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February 5, 2024

VIA EMAIL AND FEDEX

Darrin J. Scalzo, Chairman
Town of Newburgh Zoning Board of Appeals
Town of Newburgh Town Hall
1496 Route 300
Newburgh, New York 12550



Re: *Variance Applications*

Dear Chairman Scalzo and Members of the Zoning Board of Appeals ("ZBA"):

This firm represents RAM Hotels, Inc. (the "Applicant") the owners of 880 Auto Park Place respectively, in the Town of Newburgh (the "Project Site"). See **Exhibit A** [Property Deeds].

As you may know, the Applicant received site plan approval from the Town of Newburgh Planning Board (the "Planning Board") on July 20, 2017, amended on October 4, 2018, to develop a 5-story, 112 room hotel at the Project Site. See **Exhibit B** [Resolution of Site Plan Approval]. During the review process, the Town Building Inspector required the Applicant to obtain two (2) variances from the ZBA: (1) a variance allowing a building to have a height of 69.4 feet where 50 feet is the maximum height allowed under Town of Newburgh Zoning Code (the "Zoning Code") § 185-11; and a variance under Zoning Code § 185-27(C)(1) which requires that a hotel shall have principal frontage on a state or county highway (the "Variances"). On October 27, 2016, the Applicant received approval for the Variances. See **Exhibit C** [ZBA Resolution of Approval and ZBA Original Application]. However, during the time the Planning Board was reviewing and approving the Applicant's site plan application, which resulted in a long court action, the Building Inspector determined that the variances had expired.¹

In particular, when the Applicant sought a Building Permit from the Town, it received a letter from the Code Compliance Officer, Joseph Mattina, dated October 3, 2023, stating that "the variances received from the zoning board of appeals on 12-22-2016 has expired." See **Exhibit D** [Code Compliance Denial Letter, dated October 3, 2023]. As a result, the Applicant is seeking

¹ Under the Town Code, variance approvals expire after six-months unless extended by the ZBA. Town Zoning Code § 185-55(D).

approval from the ZBA for the Variances again.

The Applicant is pursuing the exact same variances that were approved in 2016 by the ZBA. The Site Plans remained unchanged since the ZBA's original approval. *See Exhibit E* [Site Plans, signed October 2021]. An administrative agency, such as the ZBA here, cannot reach a contrary determination on essentially the same facts as a prior determination. A later inconsistent determination will be annulled in the absence of distinguishable operative facts and an explanation by the agency of the reason for the departure from its prior determination. *See e.g. Matter of Richardson v. Commissioner of New York City Dept. of Social Servs.*, 88 N.Y.2d 35, 39-40 (1996) (administrative agency's interpretation of statute that conflicted with its own prior interpretation was irrational in absence of a reasoned explanation for the departure); *Matter of Martin*, 70 N.Y.2d 679 (1987) (agency's failure to reach consistent determination based on essentially same facts was irrational). Nor can an agency treat similarly situated applicants differently without distinguishing facts and an explanation from the agency. *Matter of Charles A. Field Delivery Serv., Inc.*, 66 N.Y.2d 516, 519-520 (1985) (agency's failure to adhere to prior precedent in treating similarly situated parties consistently requires annulment of resulting determination even if there is otherwise substantial evidence to support the determination).

That being said, review by the ZBA for the Variances, where no changes have been made, is required to result in the same determination. Pursuant to Zoning Law Article 17, the Applicant respectfully submits this application to the ZBA with respect to the Variances cited above. *See Exhibit F* [ZBA Application]. As discussed in more detail below, we believe that the Project continues to meet the standards for granting the Variances.

SEQRA and County Referral

Previously this action was listed as an Unlisted Action in accordance with the State Environmental Quality Review Act ("SEQRA"). *See Exhibit C* [ZBA Resolution of Approval]. The ZBA granted a Negative Declaration, thereby determining that the application will have no adverse impacts on the environment. Since this is a new application, the Applicant has provided the ZBA with a completed Short Environmental Assessment Form. *See Exhibit G* [Short Environmental Assessment Form, dated February 1, 2024]. However, since no changes have been made to the original variance request, the ZBA should classify the Variances as an Unlisted Action in accordance with SEQRA and re-grant a Negative Declaration.

Additionally, the Project requires General Municipal Law § 239 referral to Orange County Planning Board. In 2016, the Orange County Planning Department found that there would be no significant inter-municipal or countywide considerations with regards to this application. *See Exhibit C* [ZBA Resolution of Approval].

Variance Application Materials

In accordance with the ZBA Application requirements, please find the following

documents in support of the variance applications:

- Exhibit A:** Original or Certified Copy of Deeds;
- Exhibit B:** Resolution of Site Plan Approval, dated July 20, 2017, amended on October 4, 2018;
- Exhibit C:** ZBA Resolution of Approval, dated October 27, 2016 and ZBA Original Application;
- Exhibit D:** Code Compliance Denial Letter dated October 3, 2023;
- Exhibit E:** Site Plans, signed October 2021;
- Exhibit F:** ZBA Application Forms (including Proxy Statement);
- Exhibit G:** Short Environmental Assessment Form, dated February 1, 2024;
- Exhibit H:** Enclosure Checklist;;
- Exhibit I:** Site Photographs; and
- Exhibit J:** Assessor's List of property owners within 500 feet.

Additionally, the Applications include one check for the application fee in the amount of \$550.00 each to the Town of Newburgh.

Need For Variances

NYS Town Law § 267-B(3)(b) provides the applicable legal standards for review of variances by the ZBA. This law requires the ZBA, in deciding whether to grant the requested variances, to undertake a “balancing test” that considers the “benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant.” As discussed below, we submit that the Variances are justified under this “balancing test” as required by the NYS Town Law.

Accordingly, the granting of the Variances will not detrimentally affect the health, safety, and welfare of the neighborhood or community. Based on the balancing of the factors provided in NYS Town Law § 267-B(3)(b), the Applicant respectfully submits that the requested Variances should be granted for the following reasons:

NYS Town Law § 267-B(3)(b)(1) - Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variances.

The Project is located in the IB District, where hotel uses are specifically permitted. Since this is a permitted use in the IB District, it will not result in any adverse changes or impacts upon the neighborhood or the surrounding area. Additionally, the Property is located in the Town amongst a variety of commercial uses. The increased height will not result in any visual impacts to the neighborhood and will ultimately blend in with the surrounding character. *See Exhibit J [Site Photographs].*

Additionally, the frontage variance will not result in any adverse impacts to the neighborhood either. On September 16, 2016, the Applicant's engineer stated that the capacity on Unity Place far exceeds its current usage. Additional traffic from the hotel will enter and exit from Unity Place from a signalized intersection off of New York State 17K. Based on this information, it demonstrated that Unity Place was constructed to accommodate heavy commercial traffic and that the proposed hotel will fit nicely into the proposed development scheme in the area. Further, the traffic generated from the hotel will not cause any detriment to the road or the surrounding neighborhood and, therefore, does not require frontage onto a state or county road.

Thus, the Variances will not result in any undesirable change in the character of the neighborhood or detriment to nearby properties.

NYS Town Law § 267-B(3)(b)(2) - Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than area variances.

The Applicant cannot achieve the benefits sought by any other method or alternative other than by seeking the Variances. The height variance is required "primarily due to the difference in brand standards between a Hilton Garden Inn franchise" and other hotel franchises. *See Exhibit C [ZBA Resolution of Approval]*. The first-floor ceiling height that is significantly higher than other hotels, results in needing to increase the height of the building. Therefore, to accommodate the Hilton Garden Inn franchise, the Applicant has no other alternative other than to request a variance for the proposed height.

Additionally, the Property does not have its principal frontage on a state or county road, which ultimately can only be solved by requesting a variance.

Based on this information, the Applicant cannot achieve their Project goals by any other method other than pursuing the Variances.

NYS Town Law § 267-B(3)(b)(3) - Whether the requested area variance is substantial.

The Variances are relatively modest in nature relative to the size and scale of the Project and are consistent with the nature of the surrounding area. They do not create any adverse impacts on surrounding properties or the environment, given the developed commercial district where the Project Site is located. New York State courts have upheld area variances similar in size to the requested variances, particularly when granting the variance does not result any adverse impacts, as is the case here. In *N. Country Citizens for Responsible Growth, Inc. v. Town of Potsdam Plan. Bd.*, 39 A.D.3d 1098, 1102 (3d Dept. 2007), the Appellate Division held:

“[t]he ZBA concluded that the area variance was insubstantial. This conclusion was supported by the calculation showing that the proposed setback is 146 feet, which is 73% of the required 200-foot

setback. . . In addition, the tire and lube garage is relatively small in size, and the services it provides would be indoors and limited to normal working hours. The proposed visual and noise buffers, serving to limit any adverse impact, also supported a finding that the variance is insubstantial.”

As shown on the Project’s Site Plan (See **Exhibit E**) and in the context of the surrounding commercial corridor, the Variances will not result in any measurable adverse impacts to the character of the neighborhood or environment.

NYS Town Law § 267-B(3)(b) (4) - Whether the proposed variances will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

Granting the Variance will have no adverse effects on the physical or environmental conditions in the neighborhood or district. The Project is proposed in a commercial district, characterized by commercial uses along a commercial corridor. The Project matches new construction in the commercial corridor. Additionally, the Planning Board granted the Project a SEQRA negative declaration, determining it will not result in any adverse impacts on the physical or environmental conditions in the neighborhood. See **Exhibit C**, [ZBA Resolution of Approval]. Therefore, granting the Variances will have no adverse effects on the physical or environmental conditions in the neighborhood or district.

NYS Town Law § 267-B(3)(b)(5) - Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the board of appeals but shall not necessarily preclude the granting of the area variance.

As discussed above, the requested Variances although self-created, will not result in any adverse impacts to the neighborhood. The circumstances provided above demonstrate that it is not feasible to construct a hotel without the requested height or for the Applicant to satisfy the condition that the proposed hotel must have frontage on a state or county road.

Nevertheless, the fact that an area variance is self-created “shall not necessarily preclude the granting of the area variance.” See N.Y. Town Law § 267-b(3)(b)(5); see also *Daneri v Zoning Bd. of Appeals of Town of Southold*, 98 AD3d 508 (2d Dept 2012) (self-created nature of difficulty is not preclusive of the ability to obtain an area variance).

Conclusion

Based on the foregoing, granting the Variances will not detrimentally affect the health, safety, and welfare of the surrounding properties or the community. As mentioned above, the Variances have already been approved by the ZBA in 2016 and the Applicant has not changed any aspect of the Project, including the Variances, therefore, the Variances should be granted.

Darrin J. Scalzo, Chairman and Town of Newburgh Zoning Board of Appeals
February 5, 2024
Page 6

Thank you kindly for your attention to our application. We look forward to discussing this matter with you at the ZBA's upcoming meeting. Please let me know if you have any questions on the updated materials submitted.

Very truly yours,



Robert S. Rosborough IV

Enclosures

cc: David Donovan, Esq., Town ZBA Attorney
Nimit Patel

EXHIBIT A

ORANGE COUNTY CLERK'S OFFICE RECORDING PAGE

THIS PAGE IS PART OF THE INSTRUMENT - DO NOT REMOVE



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

WEBB PROPERTIES, INC.
TO
NEWBURGH AUTO PARK, L.L.C

SECTION 97 BLOCK 2 LOT 37

RECORD AND RETURN TO:
(Name and Address)

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

RICHARD J. DRAKE ESQ
DRAKE SOMMERS LOEB TARSHIS CATANIA & LIBERTH
BO BOX 1479
NEWBURGH NY 12551
RJD/mwc/50973

DO NOT WRITE BELOW THIS LINE

INSTRUMENT TYPE: DEED [checked] 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)
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4289 MONTGOMERY (TN)
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5600 WAWAYANDA (TN)
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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: Drake

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01/19/2005/ 09:38:43
DONNA L. BENSON
County Clerk
ORANGE COUNTY, NY
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DEED C 7 BK 11724 PG 1610
RECORDING FEES 207.00
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Receipt#367247 juls

STATE OF NEW YORK, COUNTY OF ORANGE ss:
I, Kelly A. Eskew, 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 1/19/2005 and the same is a correct
transcript thereof in witness whereof, I have hereunto set my
hand and affixed my official seal 02/01/2024
Kelly A. Eskew
County Clerk & Clerk of the Supreme County Courts
Orange County



Bargain & sale deed, with covenant against grantor's acts

THIS INDENTURE, made the 29 day of November, two thousand four
BETWEEN

WEBB PROPERTIES, INC., a New York corporation with an address at 800
Auto Park Drive, Newburgh, New York 12550

party of the first part, and

NEWBURGH AUTO PARK, LLC, a New York limited liability company with
an address at 800 Auto Park Drive, Newburgh, New York 12550

party of the second part,

WITNESSETH, that the party of the first part, in consideration of TEN AND 00/100
(\$10.00) DOLLARS, lawful money of the United States 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, situate, lying and being in the Town of
Newburgh, County of Orange, and State of New York shown and designated as Lot A3
(8.47± acres) on a map entitled "Subdivision & Lot Line Change, Proposed Lots for
Webb, Yu, Tighe", filed in the Orange County Clerk's Office on November 7, 2001 as
Map #236-01.

This transaction is being made in the usual course of business actually conducted by the
grantor corporation and does not constitute a sale, transfer, or alienation of all or
substantially all of the assets of said corporation. This conveyance is authorized by the
Board of Directors and no other consent is required.

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.

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.

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

IN PRESENCE OF:

WEBB PROPERTIES, INC.

By: 

Ronald K. Barton, President

STATE OF NEW YORK)

)SS.:

COUNTY OF ORANGE)

On the 29 day of November, 2004, before me, the undersigned, a notary public in and for said state, personally appeared **Ronald K. Barton** 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

Record and Return to:
Richard J. Drake, Esq.
Drake, Sommers, Loeb, Tarshis,
Catania & Liberth, PLLC
PO Box 1479
Newburgh, New York 12551

RICHARD J. DRAKE
A Notary Public, State of New York
Qualified in Orange County
02DR6096165
Commission Expires August 31, 2008

Section 97, Block 2, Lot 37
T/Newburgh - C/Orange

#277244
3985-50972
11/16/04

SCHEDULE A

ALL that certain lot, piece or parcel of land, situate, lying and being in the Town of Newburgh, County of Orange, State of New York shown and designated as Lot A3 (8.47+/- acres) on a map entitled "Subdivision & Lot Line Change, Proposed Lots for Webb, Yu, Tighe", filed in the Orange County Clerk's Office on 11/7/01 as Map #236-01.

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TO
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Receipt#367247 Jul 5

STATE OF NEW YORK, COUNTY OF ORANGE ss:
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and County Courts, Orange County, do hereby certify that I
have compared this copy with the original thereof filed or
recorded in my office 1/19/2005, and the same is a correct
transcript thereof in witness whereof, I have hereunto set my
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Kelly A. Eskew
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Bargain & sale deed, with covenant against grantor's acts

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forever,

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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.

AND the party of the first part covenants that the party of the first part has not done or
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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.

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IN PRESENCE OF:

WEBB PROPERTIES, INC.

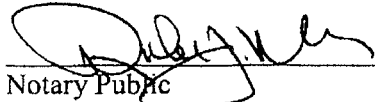
By: 
Ronald K. Barton, President

STATE OF NEW YORK)

)SS.:

COUNTY OF ORANGE)

On the 29 day of November, 2004, before me, the undersigned, a notary public in and for said state, personally appeared **Ronald K. Barton** 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

Record and Return to:
Richard J. Drake, Esq.
Drake, Sommers, Loeb, Tarshis,
Catania & Liberth, PLLC
PO Box 1479
Newburgh, New York 12551

RICHARD J. DRAKE
A Notary Public, State of New York
Qualified in Orange County
02DR6096165
Commission Expires August 31, 2006

Section 97, Block 2, Lot 37
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EXHIBIT B

RESOLUTION OF APPROVAL
PRELIMINARY AND FINAL SUBDIVISION
SITE PLAN
ARB
FOR
RAM HOTELS, INC.
PROJECT # 2016-21

Nature of Application

RAM Hotels, Inc. has applied for Subdivision approval allowing it to create 2 new Parcels of land on a ±8.5 acre tract and for approval of a Site Plan permitting the use of the property identified herein for to construct a 5-story, 112-room Hilton Garden Inn and for approval of architectural renderings by the Planning Board sitting as the Architectural Review Board.

Property Involved

The property affected by this resolution is shown on the Tax Maps of the Town of Newburgh as parcel(s) 97-2-37.

Zoning District

The property affected by this resolution is located in the IB zoning district of the Town of Newburgh.

Plans

The Site Plan materials considered consist of the following:

1. Completed application form and Environmental Assessment Form.
2. Plans prepared for RAM Hotels, Inc. as follows:

<u>Author</u>	<u>Title</u>	<u>Last Revision Date</u>
Mercurio Norton Tarolli Marshall Engineering and Land Surveying	Site Plan	July 6, 2017
Mercurio Norton Tarolli Marshall Engineering and Land Surveying	Existing Conditions and Removal Plan	July 6, 2017
Mercurio Norton Tarolli Marshall Engineering and Land Surveying	Utility & Grading Plan – South	July 6, 2017
Mercurio Norton Tarolli Marshall Engineering and Land Surveying	Utility & Grading Plan – North	July 6, 2017
Mercurio Norton Tarolli Marshall Engineering and Land Surveying	Detail Sheet	July 6, 2017
Mercurio Norton Tarolli Marshall Engineering and Land Surveying	Water and Sewer Detail Sheet	July 6, 2017
Mercurio Norton Tarolli Marshall Engineering and Land Surveying	Stormwater Detail Sheet	July 6, 2017
Mercurio Norton Tarolli Marshall Engineering and Land Surveying	Erosion & Sediment Control Detail Sheet	July 6, 2017
Mercurio Norton Tarolli Marshall Engineering and Land Surveying	Landscaping Detail Sheet I	July 6, 2017
Mercurio Norton Tarolli Marshall Engineering and Land Surveying	Landscaping Detail Sheet II	July 6, 2017
Mercurio Norton Tarolli Marshall Engineering and Land Surveying	Lighting Detail Sheet	July 6, 2017
Mercurio Norton Tarolli Marshall Engineering and Land Surveying	Amended Striping Plan	July 6, 2017
Mercurio Norton Tarolli Marshall Engineering and Land Surveying	Survey & Subdivision	July 6, 2017

Mercurio Norton Tarolli Marshall Engineering and Land Surveying	Potential Development Plan for Lot 2 of Subdivision	July 6, 2017
Silvestri Architects PC	First Floor Plan	May 15, 2017
Silvestri Architects PC	Fifth Floor Plan	May 15, 2017
Silvestri Architects PC	Exterior Elevations	May 15, 2017
RAB Lighting	Lighting Layout Version B	March 20, 2017
RAB Lighting	Lighting Layout Version B	March 20, 2017
RAB Lighting	Lighting Layout Version B	March 20, 2017
RAB Lighting	Lighting Layout Version B	March 20, 2017

History

DATE OF APPLICATION

The application was filed with the Planning Board on December 6, 2016.

PUBLIC HEARING

A public hearing on this application was convened on April 20, 2017 and closed on the same date.

SEQRA

Type of Action:

This matter constitutes an unlisted action under the State Environmental Quality Review Act.

Lead Agency:

The Town of Newburgh Planning Board is the lead agency in regard to

this action. The Planning Board's status as lead agency was established on December 15, 2016.

Declaration of Significance:

A negative declaration was issued on March 16, 2017.

GML 239 Referral

This application is not required to be referred to the Orange County Planning Department for review.

Findings

The Planning Board has determined that approval of this subdivision will substantially serve the public convenience, safety and welfare in that the land to be subdivided is of such character that it can be used safely for building purposes without danger to health or peril from fire, flood or other menace. Further, the arrangement, location and width of streets, their relation to the topography of the land, water supply, sewage disposal, drainage, lot sizes and arrangement, the possible future development of adjoining land as yet un-subdivided are all appropriate and consistent with the requirements of the master plan, the official map, Article I of the Town of Newburgh Subdivision Regulations and applicable zoning regulations, subject to compliance in full with conditions hereinafter imposed.

The Planning Board has determined that approval of the Site Plan will substantially serve the public convenience, safety and welfare; and will not otherwise be unduly detrimental to the public health, safety, comfort convenience or welfare, subject to compliance in full with conditions hereinafter imposed pursuant to Section 185-57 (H).

The Planning Board has further determined, in its capacity as Architectural Review Board, that the renderings submitted and approved on July 20, 2017 are architecturally appropriate and blend into the existing character of the neighborhood. Said renderings are hereby approved. A copy of said renderings, signed by

the Chair simultaneously with this resolution are on file in the Building Inspector's office. No building permit nor certificate of occupancy shall be issued except for structures consistent with these renderings.

Resolution of Approval

NOW, THEREFORE, THE PLANNING BOARD RESOLVES to approve the preliminary and final subdivision application of RAM Hotels, Inc. and to approve this Site Plan as said proposal is depicted on the plans identified above and to grant ARB approval, all upon the conditions outlined below, and the Chairperson (or his designee) is authorized to sign the plans upon satisfaction of those conditions below noted to be conditions precedent to such signing.

Specific Conditions

1. The plans shall not be signed until receipt of a letter from the Planning Board Engineer certifying that the plans have been modified in accordance with his memo of July 18, 2017.
2. This approval is not intended to constitute an approval of the signs shown on the plans which are to be approved by the Building Inspector and, if necessary, by the Zoning Board of Appeals.
3. This approval is subject to and conditioned upon delivery of written approval by the Orange County Department of Health [water main extension with hydrants].
4. This approval is subject to the applicant delivering notice the Army Corps of Engineers before any construction begins on site.
5. All conditions attached to a grant of variance issued by the Town of Newburgh Zoning Board of Appeals on October 27,

2016 (copy attached hereto) are made a part of this approval and this approval is subject to the same as if those conditions were set forth herein at length.

6. The applicant has obtained approval from the City of Newburgh to accept sewer flows from the project at its plant. This approval is hereby subject to full compliance with the conditions of that approval as if those conditions were set forth herein at length.

7. The applicant has demonstrated an ability to provide the full number of parking spaces required by the zoning chapter and has depicted the full parking complement on the site plan. At the same time, the applicant has shown a likelihood that the total number of spaces required will, if constructed, not be fully utilized. Therefore, in order to avoid the adverse aesthetic effects and the increase in storm-water runoff inherent in building overly large parking lots, the Planning Board will allow the applicant to set aside a portion of the required parking area as land-banked parking and will not require that this area be constructed at this time. The area designated as land-banked parking has been so indicated on the site plan. The applicant agrees that the Planning Board shall have the sole discretion to decide if, and when, construction of parking in this area shall be required. Toward this end the applicant shall, prior to signing of the plans, deliver an appropriate instrument to the Town in which the applicant acknowledges its obligation of land-banked parking construction upon direction from the Town. The obligation set forth in the instrument shall run to the Town, shall be in form suitable for recording (and recite that the obligation set forth shall run with the land) and shall be satisfactory in form to the Town Attorney.

8. The applicant shall, pursuant to New York State Vehicle and Traffic Law Section 1660-a, specifically and irrevocably authorize Town of Newburgh Police, Parking Enforcement and Code Compliance personnel to enter the project site for purposes of enforcing parking and other Vehicle and Traffic Law violations on site. The plans shall not be signed until such written authorization is delivered to the Town.
9. A Common Driveway Easement and Maintenance Agreement, including provision for maintenance of drainage structures, satisfactory to the Planning Board Attorney, must be submitted and approved before the plans are signed. That instrument must be recorded as a condition of this approval.

Architectural Review Board Approval

10. No building permit shall be issued authorizing construction of structures inconsistent with the architectural renderings submitted to, and approved by, the Architectural Review Board as part of this approval, nor shall any certificate of occupancy be issued for any structures constructed except in conformance with such renderings. Karen Arent, the Town's Landscape Architect, shall review the building plans when submitted to the Building Department in order to insure compliance with the approved architectural renderings. Karen Arent, the Town's Landscape Architect, shall also inspect the work before a certificate of occupancy is issued to insure compliance with the approved architectural renderings.

Landscape Security & Inspection Fee

11. Pursuant to 185-57 (L), together with 163-9 (B) [incorporated therein by reference], as well as 185-50 (D), this approval shall

be subject to the applicant posting, with the Town Clerk, a performance security, in an amount to be fixed by the town board upon recommendation of the town's landscape consultant in order to secure timely completion and appropriate maintenance of the landscaping improvements depicted on the plans, satisfactory to the Town Board, Town Engineer and Town Attorney as to form, sufficiency, manner of execution and surety. The performance security shall recite that all improvements secured thereby shall be completed within three year(s) of this approval and maintained for a period of two years thereafter. The Town's Landscape Architect, is hereby authorized to periodically inspect the site in order to insure compliance with this condition. A separate inspection fee in an amount in accordance with Section 104-2 (G)(6) shall be submitted and deposited in an escrow account to cover the cost of the Town's Landscape Architect services. The applicant shall be required to pay the required landscaping security to the town before the plans are signed. The amount of the landscape security may be adjusted (upon recommendation of the Town's landscape consultant) if warranted due to changes in the market pricing of the required landscape materials. The applicant shall be required to pay the required landscaping inspection fee in the amount of \$2,000 to the town before the plans are signed.

Stormwater Improvement Security & Inspection Fee

12. Prior to the signing of plans or issuance of a building permit, the applicant shall deliver a performance security to the Town Clerk, pursuant to Section 157-10 (B) of the Code of Ordinances of the Town of Newburgh, in order to guarantee to the town that the applicant will faithfully cause to be constructed and completed the required stormwater improvements shown

on the plans. The performance security shall be in an amount set by the Town Board and shall be satisfactory to the Town Board and Town Attorney as to form, sufficiency, manner of execution and surety. A period of three (3) years shall be set forth in the document of surety within which required improvements must be completed. An inspection fee in an amount in accordance with Section 104-2 (A)(8) shall also be paid to the Town prior to signing of the plans. A separate inspection fee in an amount in accordance with Section 104-2 (A)(8) shall also be submitted and deposited in an escrow account to cover the cost of the Town's periodic inspection of the erosion control measures to be implemented by the applicant.

13. This approval is conditioned upon the applicant executing a stormwater control facility maintenance agreement as required by Section 157-11(K) of the Code of the Town of Newburgh in order to ensure the long term maintenance and proper operation of the stormwater facilities shown on the plans. The plans shall not be signed until that agreement has been executed and the required inspection fee paid.

Outdoor Fixtures & Amenities

14. This site plan approval allows construction of only that which is shown on the plans identified above. No outdoor amenities or accessory structures or outdoor fixtures—including but not limited to exterior walls, mechanical units, dumpsters, etc.—may be constructed, placed or erected except as shown on the approved site plan. Architectural drawings shall carry a certification that what is shown thereon is fully consistent with the approved site plan.

General Conditions

This approval is conditioned upon the applicant submitting all necessary copies of the plans to be signed, including mylars when required, to the Town of Newburgh Building Department. A full set of the plans to be signed shall simultaneously be submitted to the Planning Board Engineer. The plans shall not be signed until the Planning Board Engineer has reported to the Chair that all conditions of this resolution required to be satisfied before the plans can be signed have, in fact, been satisfied.

This approval is further conditioned upon the applicant delivering (prior to signing of the plans) proof, in writing, that all fees—engineering, planning, legal and otherwise—in regard to this project have been fully paid. The applicant shall also be required to deliver proof that all required Public Improvement, Erosion Control and Landscaping inspection fees and escrow have been deposited with the Town. The plans shall not be signed until proof, satisfactory to the Chair, has been presented showing that all fees have been paid and escrow deposits made.

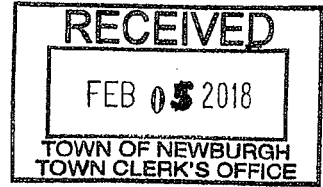
Approval of the final site plan shall, pursuant to Section 185-58 (E) of the Zoning Ordinance, be valid for two years from the date this resolution is filed in the office of the Town Clerk, after which time this approval shall be null and void unless a building permit has been issued. If no building permit has been issued within that time, the plan must be resubmitted to the Planning Board for approval.

A FAILURE to comply with the general condition immediately above in a timely manner shall result, without further action, in a lapsing of this approval.

In Favor 4 Against 0 Abstain Absent 3

Dated: July 20, 2017

JOHN P. EWASUTYN, CHAIRPERSON
TOWN OF NEWBURGH PLANNING BOARD



RESOLUTION OF APPROVAL

SITE PLAN

AMENDED

FOR

RAM HOTELS, INC.

PROJECT # 2016-21

Nature of Application

RAM Hotels, Inc. applied for, and received, Subdivision approval allowing it to create 2 new Parcels of land on a ±8.5 acre tract and for approval of a Site Plan permitting the use of the property identified herein for to construct a 5-story, 112-room Hilton Garden Inn and for approval of architectural renderings by the Planning Board sitting as the Architectural Review Board. The applicant now seeks to amend its site plan approval in order to construct 143 parking stalls rather than to land-bank 13 of those spaces as earlier proposed and approved.

Property Involved

The property affected by this resolution is shown on the Tax Maps of the Town of Newburgh as parcel(s) 97-2-37.

Zoning District

The property affected by this resolution is located in the IB zoning district of the Town of Newburgh.

Plans

The Site Plan materials considered consist of the following:

1. Completed application form and Environmental Assessment Form.
2. Plans prepared for RAM Hotels, Inc. as follows:

<u>Author</u>	<u>Title</u>	<u>Last Revision Date</u>
Mercurio Norton Tarolli Marshall Engineering and Land Surveying	Site Plan	January 15, 2018
Mercurio Norton Tarolli Marshall Engineering and Land Surveying	Existing Conditions and Removal Plan	January 15, 2018
Mercurio Norton Tarolli Marshall Engineering and Land Surveying	Utility & Grading Plan – South	January 15, 2018
Mercurio Norton Tarolli Marshall Engineering and Land Surveying	Utility & Grading Plan – North	January 15, 2018
Mercurio Norton Tarolli Marshall Engineering and Land Surveying	Detail Sheet	January 15, 2018
Mercurio Norton Tarolli Marshall Engineering and Land Surveying	Water and Sewer Detail Sheet	January 15, 2018
Mercurio Norton Tarolli Marshall Engineering and Land Surveying	Stormwater Detail Sheet	January 15, 2018
Mercurio Norton Tarolli Marshall Engineering and Land Surveying	Erosion & Sediment Control Detail Sheet	January 15, 2018
Mercurio Norton Tarolli Marshall Engineering and Land Surveying	Landscaping Detail Sheet I	January 15, 2018
Mercurio Norton Tarolli Marshall Engineering and Land Surveying	Landscaping Detail Sheet II	January 15, 2018
Mercurio Norton Tarolli Marshall Engineering and Land Surveying	Lighting Detail Sheet	January 15, 2018
Mercurio Norton Tarolli Marshall Engineering and Land Surveying	Amended Striping Plan	January 15, 2018
Silvestri Architects PC	First Floor Plan	May 15, 2017

Silvestri Architects PC	Fifth Floor Plan	May 15, 2017
Silvestri Architects PC	Exterior Elevations	May 15, 2017
RAB Lighting	Lighting Layout Version B	March 20, 2017
RAB Lighting	Lighting Layout Version B	March 20, 2017
RAB Lighting	Lighting Layout Version B	March 20, 2017
RAB Lighting	Lighting Layout Version B	March 20, 2017

History

DATE OF APPLICATION

The original application was filed with the Planning Board on December 6, 2016. Subdivision, Site Plan and ARB approval were granted on July 20, 2017. A CPLR article 78 proceeding challenging the adequacy of the number of approved parking stalls resulted in a decision remitting this matter to the Planning Board:

“Inasmuch as the resolution does not expressly state the Planning Board’s finding regarding the minimum number of spaces required, it is necessary for this matter to be remitted to the Planning Board.”

PUBLIC HEARING

A public hearing on this application was convened on April 20, 2017 and closed on the same date.

SEQRA

Type of Action:

This matter constitutes an unlisted action under the State Environmental Quality Review Act.

Lead Agency:

The Town of Newburgh Planning Board is the lead agency in regard to this action. The Planning Board's status as lead agency was established on December 15, 2016.

Declaration of Significance:

A negative declaration was issued on March 16, 2017.

GML 239 Referral

This application is not required to be referred to the Orange County Planning Department for review.

Findings

The Planning Board has determined that approval of this Amended Site Plan will substantially serve the public convenience, safety and welfare; and will not otherwise be unduly detrimental to the public health, safety, comfort convenience or welfare, subject to compliance in full with conditions hereinafter imposed pursuant to Section 185-57 (H).

The Planning Board hereby determines that the minimum number of parking spaces required is 117; that—given the complementary nature of the uses proposed—a more appropriate number of spaces would be 130; and that 143 spaces will meet the potential extraordinary peak usage of the site (however rarely such use might occur).

Resolution of Approval

NOW, THEREFORE, THE PLANNING BOARD RESOLVES to approve this Amended Site Plan as said proposal is depicted on the plans identified above upon the conditions outlined below, and the Chairperson (or his designee) is authorized to sign the plans upon satisfaction of those conditions below noted to be conditions precedent to such signing.

Specific Conditions

1. The plans shall not be signed until receipt of a letter from the Planning Board Engineer certifying that the plans have been modified in accordance with his memos of July 18, 2017 and January 29, 2018.
2. This approval is subject to review and issuance of a wetlands disturbance permit by the Army Corps of Engineers for the disturbance activities proposed or a letter from the Corps reporting that those activities are covered under a general permit.
3. Except as hereby modified, all conditions attached to the original grant of subdivision, site plan and ARB approval are to remain in effect and this approval is subject to, and conditioned upon satisfaction of same as if those conditions were set forth herein at length.
4. The applicant must construct all 143 parking stalls shown on the plan before a certificate of occupancy will be issued.

Outdoor Fixtures & Amenities

5. This site plan approval allows construction of only that which is shown on the plans identified above. No outdoor amenities or accessory structures or outdoor fixtures—including but not limited to exterior walls, mechanical units, dumpsters, etc.—may be constructed, placed or erected except as shown on the approved site plan. Architectural drawings shall carry a certification that what is shown thereon is fully consistent with the approved site plan.

General Conditions

This approval is conditioned upon the applicant submitting all necessary

copies of the plans to be signed, including mylars when required, to the Town of Newburgh Building Department. A full set of the plans to be signed shall simultaneously be submitted to the Planning Board Engineer. The plans shall not be signed until the Planning Board Engineer has reported to the Chair that all conditions of this resolution required to be satisfied before the plans can be signed have, in fact, been satisfied.

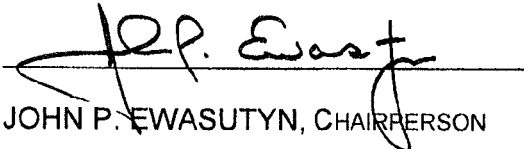
This approval is further conditioned upon the applicant delivering (prior to signing of the plans) proof, in writing, that all fees—engineering, planning, legal and otherwise—in regard to this project have been fully paid. The applicant shall also be required to deliver proof that all required Public Improvement, Erosion Control and Landscaping inspection fees and escrow have been deposited with the Town. The plans shall not be signed until proof, satisfactory to the Chair, has been presented showing that all fees have been paid and escrow deposits made.

Approval of the final site plan shall, pursuant to Section 185-58 (E) of the Zoning Ordinance, be valid for two years from the date this resolution is filed in the office of the Town Clerk, after which time this approval shall be null and void unless a building permit has been issued. If no building permit has been issued within that time, the plan must be resubmitted to the Planning Board for approval.

A FAILURE to comply with the general condition immediately above in a timely manner shall result, without further action, in a lapsing of this approval.

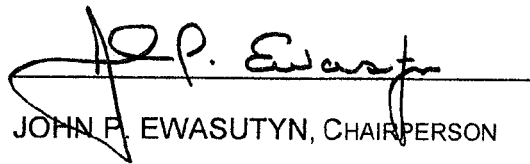
In Favor 5 Against 0 Abstain Absent 2

Dated: February 1, 2018


JOHN P. EWASUTYN, CHAIRPERSON
TOWN OF NEWBURGH PLANNING BOARD

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

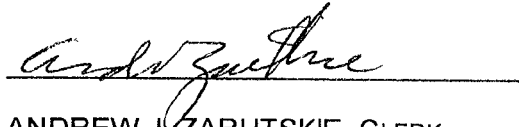
I, JOHN P. EWASUTYN, Chairman of the Planning Board of the Town of Newburgh, do hereby certify that the foregoing is a true and exact copy of a Resolution maintained in the office of the Town of Newburgh Planning Board, said resulting from a vote having been taken by the Planning Board at a meeting of said Board held on February 1, 2018.



JOHN P. EWASUTYN, CHAIRPERSON

TOWN OF NEWBURGH PLANNING BOARD

I, ANDREW J. ZARUTSKIE, Clerk of the Town of Newburgh, do hereby certify that the foregoing Resolution was filed in the Office of the Town Clerk on
FEB 05 2018



ANDREW J. ZARUTSKIE, CLERK

TOWN OF NEWBURGH

O:\MHD\LAND-USE\Resolutions\RAM Hotels Site Plan Resolution II.docx

N-16.21

RESOLUTION OF APPROVAL

SITE PLAN

SECOND AMENDED

FOR

RAM HOTELS, INC.

PROJECT # 2016-21

Nature of Application

RAM Hotels, Inc. applied for, and received, Subdivision approval allowing it to create 2 new Parcels of land on a ±8.5 acre tract and for approval of a Site Plan permitting the use of the property identified herein for to construct a 5-story, 112-room Hilton Garden Inn and for approval of architectural renderings by the Planning Board sitting as the Architectural Review Board. The applicant now seeks to amend its site plan approval in order to reduce the building footprint and adjust the driveway and easement locations¹ to meet the requirements of the US ACOE.

Property Involved

The property affected by this resolution is shown on the Tax Maps of the Town of Newburgh as parcel(s) 97-2-37.

¹ Because no subdivision map has yet been filed, the applicant is also authorized to file an amended subdivision plat showing the adjusted driveway and easement locations.

Zoning District

The property affected by this resolution is located in the IB zoning district of the Town of Newburgh.

Plans

The Site Plan materials considered consist of the following:

1. Completed application form and Environmental Assessment Form.
2. Plans prepared for RAM Hotels, Inc. as follows:

<i>Author</i>	<i>Title</i>	<i>Last Revision Date</i>
Mercurio Norton Tarolli Marshall Engineering and Land Surveying	Site Plan	August 6, 2018
Mercurio Norton Tarolli Marshall Engineering and Land Surveying	Existing Conditions and Removal Plan	August 6, 2018
Mercurio Norton Tarolli Marshall Engineering and Land Surveying	Utility & Grading Plan – South	August 6, 2018
Mercurio Norton Tarolli Marshall Engineering and Land Surveying	Utility & Grading Plan – North	August 6, 2018
Mercurio Norton Tarolli Marshall Engineering and Land Surveying	Detail Sheet	August 6, 2018
Mercurio Norton Tarolli Marshall Engineering and Land Surveying	Water and Sewer Detail Sheet	August 6, 2018
Mercurio Norton Tarolli Marshall Engineering and Land Surveying	Stormwater Detail Sheet	August 6, 2018
Mercurio Norton Tarolli Marshall Engineering and Land Surveying	Erosion & Sediment Control Detail Sheet	August 6, 2018
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Mercurio Norton Tarolli Marshall Engineering and Land Surveying	Lighting Detail Sheet	August 6, 2018

Mercurio Norton Tarolli Marshall Engineering and Land Surveying	Amended Striping Plan	August 6, 2018
Mercurio Norton Tarolli Marshall Engineering and Land Surveying	Survey & Subdivision	July 6, 2017
Mercurio Norton Tarolli Marshall Engineering and Land Surveying	Potential Development Plan for Lot 2 of Subdivision	July 31, 2018
Silvestri Architects PC	First Floor Plan	May 15, 2017
Silvestri Architects PC	Fifth Floor Plan	May 15, 2017
Silvestri Architects PC	Exterior Elevations	May 15, 2017
RAB Lighting	Lighting Layout Version B	March 20, 2017
RAB Lighting	Lighting Layout Version B	March 20, 2017
RAB Lighting	Lighting Layout Version B	March 20, 2017
RAB Lighting	Lighting Layout Version B	March 20, 2017

History

DATE OF APPLICATION

The original application was filed with the Planning Board on December 6, 2016. Subdivision, Site Plan and ARB approval were granted on July 20, 2017. A CPLR article 78 proceeding challenging the adequacy of the number of approved parking stalls resulted in a decision remitting this matter to the Planning Board:

“Inasmuch as the resolution does not expressly state the Planning Board’s finding regarding the minimum number of spaces required, it is necessary for this matter to be remitted to the Planning Board.”

Amended approval, specifying the board’s findings regarding the minimum

number of parking spaces required was granted on February 1, 2018. This application for second amended approval was filed with the planning board on August 14, 2018.

PUBLIC HEARING

A public hearing on the original application was convened on April 20, 2017 and closed on the same date. An additional public hearing on this second amended application was held on October 4, 2018.

SEQRA

Type of Action:

This matter constitutes an unlisted action under the State Environmental Quality Review Act.

Lead Agency:

The Town of Newburgh Planning Board is the lead agency in regard to this action. The Planning Board's status as lead agency was established on December 15, 2016.

Declaration of Significance:

A negative declaration was issued on March 16, 2017. The planning board hereby reaffirms that negative declaration inasmuch as the proposed amendments do not raise the potential for any significant adverse environmental impacts and the negative declaration previously adopted is hereby deemed amended to incorporate the proposed site plan amendments.

GML 239 Referral

This application is not required to be referred to the Orange County Planning Department for review.

Findings

The Planning Board has determined that approval of this Second

Amended Site Plan will substantially serve the public convenience, safety and welfare; and will not otherwise be unduly detrimental to the public health, safety, comfort convenience or welfare, subject to compliance in full with conditions hereinafter imposed pursuant to Section 185-57 (H).

The Planning Board hereby determines that the minimum number of parking spaces required is 117; that—given the complementary nature of the uses proposed—a more appropriate number of spaces would be 130; and that 143 spaces will meet the potential extraordinary peak usage of the site (however rarely such use might occur).

Resolution of Approval

NOW, THEREFORE, THE PLANNING BOARD RESOLVES to approve this Second Amended Site Plan as said proposal is depicted on the plans identified above upon the conditions outlined below, and the Chairperson (or his designee) is authorized to sign the plans upon satisfaction of those conditions below noted to be conditions precedent to such signing.

Specific Conditions

1. The plans shall not be signed until receipt of a letter from Karen Arent, the Town of Newburgh Landscaping Consultant, certifying that the plans have been modified in accordance with her comments made during the planning board meeting held on October 4, 2018.
2. The plans shall not be signed until receipt of a letter from the Planning Board Engineer certifying that the plans have been modified in accordance with his memos of August 27, 2017 and January 29, 2018.
3. This approval is subject to review and issuance of a wetlands

disturbance permit by the Army Corps of Engineers for the disturbance activities proposed or a letter from the Corps reporting that those activities are covered under a general permit.

4. Except as hereby modified, all conditions attached to the original grant of subdivision, site plan and ARB approval are to remain in effect and this approval is subject to, and conditioned upon satisfaction of same as if those conditions were set forth herein at length.
5. The applicant must construct all 143 parking stalls shown on the plan before a certificate of occupancy will be issued.

Outdoor Fixtures & Amenities

6. This site plan approval allows construction of only that which is shown on the plans identified above. No outdoor amenities or accessory structures or outdoor fixtures—including but not limited to exterior walls, mechanical units, dumpsters, etc.—may be constructed, placed or erected except as shown on the approved site plan. Architectural drawings shall carry a certification that what is shown thereon is fully consistent with the approved site plan.

General Conditions

This approval is conditioned upon the applicant submitting all necessary copies of the plans to be signed, including mylars when required, to the Town of Newburgh Building Department. A full set of the plans to be signed shall simultaneously be submitted to the Planning Board Engineer. The plans shall not be signed until the Planning Board Engineer has reported to the Chair that all conditions of this resolution required to be satisfied before the plans can be signed

have, in fact, been satisfied.

This approval is further conditioned upon the applicant delivering (prior to signing of the plans) proof, in writing, that all fees—engineering, planning, legal and otherwise—in regard to this project have been fully paid. The applicant shall also be required to deliver proof that all required Public Improvement, Erosion Control and Landscaping inspection fees and escrow have been deposited with the Town. The plans shall not be signed until proof, satisfactory to the Chair, has been presented showing that all fees have been paid and escrow deposits made.

Approval of the final site plan shall, pursuant to Section 185-58 (E) of the Zoning Ordinance, be valid for two years from the date this resolution is filed in the office of the Town Clerk, after which time this approval shall be null and void unless a building permit has been issued. If no building permit has been issued within that time, the plan must be resubmitted to the Planning Board for approval.

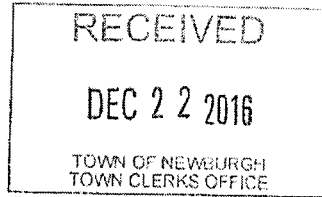
A FAILURE to comply with the general condition immediately above in a timely manner shall result, without further action, in a lapsing of this approval.

In Favor 6 Against 0 Abstain Absent 1

Dated: October 4, 2018

JOHN P. EWASUTYN, CHAIRPERSON
TOWN OF NEWBURGH PLANNING BOARD

EXHIBIT C



Section 97, Block 2, Lot 37

TOWN OF NEWBURGH: COUNTY OF ORANGE
ZONING BOARD OF APPEALS

-----X

In the Matter of the Application of

RAM HOTELS, INC.

DECISION

For area variances¹ as follows:

- *Grant of a variance allowing a building to have a height of 69.4 feet where 50 feet is the maximum height allowed; and*
- *Grant of a variance from Section 185-27-C-1 which requires that a hotel shall have principal frontage on a state or county highway.*

-----X

Introduction

RAM Hotels, Inc. seeks area variances as follows: (1) An area variance allowing a building to have a height of 69.4 feet where 50 feet is the maximum height allowed; and (2) An area variance from Section 185-27-C-1 which requires

¹ During the course of the public hearing, counsel for two entities that allegedly own commercial property in the general area of the property which is the subject of this application, appeared and advanced the argument that the relief sought from the requirements imposed by Section 185-27-C-1 of the Town Code – requiring a hotel to have principal frontage on a state or county highway – should be properly characterized as a *use* variance instead of an area variance as set forth in the application before the Board. Counsel for the Zoning Board requested written submissions on the proper characterization of this variance. Thereafter, Charles Bazydlo, Esq., on behalf of Crossroads Court Real Estate, LLC and Route 17K Real Estate, LLC submitted written communication advancing the argument that the variance should be characterized as a *use* variance. Additionally, counsel for the applicant, Stephen Gaba, Esq., made a written submission advancing the argument that the variance was properly characterized as an *area* variance. Upon review of the competing submissions, and further upon due deliberation, counsel for the ZBA advised that it was his opinion that the variance from the requirements of Code Section 185-27-C-1 should be properly characterized as an *area* variance and the application proceeded accordingly. All written submissions made in connection with this issue are part of the Zoning Board's file in this matter.

that a hotel shall have principal frontage on a state or county highway.

The property is located at 880 Auto Park Place in the IB Zoning District and is identified on the Town of Newburgh tax maps as Section 97, Block 2, Lot 37.

A public hearing was held on August 25, 2016, notice of which was published in The Mid-Hudson Times and The Sentinel and mailed to adjoining property owners as required by Code. The public hearing was continued until September 22, 2016 and again until October 27, 2016 at which time the hearing was closed.

Law

Section 185-11 of the Code of Ordinances of the Town of Newburgh [Zoning], entitled "Utilization of Bulk Table," requires compliance with the bulk regulations set forth in the bulk and use schedules set forth within the zoning ordinance.

These schedules limit, for this commercial building in the IB Zoning District, the height of a building to 50 feet.

Section 185-27-C-1 further requires that hotel shall have principal frontage on a state or county highway.

Background

After receiving all the materials presented by the applicant and hearing the testimony of Lawrence Marshall, P.E. and Stephen Gaba, Esq., at the public hearing held before the Zoning Board of Appeals the Board makes the following findings of fact:

1. The applicant is the owner of a 6.4 ± acre lot (tax parcel 97-2-37) located at 880 Auto Park Place.
2. The lot is currently vacant. The application proposes to construct a 5-story, 112 room hotel on Unity Place/Auto Park Plaza. At its highest point, the hotel will be 69.4 feet in height which exceeds the maximum height permitted of 50 feet. Additionally Unity Place and Auto Park Plaza are town roads.
3. The height of the building is not uniform. The extent of the variance requested, allowing a height of 69.4 feet, is required to account for the elevator shaft. During the course of the hearing, the applicant's representative, Lawrence Marshall, P.E., testified that only approximately 6.5% of the linear footage of the roof would reach this maximum height. The actual top of the *roof* itself is 61.4 feet.
4. The applicant's proposal is set forth on a series of photographs and site plans prepared by Mercurio-Norton-Tarolli-Marshall Engineering and Land Surveying dated April, 2016, last revised July 29, 2016. Those photos and plans are hereby incorporated into this decision and a set shall remain in the zoning board's file in this matter.
5. The Building Inspector denied a building permit application by letter dated August 1, 2016.
6. There was comment at the public hearing. Specifically, an attorney representing two other property owners in the Town of Newburgh appeared and raised certain objections. Specifically, the attorney Charles T. Bazydlo, Esq., offered the opinion that the relief required

from the requirements of Section 185-27-C-1 should be properly characterized as a use variance (see footnote 1). Upon the Board's determination that the variance in question should be properly characterized as an area variance, Mr. Bazydlo went on to raise certain objections to the issuance of the area variances from this Board. Those objections are fully reflected in the meeting minutes.

The applicant has appealed the Building Inspector's determination seeking variances to construct the hotel.

After hearing the testimony at the public hearing and considering the materials received by the Board and after viewing the subject site, the Board decides as follows:

SEQRA

This matter constitutes an unlisted action under the State Environmental Quality Review Act. The Board has issued a negative declaration thereby determining that the application will have no adverse impact upon the environment.

GML 239 Referral

This application has been referred to the Orange County Planning Department for review and report. The Planning Department has reported that this matter is one for local determination, there being no significant inter-municipal or countywide considerations found to exist.

Findings

In reviewing the facts presented for the requested area variances, the Board considered the five standards for determining whether the applicant has

sustained its burden of proof as required by Town Law Section 267-b (3). Each factor has been considered relevant to the decision of the board of appeals, but no single one is viewed as precluding the granting of the variances.

(1) Undesirable Change—Detriment to Nearby Properties

Initially, the Board takes notice of the fact that the property is located in the IB Zoning District. Hotels are uses that are specifically permitted in the IB Zoning District. As such there is a specific legislative finding that the type of use proposed is appropriate in the neighborhood in question and would not result in any adverse changes or impacts upon that neighborhood.

In connection with the height variance requested, the Board takes note of the fact that only a small portion of the proposed hotel building reaches the 69 feet 4 inch maximum. According to testimony given at the hearing, the majority of the roof portion of the building will be approximately 61 feet which represents a less than 20% differential over the maximum permitted height. Further, each Board member has visited the site and is fully familiar with the neighborhood wherein the hotel is proposed. It is the Board's opinion, upon due deliberation, that the height of the hotel building proposed would not cause any adverse impact upon the character of this commercial neighborhood.

In connection with the variance required from the Town Code requirement that hotels have their principal frontage on a state or county highway, the Board notes that Unity Place is a relatively recently constructed roadway that has a curb to curb width in excess of 35 feet with 2 lanes and a center striped median. The engineering consultant for the applicant has submitted correspondence, dated September 6, 2016, in which he states that the capacity of Unity Place far exceeds the current usage. Further, traffic from the proposed hotel will primarily enter and exit Unity Place from a signalized intersection with New York State

Route 17K. Based upon the evidence before the Board, and further based upon the Board member's site visits, it is clear that Unity Place was constructed to accommodate heavy commercial traffic and that the proposed hotel will fit nicely into the proposed development scheme and further that the traffic generated from the proposed hotel will not cause any detriment to the road or to the surrounding neighborhood.

Accordingly, based upon the evidence and testimony submitted to the Board, the Board finds that issuance of the requested area variances will not result in any serious, undesirable, detriment to the surrounding neighborhood.

(2) Need for Variance

In connection with the area variance requested seeking relief from the requirements of Section 185-27-C-1, it is clear that the site does not have its principal frontage on a state or county road. Thus, there is no alternative for the applicant to pursue other than the area variance requested in order to obtain relief from the requirements of Section 185-27-C-1.

With regard to the proposed height of the hotel, the applicant's representative has stated that the increase in building height is "primarily due to the difference in brand standards between a Hilton Garden Inn franchise" and other hotel franchises². The applicant's representative has further submitted testimony that the Hilton Garden Inn franchise has a first floor ceiling height that is significantly higher than other hotels resulting in a need to increase the height of the building. In order to accommodate the Hilton Garden Inn franchise, therefore, the applicant has no alternative other than to seek the requested variance relative to

² See correspondence of Lawrence J. Marshall, P.E., addressed to the Zoning Board of Appeals dated September 6, 2016.

height.

(3) Substantial Nature of Variances Requested

The variances requested are substantial. However, because the focus of the inquiry by the Zoning Board of Appeals is upon the character of the neighborhood in question, we believe, under the circumstances presented here, that the substantial nature of the variances requested does not prohibit us from granting the application.

(4) Adverse Physical & Environmental Effects

There was no objective evidence based testimony that was given that would indicate that issuance of the requested variances would result in any adverse physical and/or environmental effects.

(5) Self-Created Difficulty

The need for this variance is clearly self-created in the sense that the applicant purchased this property charged with the knowledge of the existing Zoning Code and while aware of the need to obtain variances in order to construct a hotel of the height and location proposed.

However, because of the circumstances recited hereinabove, it is not feasible to construct the hotel without a variance of some kind, the board believes, under the circumstances presented, that the self-created nature of the need for the variances requested do not preclude granting the application. Moreover, as noted earlier, no undesirable change in the character of the neighborhood will occur as the result of the granting of the variances.

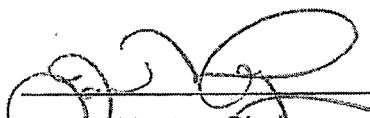
Decision

In employing the balancing tests set forth in Town Law Section 267-b (3), the Board hereby determines that the applicant has satisfied the requisites of Section 267-b and grants the height variance and relief from Section 185-27-C-1 as requested upon the following conditions:

1. The variances hereby granted are granted for the purpose of authorizing what is shown on the plans or described within the application materials only.
2. This approval is not issued in a vacuum but is rather one of two independent yet interconnected discretionary approvals (the other being within the jurisdiction of the Town of Newburgh Planning Board). As such, this grant of variance is conditioned upon approval of the application now pending before the planning board. This approval of the ZBA is intended to do no more than vary the specified strict limitation provisions of the Code identified; it is not intended to authorize construction of a particular building nor approve the footprint, size, volume or style thereof. The planning board remains possessed of all of its power and authority to review, limit, request modifications to, and to ultimately approve (absolutely or conditionally) any application in reference to this project as may come before it. Should the planning board require changes in the size, location or configuration from what is shown on the plans before the ZBA that require greater or different variances, the applicant must return to the ZBA for further review and approval.
3. Section 185-55 [Procedure; construal of provisions; conflict with

state law] of the Code of Ordinances of the Town of Newburgh provides, in subdivision "D," that this grant of variance shall become null and void at the expiration of six months from issuance, unless extended by this board for one additional six-month period. As noted above, this application is not decided in a vacuum but is rather tied to a specific application for approval pending before the Town of Newburgh Planning Board and this approval is conditioned upon the applicant diligently pursuing his application before that board. Provided that the applicant shall report to this board monthly on the progress of the application pending before the planning board, and provided that such reports demonstrate a diligent pursual of that application, the time period within which the planning board application is processed shall not be included within the initial six-month limitation of Section 185-55 D.

Dated: *October 27, 2016*


James Manley, Chair
Town of Newburgh ZBA

By roll call a motion to adopt the decision was voted as follows:

AYES: Member Michael Maher
 Member John McKelvey
 Member John Masten
 Member Richard Levin
 Member Darrin Scalzo

NAYS: None

ABSENT: Chair James Manley

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

I, BETTY GENNARELLI, Secretary to the Zoning Board of Appeals of the Town of Newburgh, do hereby certify that the foregoing is a true and exact copy of a Decision rendered by the Zoning Board at a meeting of said Board held on October 27, 2016.


BETTY GENNARELLI, SECRETARY

TOWN OF NEWBURGH ZONING BOARD OF APPEALS

I, ANDREW J. ZARUTSKIE, Clerk of the Town of Newburgh, do hereby certify that the foregoing Decision was filed in the Office of the Town Clerk on DEC 22 2016.


ANDREW J. ZARUTSKIE, CLERK

TOWN OF NEWBURGH

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

RAM HOTELS, INC. (c/o NIMIT PATEL)
1600 CENTRAL AVENUE
ALBANY, NY 12205-2404

122052404

122052404



5 00007



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: July 21, 2016

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

I (WE) RAM HOTELS, INC (D. NIMIT PATEL) PRESENTLY

RESIDING AT NUMBER 1600 CENTRAL AVENUE ALBANY, NY 12205-2404

TELEPHONE NUMBER 917-797-4576

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:

97-2-37 (TAX MAP DESIGNATION)

UNITY PLACE / ~~AUTO PARK~~ PLACE (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).

SECTION 185 ATTACHMENT B : MAXIMUM BUILDING HEIGHT
SECTION 185-27.C(1) - PRINCIPAL FRONTAGE ON
STATE OR COUNTY HIGHWAY



TOWN OF NEWBURGH

Crossroads of the Northeast

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

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: 8/1/16
- b) OR DENIAL (REFERRAL) BY THE PLANNING BOARD OF THE TOWN OF NEWBURGH OF AN APPLICATION TO THE BOARD, SEE ACCOMPANYING NOTICE DATED: _____

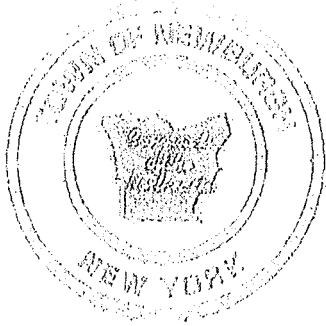
4. DESCRIPTION OF VARIANCE SOUGHT: SEE ADDENDUM

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

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

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

- b) THE HARDSHIP IS UNIQUE AND DOES NOT APPLY TO A SUBSTANTIAL PORTION OF THE DISTRICT OR NEIGHBORHOOD BECAUSE:
N/A
- c) THE VARIANCE WOULD NOT ALTER THE ESSENTIAL CHARACTER OF THE NEIGHBORHOOD BECAUSE:
N/A



TOWN OF NEWBURGH

Crossroads of the Northeast

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

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

N/A

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:

SEE ADDENDUM

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:

SEE ADDENDUM

c) THE REQUESTED AREA VARIANCE IS NOT SUBSTANTIAL BECAUSE:

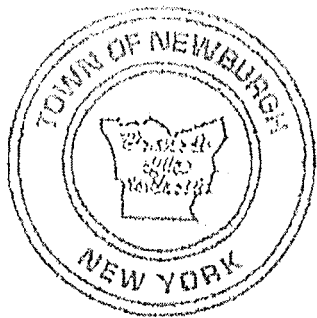
SEE ADDENDUM

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

SEE ADDENDUM

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

SEE ADDENDUM



TOWN OF NEWBURGH

Crossroads of the Northeast

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

OFFICE OF ZONING BOARD
(845) 566-4901

7. ADDITIONAL REASONS (IF PERTINENT):

PETITIONER (S) SIGNATURE

STATE OF NEW YORK: COUNTY OF ORANGE:

SWORN TO THIS 14th DAY OF July 2016

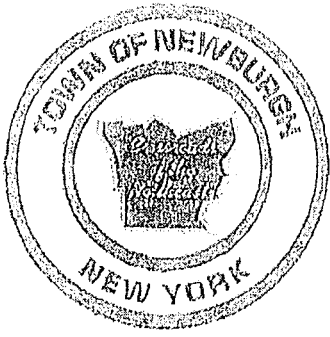
NOTARY PUBLIC

CHARLES E. FRANKEL
Notary Public, State of New York
Qualified in Orange County
My Commission Expires March 30, 2019

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)



TOWN OF NEWBURGH

Crossroads of the Northeast

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

PROXY

Newburgh Auto Park LLC
Ronald K Barton manager, DEPOSES AND SAYS THAT

HE/SHE RESIDES AT 22 old mill Rd, Town of Newburgh

IN THE COUNTY OF orange AND STATE OF New York

AND THAT HE/SHE IS THE OWNER IN FEE OF 97-2-37

8.5A on Unity Place / ^{Auto Park Place} Newburgh, NY 12550

WHICH IS THE PREMISES DESCRIBED IN THE FOREGOING APPLICA-

TION AND THAT HE/SHE HAS AUTHORIZED Mexuro Norbay - Tardiff - Marshall
RAM Hotels Inc / Nimut Patel
TO MAKE THE FOREGOING APPLICATION AS DESCRIBED THEREIN.

DATED: 7-21-2016 Ronald K Barton

OWNER'S SIGNATURE

[Handwritten Signature]

WITNESS' SIGNATURE

STATE OF NEW YORK: COUNTY OF ORANGE:

SWORN TO THIS 21 DAY OF July 20 16

Elayne S. Rosen
NOTARY PUBLIC

ELAYNE S. ROSEN
ID# 01R06123259
NOTARY PUBLIC, STATE OF NEW YORK
RESIDING AND APPOINTED IN ORANGE COUNTY
COMMISSION EXPIRES MARCH 7, 2017

Short Environmental Assessment Form

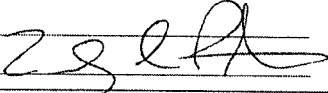
Part 1 - Project Information

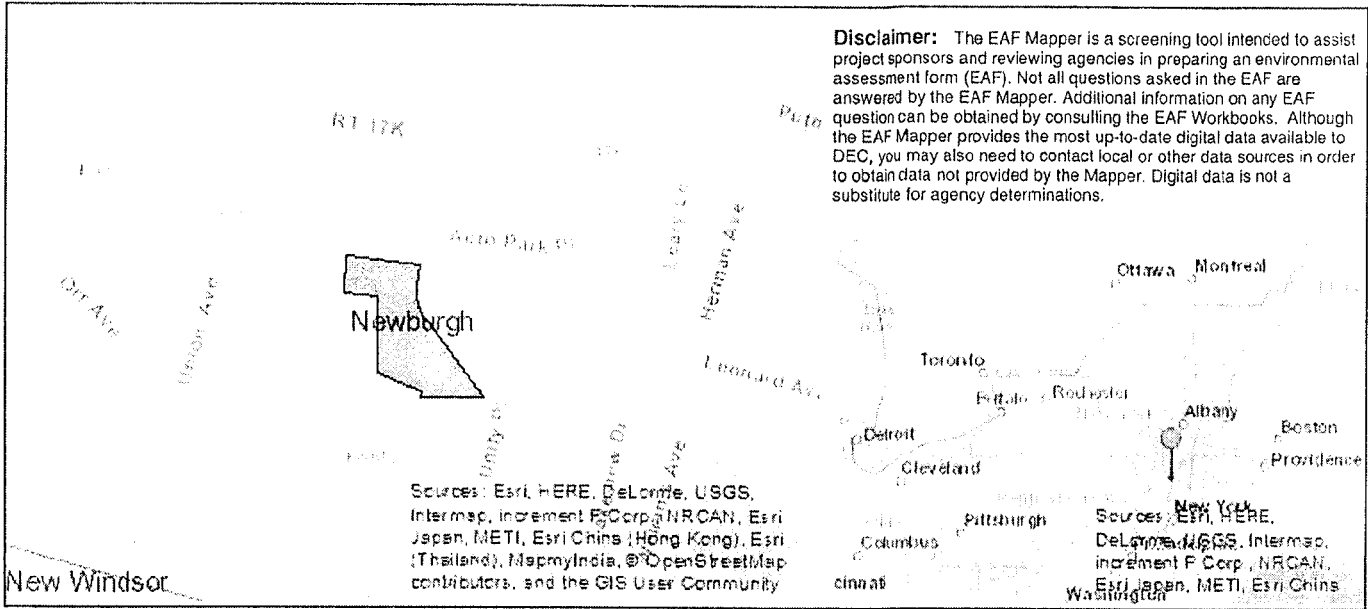
Instructions for Completing

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.

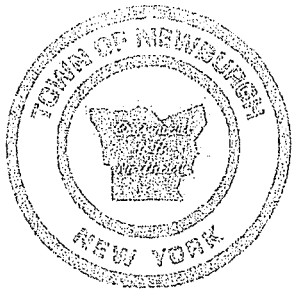
Complete all items in Part 1. You may also provide any additional information which you believe will be needed by or useful to the lead agency; attach additional pages as necessary to supplement any item.

Part 1 - Project and Sponsor Information			
Name of Action or Project: RAM Hotels Site Plan			
Project Location (describe, and attach a location map): Unity Place / Acres Park Place Town of Newburgh, Orange County			
Brief Description of Proposed Action: Proposed 5-story, 112-room hotel			
Name of Applicant or Sponsor: RAM Hotels, Inc. (c/o Nimit Patel)		Telephone: 917-797-4576	
		E-Mail:	
Address: 1600 Central Avenue			
City/PO: Albany		State: NY	Zip Code: 12205-2404
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	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:		NO	YES
		<input checked="" type="checkbox"/>	<input type="checkbox"/>
3.a. Total acreage of the site of the proposed action? _____		±6.4 acres	
b. Total acreage to be physically disturbed? _____		. acres	
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor? _____		±6.4 acres	
4. Check all land uses that occur on, adjoining and near the proposed action.			
<input checked="" type="checkbox"/> Urban <input 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			

<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)? If Yes, explain purpose and size: _____ _____ _____</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? If Yes, describe: _____ _____ _____</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? If Yes, describe: _____ _____ _____</p>	<p>NO</p> <p><input checked="" type="checkbox"/></p>	<p>YES</p> <p><input type="checkbox"/></p>
<p>I AFFIRM THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE</p> <p>Applicant/sponsor name: <u>RAM Hotels, Inc.</u> Date: <u>July 14, 2016</u></p> <p>Signature: <u>Zachary A. Peters, Project Engineer</u> </p>		



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



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

2595-16

NOTICE OF DISAPPROVAL OF BUILDING PERMIT APPLICATION

Date: 08/01/2016

Application No. 16-0634

**To: Newburgh Auto Park LLC
800 Auto Park PI
Newburgh, NY 12550**

**SBL: 97-2-37
ADDRESS: Auto Park PI**

ZONE: IB

PLEASE TAKE NOTICE that your application dated 07/15/2016 for permit to construct a 5 story 112 room hotel on the premises located at Auto Park PI is returned herewith and disapproved on the following grounds:

Town of Newburgh Municipal Code Sections:

- 1) 185-27-C-1** The site must have principal Frontage on a state or county highway.
- 2) Bulk table schedule 8** Allows a maximum building height of 50'


Gerald Canfield

**Cc: Town Clerk & Assessor (500')
File**

Town of Newburgh Code Compliance

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

NAME: Newburgh Auot Park LLC

ADDRESS: 880 Auto park Place Newburgh NY 12550

2595-16

PROJECT INFORMATION: **AREA VARIANCE** **USE VARIANCE**

TYPE OF STRUCTURE: **AutoParkPlace** 112 Room Hotel @ Unity Way / Auto Park Place

SBL: 97-2-37 ZONE: I-B

TOWN WATER: YES / NO TOWN SEWER: YES / NO

	MINIMUM	EXISTING	PROPOSED	VARIANCE	VARIANCE PERCENTAGE
LOT AREA	OK				
LOT WIDTH	OK				
LOT DEPTH	OK				
FRONT YARD	OK				
REAR YARD	OK				
SIDE YARD	OK				
MAX. BUILDING HEIGHT	50'		69.4'	19.4'	38.66%
BUILDING COVERAGE	OK				
SURFACE COVERAGE	OK				

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: **This referral is for the above listed variances only. A complete plan review will be conducted as detailed plans are available.**

VARIANCE(S) REQUIRED:

- 1 185-27-C-1 The site must have principal frontage on a state or county highway.
- 2 Bulk table schedule 8 Allows a maximum building height of 50'.
- 3 _____
- 4 _____

REVIEWED BY: Gerald Canfield DATE: 1-Aug-16

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 – July 14, 2016

Relief Requested:

A. Description of Property and Property Use:

The project site is located in the Town of Newburgh, County of Orange, State of New York on the westerly side of Unity Place. The site is located approximately 1,000 feet from the intersection of Unity Place and NYS Route 17K. The project site consists of tax parcel: Section 97, Block 2, Lot 37, containing approximately 6.4 acres of land located in the IB zoning district.

The proposed project involves the construction of a 5-story, 112 room hotel located on Unity Place.

B. Variance Requested

In accordance with §185-27.C(1) of the Town Code, a hotel site shall have principal frontage on a state or county highway. The project site is located on Unity Place, a town road, approximately 1,000 feet from the intersection with NYS Route 17K.

An area variance for a hotel site with principal frontage on a town road is requested.

In accordance with the zoning bulk table in §185, Attachment B, the maximum building height in the IB zone is fifty (50) feet. The proposed building has a height of 69'-4" to the top of the parapet.

An area variance of 19'-4" is requested.

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

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

The project site does not currently have any frontage along a state or county road. No changes to the existing site frontage conditions are proposed. The proposed hotel use is a permitted use within the IB zoning district. A majority of the adjacent parcels are currently developed with commercial uses. Many of these sites have frontage along NYS Route 17K and NYS Route 300. The surrounding uses are consistent with those typically found in the vicinity of a hotel site. The proposed hotel is located within 1,000 feet of NYS Route 17K.



The interpretation of this office of this section of the code is to avoid having hotels located on smaller, local roads and ensure access to the hotel is direct from major thoroughfares and easily evident. While the lot does not front on a state or county road, the hotel will be visible from NYS Route 17K. Unity Place has been constructed to handle the traffic associated with this use and no increased traffic through local residential developments will be caused by this application.

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 project site does not currently have any frontage along a state or county road. Access to the site is provided from Unity Place, a town road. A lot combination is not feasible as adjacent parcels with frontage on NYS Route 17K or NYS Route 300 are currently developed. It is our understanding that the lots on Unity Place were originally developed with the potential for having hotel(s).

c. The requested area variance is not substantial because:

The project site is located in close proximity to both NYS Route 300 and NYS Route 17K. The proposed hotel use is a permitted use in the IB zone, the deficiency is related solely to frontage on a state or county road. The proposed use is consistent with the types of uses on adjacent parcels in the vicinity of the project site. Access to and from the site will be directly from NYS Route 17K and patrons will have to drive less than 1,000 feet on Unity Place to access the site.

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. The variance relates solely to the frontage of the proposed hotel site not the hotel use, which is a permitted use in the IB zone.

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

The project site is an existing parcel.

D. Legal Criteria for Granting the Area Variance (Height Variance):

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

The proposed hotel will be located approximately 1,000 feet from NYS Route 17K and approximately 75 feet from the edge of the Unity Place. Further, the proposed first floor elevation



is located approximately six (6) feet below the closest adjacent grade along Unity Place. The proposed hotel height and number of stories are consistent with hotels currently under construction in the vicinity of the project 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:

The proposed hotel has been designed with 5-stories in order to reduce the building footprint and area of impervious cover as much as possible. A lower building height would require a larger building footprint in order to accommodate the number of rooms proposed. In accordance with current New York State Department of Environmental Conservation (NYSDEC) stormwater design guidelines, reducing impervious cover must be a consideration.

c. The requested area variance is not substantial because:

The requested variance results in an increase of approximately 40% of the maximum permitted building height. As the proposed finished grade will be located below the adjacent roadway and approximately 1,000 feet from NYS Route 17K, the building height will not appear as substantial as the requested variance indicates.

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

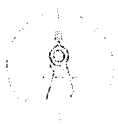
The proposed building height results in a reduction in impervious cover for the proposed use. The corresponding layout preserves more green area than a building with a larger footprint. The smaller footprint results in less impervious cover and reduced runoff from the developed site. The increased height will not have a visual impact from any adjoining roadways due to the existing development in the area. The proposed building height has an overall benefit to the neighborhood by preserving more green space around the building and parking areas.

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

The developer is required by NYSDEC stormwater regulations to attempt to reduce impervious cover to the greatest extent possible. NYSDEC guidelines specifically discuss a reduction in building footprint through the incorporation of additional stories.

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. The proposed use is consistent with uses in the adjacent IB zoning district.



ORANGE COUNTY CLERK'S OFFICE RECORDING PAGE

THIS PAGE IS PART OF THE INSTRUMENT - DO NOT REMOVE



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

WEBB PROPERTIES, INC.
TO
NEWBURGH AUTO PARK, LLC

SECTION 97 BLOCK 2 LOT 37

RECORD AND RETURN TO:
(Name and Address)

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

RICHARD J. DRAKE ESQ
DRAKE SOMMERS LOEB TARSHIS CATANIA & LIBERTH
DO BOX 1479
NEWBURGH NY 12551
RJD/mwc/50973

Handwritten signature and date: 8/3/10

DO NOT WRITE BELOW THIS LINE

INSTRUMENT TYPE: DEED [checked] 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 WALKKILL (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 2 CROSS REF
CERT. COPY ADD'L X-REF
MAP # PGS.
PAYMENT TYPE: CHECK [checked]
CASH
CHARGE
NO FEE

CONSIDERATION \$
TAX EXEMPT
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
DONNA L. BENSON
Orange County Clerk

RECEIVED FROM: Drake

RECORDED/FILED
01/19/2005 09:39:43
DONNA L. BENSON
County Clerk
ORANGE COUNTY, NY

FILE # 20050005972
DEED C / BK 11724 PG 1610
RECORDING FEES 207.00
TAX# 006529 T TAX 0.00
Receipt#367247 juls

STATE OF NEW YORK (COUNTY OF ORANGE) SS:
I, ANN G. HABBITT, 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 JAN 19, 2005 AND THE SAME IS A CORRECT
TRANSCRIPT THEREOF. I WITNESS WHEREOF, I HAVE
HEREUNTO SET MY HAND AND AFFIXED MY OFFICIAL SEAL.

COUNTY CLERK & CLERK OF THE SUPREME COUNTY COURTS,
ORANGE COUNTY

Handwritten signature and date: July 14, 2016



Bargain & sale deed, with covenant against grantor's acts

THIS INDENTURE, made the 29 day of November, two thousand four
BETWEEN

WEBB PROPERTIES, INC., a New York corporation with an address at 800
Auto Park Drive, Newburgh, New York 12550

party of the first part, and

NEWBURGH AUTO PARK, LLC, a New York limited liability company with
an address at 800 Auto Park Drive, Newburgh, New York 12550

party of the second part,

WITNESSETH, that the party of the first part, in consideration of TEN AND 00/100
(\$10.00) DOLLARS, lawful money of the United States 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, situate, lying and being in the Town of
Newburgh, County of Orange, and State of New York shown and designated as Lot A3
(8.47± acres) on a map entitled "Subdivision & Lot Line Change, Proposed Lots for
Webb, Yu, Tighe", filed in the Orange County Clerk's Office on November 7, 2001 as
Map #236-01.

This transaction is being made in the usual course of business actually conducted by the
grantor corporation and does not constitute a sale, transfer, or alienation of all or
substantially all of the assets of said corporation. This conveyance is authorized by the
Board of Directors and no other consent is required.

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.

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

SCHEDULE A

ALL that certain lot, piece or parcel of land, situate, lying and being in the Town of Newburgh, County of Orange, State of New York shown and designated as Lot A3 (8.47+/- acres) on a map entitled "Subdivision & Lot Line Change, Proposed Lots for Webb, Yu, Tighe", filed in the Orange County Clerk's Office on 11/7/01 as Map #236-01.

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 – July 14, 2016

Relief Requested:

A. Description of Property and Property Use:

The project site is located in the Town of Newburgh, County of Orange, State of New York on the westerly side of Unity Place. The site is located approximately 1,000 feet from the intersection of Unity Place and NYS Route 17K. The project site consists of tax parcel: Section 97, Block 2, Lot 37, containing approximately 6.4 acres of land located in the IB zoning district.

The proposed project involves the construction of a 5-story, 112 room hotel located on Unity Place.

B. Variance Requested

In accordance with §185-27.C(1) of the Town Code, a hotel site shall have principal frontage on a state or county highway. The project site is located on Unity Place, a town road, approximately 1,000 feet from the intersection with NYS Route 17K.

An area variance for a hotel site with principal frontage on a town road is requested.

In accordance with the zoning bulk table in §185, Attachment B, the maximum building height in the IB zone is fifty (50) feet. The proposed building has a height of 69'-4" to the top of the parapet.

An area variance of 19'-4" is requested.

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

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

The project site does not currently have any frontage along a state or county road. No changes to the existing site frontage conditions are proposed. The proposed hotel use is a permitted use within the IB zoning district. A majority of the adjacent parcels are currently developed with commercial uses. Many of these sites have frontage along NYS Route 17K and NYS Route 300. The surrounding uses are consistent with those typically found in the vicinity of a hotel site. The proposed hotel is located within 1,000 feet of NYS Route 17K.



The interpretation of this office of this section of the code is to avoid having hotels located on smaller, local roads and ensure access to the hotel is direct from major thoroughfares and easily evident. While the lot does not front on a state or county road, the hotel will be visible from NYS Route 17K. Unity Place has been constructed to handle the traffic associated with this use and no increased traffic through local residential developments will be caused by this application.

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 project site does not currently have any frontage along a state or county road. Access to the site is provided from Unity Place, a town road. A lot combination is not feasible as adjacent parcels with frontage on NYS Route 17K or NYS Route 300 are currently developed. It is our understanding that the lots on Unity Place were originally developed with the potential for having hotel(s).

c. The requested area variance is not substantial because:

The project site is located in close proximity to both NYS Route 300 and NYS Route 17K. The proposed hotel use is a permitted use in the IB zone, the deficiency is related solely to frontage on a state or county road. The proposed use is consistent with the types of uses on adjacent parcels in the vicinity of the project site. Access to and from the site will be directly from NYS Route 17K and patrons will have to drive less than 1,000 feet on Unity Place to access the site.

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. The variance relates solely to the frontage of the proposed hotel site not the hotel use, which is a permitted use in the IB zone.

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

The project site is an existing parcel.

D. Legal Criteria for Granting the Area Variance (Height Variance):

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

The proposed hotel will be located approximately 1,000 feet from NYS Route 17K and approximately 75 feet from the edge of the Unity Place. Further, the proposed first floor elevation



is located approximately six (6) feet below the closest adjacent grade along Unity Place. The proposed hotel height and number of stories are consistent with hotels currently under construction in the vicinity of the project 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:

The proposed hotel has been designed with 5-stories in order to reduce the building footprint and area of impervious cover as much as possible. A lower building height would require a larger building footprint in order to accommodate the number of rooms proposed. In accordance with current New York State Department of Environmental Conservation (NYSDEC) stormwater design guidelines, reducing impervious cover must be a consideration.

c. The requested area variance is not substantial because:

The requested variance results in an increase of approximately 40% of the maximum permitted building height. As the proposed finished grade will be located below the adjacent roadway and approximately 1,000 feet from NYS Route 17K, the building height will not appear as substantial as the requested variance indicates.

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 building height results in a reduction in impervious cover for the proposed use. The corresponding layout preserves more green area than a building with a larger footprint. The smaller footprint results in less impervious cover and reduced runoff from the developed site. The increased height will not have a visual impact from any adjoining roadways due to the existing development in the area. The proposed building height has an overall benefit to the neighborhood by preserving more green space around the building and parking areas.

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

The developer is required by NYSDEC stormwater regulations to attempt to reduce impervious cover to the greatest extent possible. NYSDEC guidelines specifically discuss a reduction in building footprint through the incorporation of additional stories.

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. The proposed use is consistent with uses in the adjacent IB zoning district.

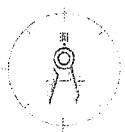


EXHIBIT D

THIS IS NOT A BUILDING PERMIT

Submit all items listed below at the same time, partial submittals will not be reviewed.

APPLICATION #23-1159

Auto Park Pl

Town of Newburgh

Code Compliance Department

21 Hudson Valley Professional Plaza Newburgh, NY 12550
845-564-7801 Phone 845-564-7802 Fax

MAILED TO: Ram Hotels, Inc., 1600 Central Avenue , Albany, NY 12205 - 917-797-4576
nimit.patel@hginewburgh.com

PROJECT: New 5 Story Hotel - Hilton Garden Inn

SBL: 97-2-37.1

APPLICATION DATE: 09/27/2023

REVIEW DATE: 10-3-2023

Residential: All smoke and co alarms shall be upgraded.
ORANGE COUNTY REQUIRES ALL ELECTRICIANS TO BE LICENSED

The building permit application submitted is incomplete.

A code compliant plan review has not been completed at this time. Listed below are items either missing or that lacks sufficient details required to conduct a complete plan review.

1. The variances received from the zoning board of appeals on 12-22-2016 has expired.
 - The site plan was signed 10-2023
2. Orange County requires all electricians be licensed by the county. Supply a copy of the electrical license for this application.
3. Did not submit driveway cuts from the town highway department
4. Submit a water permit from the town water department
5. Submit a sewer permit from the town sewer department
6. Submit a completed sprinkler application.
7. The plans submitted are not original.
 - Any and all documents submitted to this department must have an original seal and signature from the designer of record, photo copies, stamps, E-Mails and digitally signed documents are not acceptable.
8. The structural plans refer to the 2015 IBC. (not acceptable for use at this time)
9. The electric plans refer to the 2009 IBC
10. The plans do not show any code or design data.
 - Structural
 - Mechanical
 - Plumbing
 - Electric
 - Fire alarm
 - Show details and compliance with chapter 10
11. Did not supply any com-checks
 - Envelope
 - Interior lighting
 - Exterior lighting
 - Mechanical
 - Water service
12. It appears the building exceed the maximum allowed height as permitted in chapter 5 table 504.3
13. It appears the building stories exceed the maximum allowed stories above grade as permitted in chapter 5 table 504.4
14. Supply details for the kitchen exhaust hoods. (manufactures installation)
15. Supply details for the hood suppression system
16. Supply a complete kitchen equipment schedule.
17. Supply the flame spread and smoke density documents for all the interior finishes.
18. Supply floor joist shop layout drawing
19. Supply Orange County Health Department approval for the swimming pool
20. Show all pool barrier and pool door alarm details.
21. Supply details and the manufactures installation requirements for the fire coating.
22. Who will be the third-party inspection agency? Supply the special inspectors' qualifications section 1704.2.1 2020 BCNYS
23. Supply a statement of special inspections from the registered design professional in accordance with section 1704.2.3 from the 2020 BCNYS
24. A separate permit is required for the following items
 - Retaining walls
 - Signage, building and free standing
 - Storage building
 - Dumpster enclosure

Joseph Mattina
Code Compliance

EXHIBIT E

334600 97-2-22.1
City of Newburgh
83 Broadway
Newburgh NY, 12550

334600 97-2-26.2
Adams-Newburgh, LLC
765 Dutchess Tpke
Poughkeepsie NY, 12603

334600 97-2-26.1
17 K Associates
79 Route 17K
Newburgh NY, 12550

334600 97-2-27.1
Morehead Auto Sales
5247 Rt 9W
Newburgh NY, 12550

334600 97-2-27.22
Morehead Properties Inc
5247 Rt 9W
Newburgh NY, 12550

334600 97-2-28
Harte, Properties
79 Rt 17K
Newburgh NY, 12550

334600 97-2-27.32
APP Realty Holdings, LLC
250 N Route 303
West Nyack NY, 10994

334600 97-2-14.1
Florence Equities LLC
95 Chestnut Ridge Rd
Montvale NJ, 07645

334600 97-2-37.1
Newburgh Auto Park LLC
22 Old Mill Rd
Walkkill NY, 12589

334600 97-2-37.2
Florence Equities LLC
95 Chestnut Ridge Rd
Montvale NJ, 07645

334600 97-2-42
Christian Congregation of
675 Red Mills Rd
Walkkill NY, 12589

334600 97-2-45
Webb Properties Inc
22 Old Mill Rd
Walkkill NY, 12589

334600 97-2-40
600 APP Realty Holdings LLC
250 N Route 303
West Nyack NY, 10994

334600 97-2-19.12
Florence Equities LLC
95 Chestnut Ridge Rd
Montvale NJ, 07645

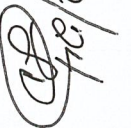
334600 97-2-44.2
JRBJ LLC
25 Research Dr
Westborough MA, 01581

334600 97-2-21
Florence Investors LLC
130 Old Little Britain Rd
Newburgh NY, 12550

334600 97-2-47
600 APP Realty Holdings LLC
250 N Route 303
West Nyack NY, 10994

334600 97-2-22.2
Newburgh Plaza LLC
820 Morris Tpk Ste 301
Short Hills NJ, 07078



Done 2/2/24


**Town of Newburgh
Office of the Assessor
1496 Route 300
Newburgh, NY 12550**

SEC 97 BLK 2 LOT 371

Pg. 1 of 1

EXHIBIT F



TOWN OF NEWBURGH

Crossroads of the Northeast

ZONING BOARD OF APPEALS
21 Hudson Valley Professional Plaza
Newburgh, NY 12550

ORIGINAL

OFFICE OF ZONING BOARD

TELEPHONE 845-566-4901

FAX LINE 845-564-7802

APPLICATION

DATED: February 2, 2024

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

I (WE) RAM Hotels, Inc. (c/o Nimit Patel) PRESENTLY

RESIDING AT NUMBER 1600 Central Avenue, Albany, NY 12205-2404

TELEPHONE NUMBER 917-797-4576

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:

97-2-37 (TAX MAP DESIGNATION)

Unity Place/Auto Park Place (STREET ADDRESS)

IB (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).

Section 185 Attachment B: Maximum Building Height
Section 185-27(C)(1): Principal Frontage on State or County Highway

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:
8/1/16

- 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: See attached cover letter.

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

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

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

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

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

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

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:

See attached cover letter.

- 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:

See attached cover letter.

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

See attached cover letter.


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

See attached cover letter.

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

See attached cover letter.

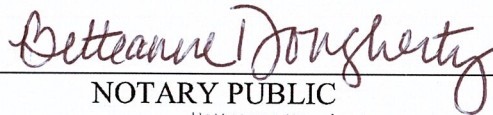
7. ADDITIONAL REASONS (IF PERTINENT):



PETITIONER (S) SIGNATURE

STATE OF NEW YORK: COUNTY OF ^{ALBANY}~~ORANGE~~:

SWORN TO THIS 2nd DAY OF February 20 24



NOTARY PUBLIC

Betteanne Dougherty
Notary Public - State of New York
Qualified in Saratoga County
No. 01DO6158155
Commission Expires December 18, 2026

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)

ORIGINAL

TOWN OF NEWBURGH
ZONING BOARD OF APPEALS

PROXY

Newburgh Auto Park LLC/Ronald R Bardon Managers, DEPOSES AND SAYS THAT

HE/SHE RESIDES AT 22 Old Mill Road, Town of Newburgh

IN THE COUNTY OF Orange AND STATE OF New York

AND THAT HE/SHE IS THE OWNER IN FEE OF 97-2-37

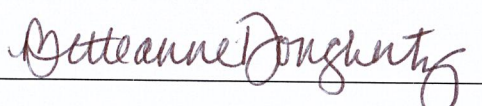
85A on Unity Place/Auto Park Place, Newburgh, NY 12550

WHICH IS THE PREMISES DESCRIBED IN THE FOREGOING APPLICA-
TION AND THAT HE/SHE HAS AUTHORIZED RAM Hotels Inc./Nimit Patel

TO MAKE THE FOREGOING APPLICATION AS DESCRIBED THEREIN.


DATED: 2/2/24


OWNER'S SIGNATURE


WITNESS' SIGNATURE

STATE OF NEW YORK: COUNTY OF ALBANY ORANGE:

SWORN TO THIS 2nd DAY OF February 2024


NOTARY PUBLIC

Betteanne Dougherty
Notary Public - State of New York
Qualified in Saratoga County
No. 01D06158155
Commission Expires December 18, 2026

EXHIBIT G

Short Environmental Assessment Form

Part 1 - Project Information

ORIGINAL

Instructions for Completing

Part 1 – Project Information. The applicant or project sponsor is responsible for the completion of Part 1. 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: Ram Hotels, Inc. - Area Variance			
Project Location (describe, and attach a location map): Unity Place/Auto Park Place, Town of Newburgh, NY			
Brief Description of Proposed Action: The Applicant is seeking an area variance for maximum building height (Town of Newburgh Zoning Code Sec. 185 Attachment B) and an area variance for municipal frontage on a State or County Highway (Town of Newburgh Zoning Code Sec. 185-27(C)(1)) for its project to construct a 5-story, 112 room hotel.			
Name of Applicant or Sponsor: RAM Hotels, Inc.		Telephone: 917-797-4576	
		E-Mail:	
Address: 1600 Central Avenue			
City/PO: Albany		State: NY	Zip Code: 12205-2404
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 type="checkbox"/>
			YES <input type="checkbox"/>
3. a. Total acreage of the site of the proposed action? _____ 6.4 acres			
b. Total acreage to be physically disturbed? _____ acres			
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor? _____ 6.4 acres			
4. Check all land uses that occur on, are adjoining or near the proposed action:			
<input checked="" type="checkbox"/> Urban <input 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			

5. Is the proposed action, a. A permitted use under the zoning regulations?	NO	YES	N/A
	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Consistent with the adopted comprehensive plan?	NO	YES	N/A
	<input type="checkbox"/>	<input checked="" 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 checked="" 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 checked="" type="checkbox"/>	<input type="checkbox"/>	
11. Will the proposed action connect to existing wastewater utilities? If No, describe method for providing wastewater treatment: _____ _____	NO	YES	
	<input checked="" type="checkbox"/>	<input 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"/>	
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 checked="" type="checkbox"/>	<input type="checkbox"/>	
	<input type="checkbox"/>	<input type="checkbox"/>	


14. Identify the typical habitat types that occur on, or are likely to be found on the project site. Check all that apply: <input type="checkbox"/> Shoreline <input type="checkbox"/> Forest <input type="checkbox"/> Agricultural/grasslands <input checked="" type="checkbox"/> Early mid-successional <input type="checkbox"/> Wetland <input checked="" type="checkbox"/> Urban <input type="checkbox"/> Suburban		
15. Does the site of the proposed action contain any species of animal, or associated habitats, listed by the State or Federal government as threatened or endangered?	NO	YES
	<input type="checkbox"/>	<input checked="" type="checkbox"/>
16. Is the project site located in the 100-year flood plan?	NO	YES
	<input checked="" type="checkbox"/>	<input type="checkbox"/>
17. Will the proposed action create storm water discharge, either from point or non-point sources? If Yes,	NO	YES
a. Will storm water discharges flow to adjacent properties?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Will storm water discharges be directed to established conveyance systems (runoff and storm drains)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
If Yes, briefly describe: _____ _____		
18. Does the proposed action include construction or other activities that would result in the impoundment of water or other liquids (e.g., retention pond, waste lagoon, dam)? If Yes, explain the purpose and size of the impoundment: _____ _____	NO	YES
	<input checked="" type="checkbox"/>	<input type="checkbox"/>
19. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility? If Yes, describe: _____ _____	NO	YES
	<input checked="" type="checkbox"/>	<input type="checkbox"/>
20. Has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) for hazardous waste? If Yes, describe: _____ _____	NO	YES
	<input checked="" type="checkbox"/>	<input type="checkbox"/>
I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE		
Applicant/sponsor/name: _____ Date: <u>2/1/24</u>		
Signature:  Title: <u>PROJECT ENGINEER</u>		

EXHIBIT H

ENCLOSURES: SUBMIT ALL ITEMS TOGETHER

- | | |
|--|--------|
| * RECEIPT(S) ISSUED BY THE TOWN CLERK
(SEE 1-1-2017 FEE SCHEDULE) | (X) |
| BUILDING INSPECTOR'S DISAPPROVAL
OR REFERRAL LETTER FROM PLANNING BOARD | (x) |
| PLOT PLAN, ELEVEN (11) COPIES DRAWN
TO SCALE | (X) |
| * DEED OR CERTIFIED COPY THEREOF | (X) |
| * ASSESSOR'S LIST OF PROPERTY OWNERS
WITHIN 500 FEET OF PROPERTY | (X) |
| FOUR PHOTOGRAPHS TAKEN AT DIFFERENT
ANGLES | (X) |
| * ZONING BOARD APPLICATION WITH SHORT
ENVIRONMENTAL ASSESSMENT FORM | (X) |
| * PROXY OR STATEMENT FOR REPRESENTATION
THEREOF | (X) |
| SEPTIC DESIGN BY P.E. (IF APPLICABLE) | (NA) |
| PERCULATION TEST (IF APPLICABLE) | (NA) |

*** ORIGINALS ARE REQUIRED.**

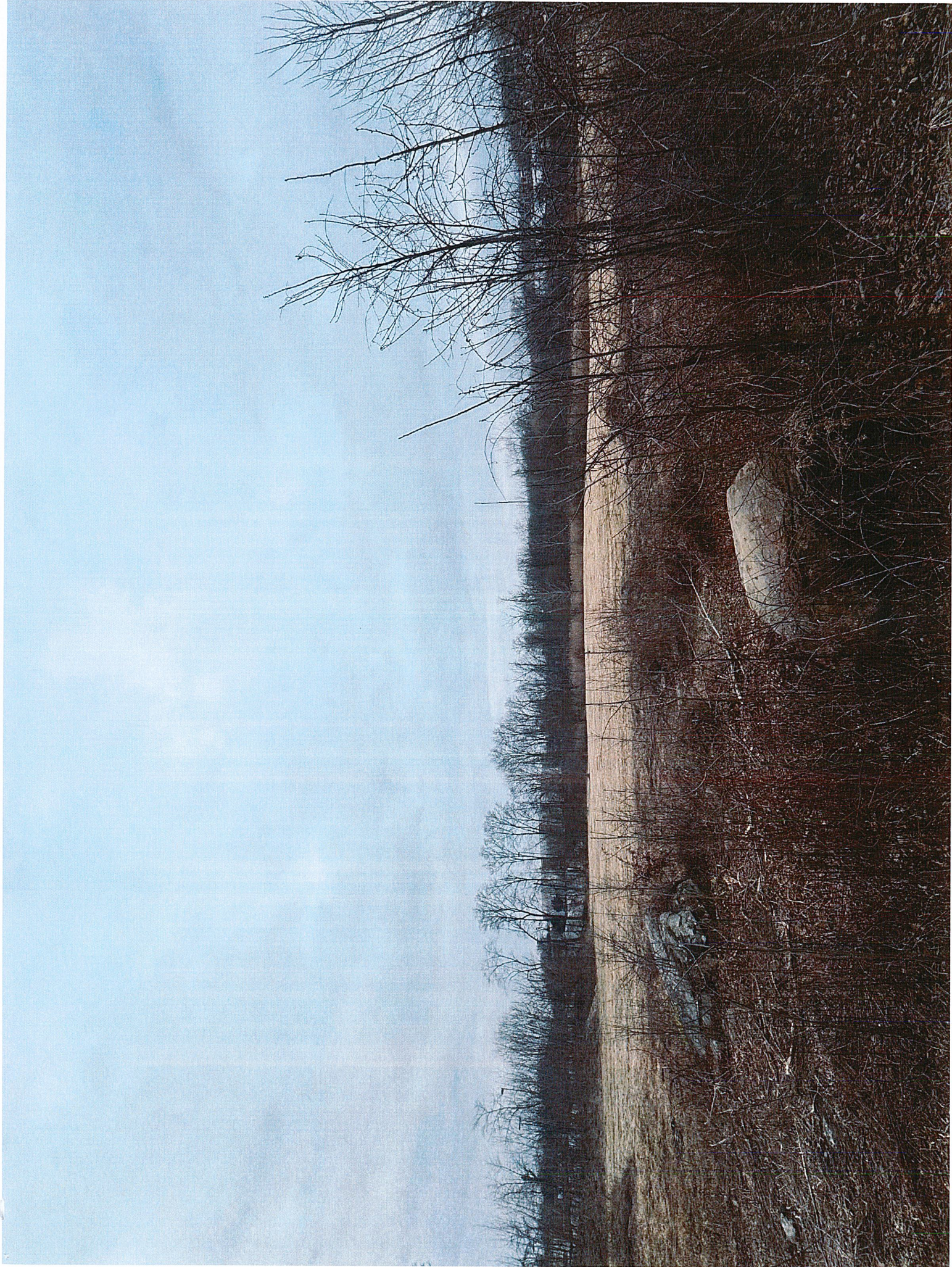
NOTE: NYS GML Section 239-m (3) for proposed actions that are within 500 feet of the properties or thresholds listed in the statute the Zoning Board of Appeals is required to send a copy of the complete application to the Orange County Department of Planning to be reviewed prior to Zoning Board of Appeals 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).

EXHIBIT I







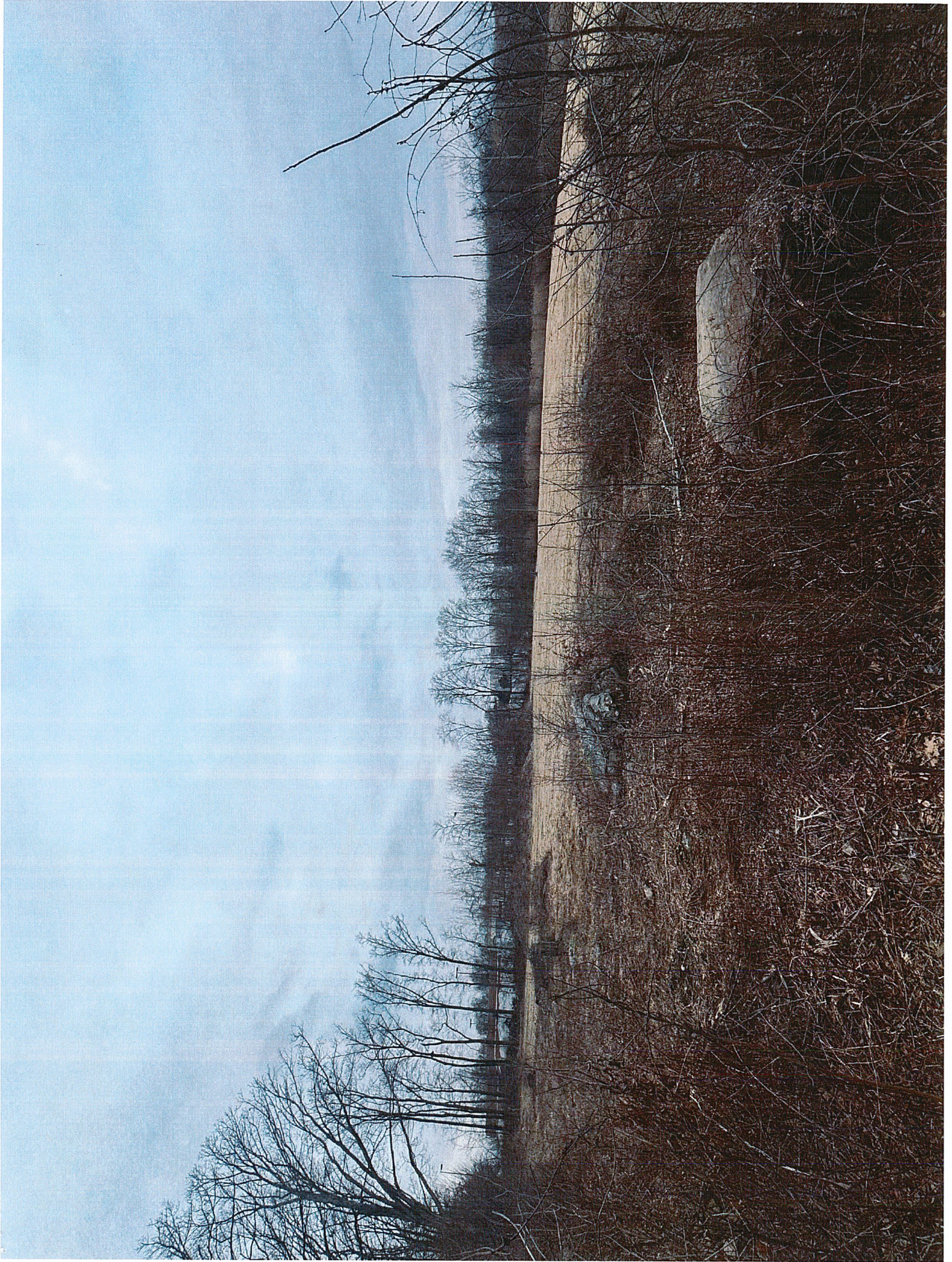


EXHIBIT J

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

STATE OF NEW YORK: COUNTY OF ORANGE:

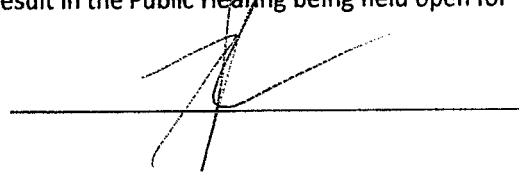
I, N/OMIT D Patel, being duly sworn, depose and say that I did on or before

February 8, 2024, post and will thereafter maintain at

Unity Pl/Auto Park Pl 97-2-37 IB 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 7th
day of February, 2024.



TYLER SULT
Notary Public, State of New York
No. 01SU0012865
Qualified in Orange County
Commission Expires August 29, 2027



2.7.24