQUESTED AREA VARIANCE IS NOT SUBSTANTIAL BECAUSE:

EXISTING SIGNAGE IS 156 SQ FT
PROPOSED SIGNAGE IS 178 SQ FT

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

NEW SIGNAGE IS ON WALLS TO IDENTIFY
BLDG AS A BURGER KING RESTAURANT

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

BURGER KING REQUIRES SIGNAGE TO MEET
THEIR FRANCHISE STANDARDS

7. ADDITIONAL REASONS (IF PERTINENT):

DRAWINGS OF PROPOSED SIGNAGE AND
PHOTOS OF EXISTING SIGNAGE ATTACHED

Jennifer Beichert PROTECT MGR
PETITIONER(S) SIGNATURE TIMELY SIGNS

STATE OF NEW YORK: COUNTY OR ORANGE:

SWORN TO THIS 15th DAY OF MARCH 2013

Jennifer Beichert
NOTARY PUBLIC

JENNIFER BEICHERT
Notary Public, State of New York
No. 01BB073503
Qualified in Dutchess County
Commission Expires April 22, 2015

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.

Appendix C

State Environmental Quality Review

SHORT ENVIRONMENTAL ASSESSMENT FORM

For UNLISTED ACTIONS Only

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

1. APPLICANT/SPONSOR Timely Signs of Kingston, Inc.	2. PROJECT NAME Burger King Signage
3. PROJECT LOCATION: Municipality <u>Town of Newburgh</u> County <u>Orange</u>	
4. PRECISE LOCATION (Street address and road intersections, prominent landmarks, etc., or provide map) <u>80 Rt 17K</u> <u>Newburgh, NY 12550</u>	
5. PROPOSED ACTION IS: <input type="checkbox"/> New <input type="checkbox"/> Expansion <input checked="" type="checkbox"/> Modification/alteration	
6. DESCRIBE PROJECT BRIEFLY: <u>Replace existing signage for building remodel</u>	
7. AMOUNT OF LAND AFFECTED: Initially <u>1</u> acres Ultimately <u>1</u> acres	
8. WILL PROPOSED ACTION COMPLY WITH EXISTING ZONING OR OTHER EXISTING LAND USE RESTRICTIONS? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If No, describe briefly <u>Need Area Variance for square footage requested</u>	
9. WHAT IS PRESENT LAND USE IN VICINITY OF PROJECT? <input type="checkbox"/> Residential <input type="checkbox"/> Industrial <input checked="" type="checkbox"/> Commercial <input type="checkbox"/> Agriculture <input type="checkbox"/> Park/Forest/Open Space <input type="checkbox"/> Other Describe: <u>Burger King Restaurant, Diner, Gas Station</u>	
10. DOES ACTION INVOLVE A PERMIT APPROVAL, OR FUNDING, NOW OR ULTIMATELY FROM ANY OTHER GOVERNMENTAL AGENCY (FEDERAL, STATE OR LOCAL)? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If Yes, list agency(s) name and permit/approvals: <u>Town of Newburgh Sign Permit</u>	
11. DOES ANY ASPECT OF THE ACTION HAVE A CURRENTLY VALID PERMIT OR APPROVAL? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If Yes, list agency(s) name and permit/approvals: <u>Town of Newburgh Building permit</u>	
12. AS A RESULT OF PROPOSED ACTION WILL EXISTING PERMIT/APPROVAL REQUIRE MODIFICATION? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE TO THE BEST OF MY KNOWLEDGE Applicant/sponsor name: <u>Timely Signs of Kingston, Inc.</u> Date: <u>2/27/13</u> Signature: <u><i>Office Research, Permit Mgr</i></u>	

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

PART II - IMPACT ASSESSMENT (To be completed by Lead Agency)

A. DOES ACTION EXCEED ANY TYPE I THRESHOLD IN 6 NYCRR, PART 617.4? If yes, coordinate the review process and use the FULL EAF.
 Yes No

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

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

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

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

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

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

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

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

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

D. WILL THE PROJECT HAVE AN IMPACT ON THE ENVIRONMENTAL CHARACTERISTICS THAT CAUSED THE ESTABLISHMENT OF A CRITICAL ENVIRONMENTAL AREA (CEA)?

Yes No If Yes, explain briefly:

E. IS THERE, OR IS THERE LIKELY TO BE, CONTROVERSY RELATED TO POTENTIAL ADVERSE ENVIRONMENTAL IMPACTS?

Yes No If Yes, explain briefly:

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

INSTRUCTIONS: For each adverse effect identified above, determine whether it is substantial, large, important or otherwise significant. Each effect should be assessed in connection with its (a) setting (i.e. urban or rural); (b) probability of occurring; (c) duration; (d) irreversibility; (e) geographic scope; and (f) magnitude. If necessary, add attachments or reference supporting materials. Ensure that explanations contain sufficient detail to show that all relevant adverse impacts have been identified and adequately addressed. If question D of Part II was checked yes, the determination of significance must evaluate the potential impact of the proposed action on the environmental characteristics of the CEA.

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

2/27/13

Name of Lead Agency

Date

Print or Type Name of Responsible Officer in Lead Agency

Title of Responsible Officer

Signature of Responsible Officer in Lead Agency

Signature of Preparer (If different from responsible officer)

Reset



TOWN OF NEWBURGH

~Crossroads of the Northeast~

CODE COMPLIANCE DEPARTMENT
308 GARDNERTOWN ROAD
NEWBURGH, NEW YORK 12550

TELEPHONE 845-564-7801
FAX LINE 845-564-7802

2344-13

NOTICE OF DISAPPROVAL OF BUILDING PERMIT APPLICATION

Date: 03/06/2013

Application No. 13-0043


To: Newburger, LLC
PO BOX 6969
Syracuse, NY 13217

SBL: 95-1-23
ADDRESS: 80 Route 17K

ZONE: IB

PLEASE TAKE NOTICE that your application dated 01/25/2013 for permit to New exterior signs on the premises located at 80 Route 17K is returned herewith and disapproved on the following grounds:

185-14-B-1-c Total area of signage shall not exceed 1/2 the total length of road frontage.


Joseph Mattina

Cc: Town Clerk & Assessor (300')
File

Town of Newburgh Code Compliance

OWNER INFORMATION

BUILT WITH OUT A PERMIT

NO

2344-13

NAME: NEWBURGH LLC

ADDRESS: PO BOX 6969 SYRACUSE NY 13217

PROJECT INFORMATION:

TYPE OF STRUCTURE: 80 RTE 17K SIGNS BURGER KING

SBL: 95-1-23 ZONE: IB

TOWN WATER: YES

TOWN SEWER: YES

	MAXIMUM	EXISTING	PROPOSED	VARIANCE	PERCENTAGE
SIGNAGE	87.5 S.F.	252 S.F.	274 S.F.	22 S.F.	
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: **ALLOWED 87.5 SF VARIANCE GRANTED 7-27-1996 FOR A TOTAL OF 252 S.F.
 REQUESTING A TOTAL OF 274 S.F.**

VARIANCE(S) REQUIRED:

- 1 185-14-B-1-C SHALL NOT EXCEED 1/2 OF THE TOTAL STREET FRONTAGE
- 2 _____
- 3 _____
- 4 _____

REVIEWED BY: JOSEPH MATTINA

DATE: 7-Mar-13



308

August 9, 2012

Newburger, LLC
222 Grand Avenue
Englewood, NJ 07631
Attention: Michael Schmidt

Re: Agreement of Lease by and between Newburger, LLC (Lessor") and Carrols LLC ("Lessee") concerning real property and improvements thereon commonly known as 80 Route 17K, Newburgh, NY

Dear Mr. Schmidt:

Carrols LLC intends to remodel the referenced Burger King restaurant pursuant to Burger King Corporation's current image guidelines prior to the end of 2012. The Alterations section of the Lease requires Lessor's consent for structural expenditures over \$2,500.00.

Please sign below and return a copy to me at your earliest convenience. Should you have any questions with respect to the foregoing, please do not hesitate to contact me.

Sincerely,

Terry L. Krawiec
Real Estate Coordinator

Acknowledged and Approved

Newburger, LLC

By: _____
Michael Schmidt





VIA OVERNIGHT MAIL

March 13, 2013

Town of Newburgh
Town of Newburgh Zoning
308 Gardnertown Road
Newburgh, NY 12550

Dear Chairperson Cardone and Board Member:

Timely Signage of Kingston, NY and its representatives have the right to represent Carrols Corporation, Carrols LLC or its affiliates in the matters before the Town of Newburgh most notably its Zoning Board of Appeals for application related to 80 Route 17k and 10 N. plank Road.

If you have any questions, please do not hesitate to call me.

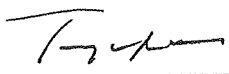
Respectfully,

Carrols LLC

By: 

Name: Thomas W. Brogan
Its: Real Estate Director

Sworn to before me this
13th day of March, 2013.



Notary Public

TERRY L. KRAWIEC
Notary Public, State of New York
Qualified in Onondaga Co. No. 4664541
My Commission Expires Oct. 31, 2014

968 James St. • Syracuse, NY 13203 • 1-800-348-1074 • Fax: (315) 475-9616



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

SBW CAPITAL PARTNERS LLC

TO
NEWBURGER, LLC

SECTION 95 BLOCK 1 LOT 23

RECORD AND RETURN TO:
(name and address)

Fidelity National Title Insurance Co.
1 Park Avenue
Suite 1402
New York, NY 10016

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

- | | |
|--|--|
| <input type="checkbox"/> 2089 BLOOMING GROVE (TN) | <input type="checkbox"/> 4289 MONTGOMERY (TN) |
| <input type="checkbox"/> 2001 WASHINGTONVILLE (VLG) | <input type="checkbox"/> 4201 MAYBROOK (VLG) |
| <input type="checkbox"/> 2003 SO. BLOOMING GROVE (VLG) | <input type="checkbox"/> 4203 MONTGOMERY (VLG) |
| <input type="checkbox"/> 2289 CHESTER (TN) | <input type="checkbox"/> 4205 WALDEN (VLG) |
| <input type="checkbox"/> 2201 CHESTER (VLG) | <input type="checkbox"/> 4489 MOUNT HOPE (TN) |
| <input type="checkbox"/> 2489 CORNWALL (TN) | <input type="checkbox"/> 4401 OTISVILLE (VLG) |
| <input type="checkbox"/> 2401 CORNWALL (VLG) | <input checked="" type="checkbox"/> 4600 NEWBURGH (TN) |
| <input type="checkbox"/> 2600 CRAWFORD (TN) | <input type="checkbox"/> 4800 NEW WINDSOR (TN) |
| <input type="checkbox"/> 2800 DEERPARK (TN) | <input type="checkbox"/> 5089 TUXEDO (TN) |
| <input type="checkbox"/> 3089 GOSHEN (TN) | <input type="checkbox"/> 5001 TUXEDO PARK (VLG) |
| <input type="checkbox"/> 3001 GOSHEN (VLG) | <input type="checkbox"/> 5200 WALLKILL (TN) |
| <input type="checkbox"/> 3003 FLORIDA (VLG) | <input type="checkbox"/> 5489 WARWICK (TN) |
| <input type="checkbox"/> 3005 CHESTER (VLG) | <input type="checkbox"/> 5401 FLORIDA (VLG) |
| <input type="checkbox"/> 3200 GREENVILLE (TN) | <input type="checkbox"/> 5403 GREENWOOD LAKE (VLG) |
| <input type="checkbox"/> 3489 HAMPTONBURGH (TN) | <input type="checkbox"/> 5405 WARWICK (VLG) |
| <input type="checkbox"/> 3401 MAYBROOK (VLG) | <input type="checkbox"/> 5600 WAWAYANDA (TN) |
| <input type="checkbox"/> 3689 HIGHLANDS (TN) | <input type="checkbox"/> 5889 WOODBURY (TN) |
| <input type="checkbox"/> 3601 HIGHLAND FALLS (VLG) | <input type="checkbox"/> 5801 HARRIMAN (VLG) |
| <input type="checkbox"/> 3889 MINISINK (TN) | <input type="checkbox"/> 5809 WOODBURY (VLG) |
| <input type="checkbox"/> 3801 UNIONVILLE (VLG) | CITIES |
| <input type="checkbox"/> 4089 MONROE (TN) | <input type="checkbox"/> 0900 MIDDLETOWN |
| <input type="checkbox"/> 4001 MONROE (VLG) | <input type="checkbox"/> 1100 NEWBURGH |
| <input type="checkbox"/> 4003 HARRIMAN (VLG) | <input type="checkbox"/> 1300 PORT JERVIS |
| <input type="checkbox"/> 4005 KIRYAS JOEL (VLG) | <input type="checkbox"/> 9999 HOLD |

NO. PAGES 7 CROSS REF. _____
CERT. COPY _____ ADD'L X-REF. _____
MAP# _____ PGS. _____
PAYMENT TYPE: CHECK
CASH _____
CHARGE _____
NO FEE _____

Taxable
CONSIDERATION \$ 1,050,000
TAX EXEMPT _____
Taxable
MORTGAGE AMT. \$ _____

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
DONNA L. BENSON
ORANGE COUNTY CLERK

Received From Fidelity

RECORDED/FILED
09/21/2010 / 09:49:08
DONNA L. BENSON
County Clerk
ORANGE COUNTY, NY
FILE#20100089811
DEED C / BK 13057PG 0499
RECORDING FEES 330.00
TTX# 000899 T TAX 4,200.00
Receipt#1220837 joanned

STATE OF NEW YORK (COUNTY OF ORANGE) SS:
DONNA L. BENSON, 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 9-21-10 AND THE SAME IS A CORRECT
TRANSCRIPT THEREOF. IN WITNESS WHEREOF, I HAVE
HEREUNTO SET MY HAND AND AFFIXED MY OFFICIAL SEAL.

Donna L. Benson 3-22-13
COUNTY CLERK & CLERK OF THE SUPREME COUNTY COURTS,
ORANGE COUNTY



THIS INDENTURE, dated as of the ^{10th} day of September, in the year 2010,

BETWEEN

SBW Capital Partners LLC,
a Delaware limited liability company
c/o Black Equities Group
433 N. Camden Drive
Suite 1070
Beverly Hills, CA 90210

party of the first part, and

Newburger, LLC,
a New York limited liability company
c/o Andrew Shapiro
222 Grand Avenue
Englewood, New Jersey 07631

party of the second part,

WITNESSETH, that the party of the first part, in consideration of Ten (\$10.00) dollars, lawful money of the United States, paid by the party of the second part, does hereby grant and release unto the part 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 described in SCHEDULE A attached hereto and a part hereof.

Said premises being and intended to be the same premises conveyed to the party of the first part by deed dated September 15, 2005.

Said premises being known as 80 Route 17K, located in the Town of Newburgh, County of Orange and State of New York.

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 line thereof,

TOGETHER with the appurtenances and all the estate and rights of the party of the first part in and to said premises;

TO HAVE AND TO HOLD the premises herein granted unto the party of the second part, the heirs or successors

and assigns of the party of the second part forever.

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

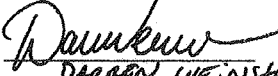
AND the party of the first part, in compliance with Section 13 of the Lien Law, covenants that the party of the first part will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of 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 to read "parties" whenever the sense of this indenture so requires.

(Signature Page Follows)

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

SBW Capital Partners LLC,
a Delaware limited liability company

By: 
Name: DARREN WEINSTOCK
Title: Manager

State of California)

County of Los Angeles)

On Sept 9, 2010 before me, Von Lewis, a Notary Public in and for said State, personally appeared,

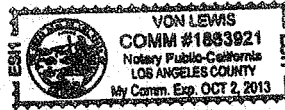
Darren Weinstock

_____, who proved to me the basis of satisfactory evidence) to be the person (s) whose name (s) ~~is~~ subscribed to the within instrument and acknowledged to me that ~~he~~ ~~she~~ ~~they~~ executed the same in ~~his~~ ~~her~~ ~~their~~ authorized capacity ~~(ies)~~, and that by ~~his~~ ~~her~~ ~~their~~ signature ~~(s)~~ on the instrument the person ~~(s)~~, or the entity upon behalf of which the person ~~(s)~~ acted, executed the instrument.

I certify under penalty of perjury under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature *Von Lewis*



(Area for Notary Seal)

**EXHIBIT "A"
TO DEED**

LEGAL DESCRIPTION

(Attached)

EXHIBIT "A"

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

BEGINNING at a point in the northerly line of Route 17K, said point being 100 feet westerly of the southwest corner of premises conveyed by Sibarco Corporation to Quadro Stations, Inc. by deed dated March 18, 1964, and recorded August 4, 1964 in the Orange County Clerk's Office in Liber 1673 of Deeds, page 382; extending

Thence (1) North 63 degrees 54' 10" West along said line of Route 17K, 175 feet to a 3/4 inch iron pipe located at the south westernmost corner of land conveyed by Sibarco Corporation to The Atlantic Refining Company by deed dated December 14, 1962, recorded in said Clerk's Office in Liber 1635 of Deeds, page 519;

Thence (2) along the westernmost line of lands conveyed to The Atlantic Refining company as aforesaid which is also line of lands now or formerly of one Patsalos North 24 degrees 22' 10" East 225 feet to a 3 inch Iron pipe;

Thence (3) South 63 degrees 54' 10" East along the southwesterly line of lands now or formerly of Patsalos 175 feet to a point;

Thence (4) South 24 degrees 22' 10" West 225 feet to the point of Beginning.

TOGETHER with the right of ingress, egress and regress, in common with The Atlantic Refining Company, its successors or assigns, for driveway purposes only, over, across and upon a certain triangular right of way, in the aforesaid Town, County and State and more particularly bounded and described as follows:

BEGINNING at a point, in the northerly line of Route 17K at the South-easternmost corner of the premises above described; extending

Thence (1) North 24 degrees 22' 20" East 40 feet to a point;

Thence (2) Southwardly 48 feet more or less to a point in said line of Route 17K, which point is 25 feet distant southeastwardly from the place of beginning herein, as measured along said line of Route 17K;

Thence (3) North 63 degrees 54' 10" West along said line of Route 17K, 25 feet to the point and place of beginning.

EXCEPTING AND RESERVING therefrom and thereout unto the Atlantic Refining Company, its successors or assigns, the right of ingress, egress and regress in common with Carrols Development Corp., its successors and assigns for driveway purposes only, over, across and upon a certain triangular right of way in the aforesaid Town, County and State, more particularly bounded and described as follows:

BEGINNING at a point in the northerly line of Route 17K at the south easternmost corner of the premises above described; extending

Thence (1) North 24 degrees 22' 10" East 40 feet to a point;

Thence (2) Southwestwardly 47 feet more or less to a point in said line of Route 17K, which point is 25 feet distant northwestwardly from the place of beginning herein, as measured along said line of Route 17K;

Thence (3) South 63 degrees 54' 10 East along said line of Route 17K, 25 feet to the point and place of Beginning.

Said premises is further described, pursuant to ALTA Land Title Survey by O'Neill-Rodak dated August 30, 2010 as follows:

Exhibit Page - Legal(exhibit)(08-07)

ALL THAT TRACT OR PARCEL OF LAND, situate in the Town of Newburgh, County of Orange and State of New York, more particularly known and described as follows:

BEGINNING at a point in the northerly highway boundary line of Route 17K (variable width) located 100.00 feet west of the southwest corner of land conveyed by Sibarco Corporation (Liber 1673 of Deeds, page 382); said point also located 280.00 feet west of the westerly highway boundary line of Union Avenue (Liber 2426 of Deeds, page 63);

thence (1) north 63 degrees 54'-10" seconds west along the northerly highway boundary line of Route 17K a distance of 175.00 feet to a point;

thence (2) north 24 degrees 22'-10" east along the east line of reputedly Kritikos Diner Corp. (Liber 2244 of Deeds, page 398) a distance of 225.00 feet to a point;

thence (3) south 63 degrees 54'-10" east along the south line of said Kritikos Diner Corp. a distance of 175.00 feet to a point;

thence (4) south 24 degrees 22'-10" west along the west line of reputedly Atlantic Refining & Marketing Corp. (Liber 2426 of Deeds, page 63) a distance of 225.00 feet to the point of beginning.

TOGETHER WITH the right of ingress, egress and regress, in common with The Atlantic Refining Company, its successors or assigns, for driveway purposes only, over, across and upon a certain triangular right of way, in the aforesaid Town, County and State, more particularly know and described as follows:

BEGINNING at a point in the northerly highway boundary line of Route 17K at the southeasternmost corner of the premises above described;

thence (1) north 24 degrees 22'-10" east a distance of 40.00 feet to a point;

thence (2) southwesterly approximately 47.00 feet to a point in said northerly highway boundary line of Route 17K; said point being 25.00 feet northwesterly from the place of beginning herein, as measured along said northerly highway boundary line;

thence (3) south 63 degrees 54'-10" east along said northerly highway boundary line a distance of 25.00 feet to the point of beginning.

EXCEPTING AND RESERVING therefrom and thereout unto the Atlantic Refining Company, its successors and/or assigns, the right of ingress, egress and regress in common with Carrols Development Corp., its successors and/or assigns for driveway purposes only, over, across and upon a certain triangular right of way in the aforesaid Town, County and State, more particularly known and described as follows:

BEGINNING at a point in the northerly highway boundary line of Route 17K at the southeasternmost corner of the premises above described;

thence (1) north 24 degrees 22'-10" east a distance of 40.00 feet to a point;

thence (2) southwesterly approximately 47.00 feet to a point in said northerly highway boundary line of Route 17K; said point being 25.00 feet northwesterly from the place of beginning herein, as measured along said northerly highway boundary line;

thence (3) south 63 degrees 54'-10" east along said northerly highway boundary line a distance of 25.00 feet to the point of beginning.

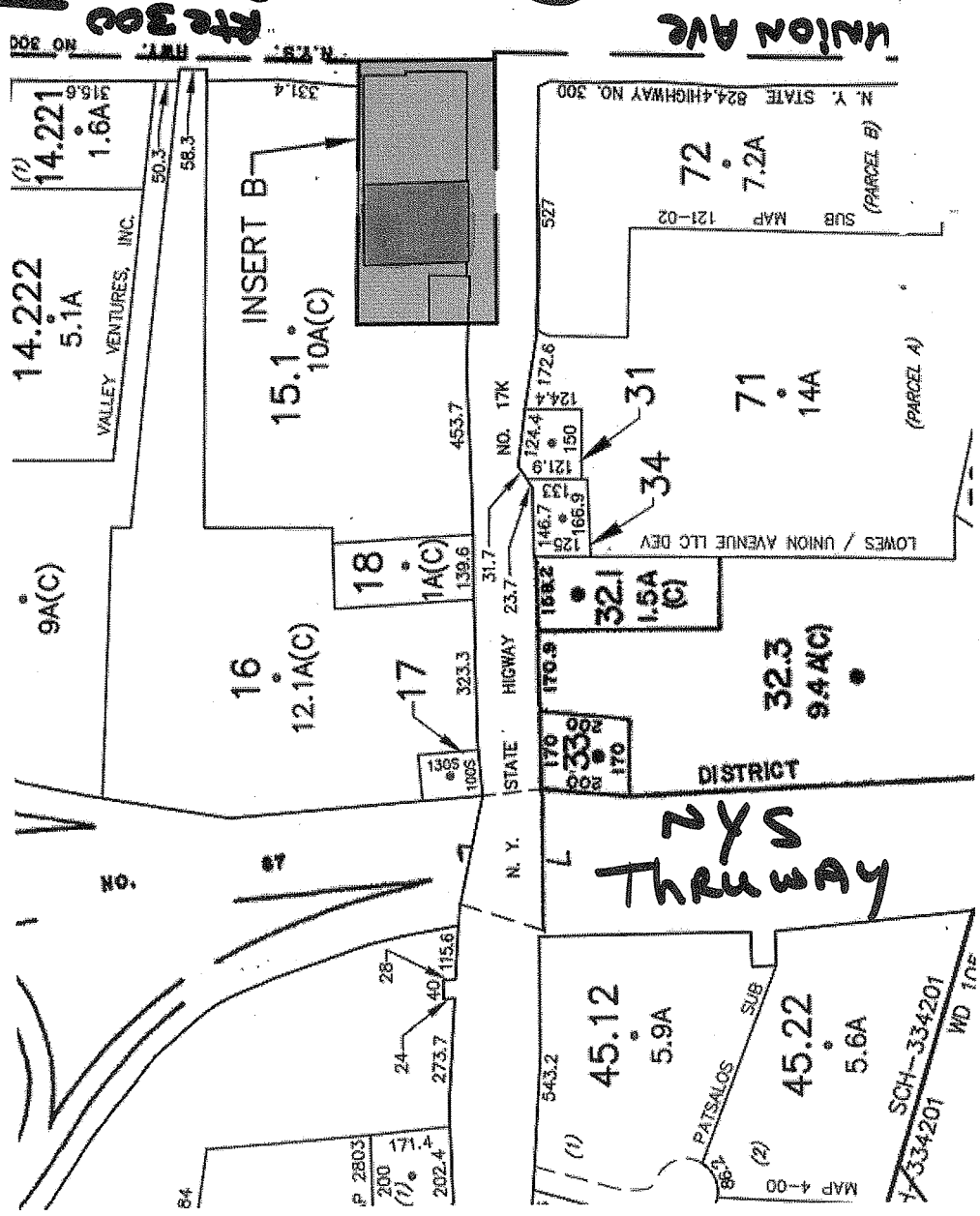
10-23010-u

Newburger LLC

80 Rte 17K

95-1-23

(Burger King)



UNION AVE

2XS THRUWAY

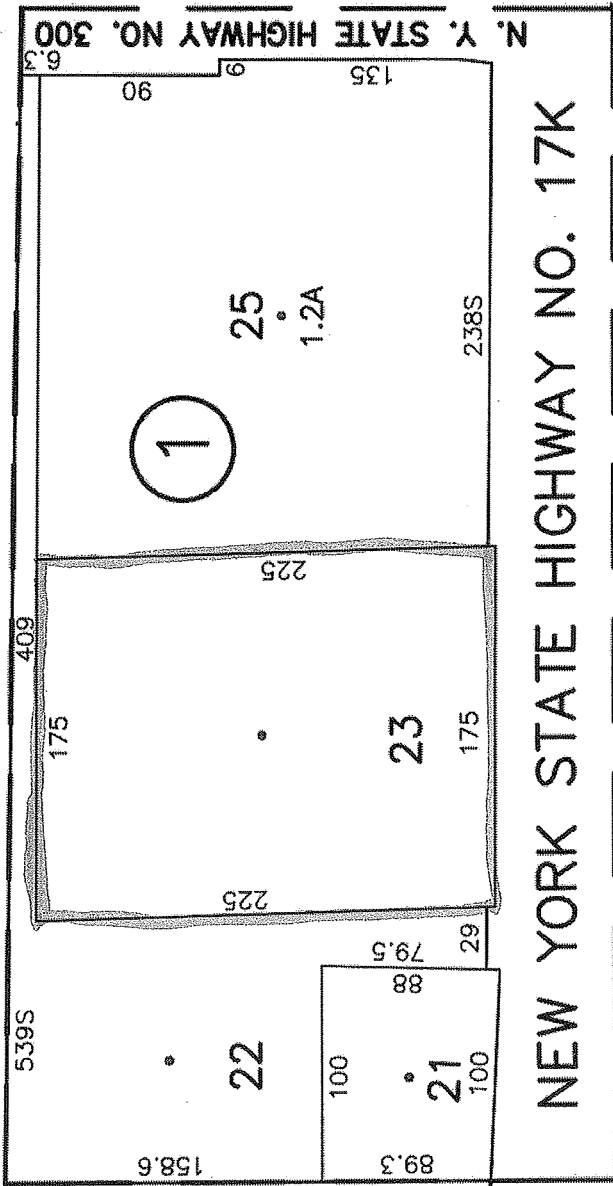
SCH-334201
WD 105

Newburger LLC

80 Rte 17K

95-1-23

(Burger King)



INSERT B