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## Orange County Department of Planning

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### County Reply – Mandatory Review of Local Planning Action as per NYS General Municipal Law §239-l, m, & n

**Local Referring Board:** Town of Newburgh ZBA

**Applicant:** WCC Tank Technology, Inc.

**Project Name:** 2102 Partners LLC

**Proposed Action:** Use Variance for expansion of existing nonconforming use to allow storage of vehicles on property

**Reason for County Review:** Within 500 feet of NYS Route 300

**Date of Full Statement:** April 6, 2018

**Referral ID #:** NBT 13-18M

**Tax Map #:** 3-1-21.61 and 21.31

**Local File #:** none provided

#### Comments:

The Planning Department has reviewed the submitted materials regarding the appeal for a use variance and has found no evidence that intermunicipal or countywide impacts would result from its approval. County Planning recommends that the Board act on this variance request only if the applicant satisfies the unnecessary hardship standard, as defined by New York State law.

The courts of New York hold that the unnecessary hardship standard is satisfied by competent proof of each of the following:

1. the land in question cannot yield a reasonable return, in dollars and cents, if used for any use permitted in the zone,
2. the use to be authorized by the variance will not alter the essential character of the locality,
3. the hardship is unique to the parcel and not general throughout the zoning district, and
4. the hardship is not self-created.

While the proposed expansion of the existing nonconforming use does not appear to meet this standard, it also does not appear that the continuation and expansion of the use will cause significant negative impacts. We have no advisory comments regarding this application.

**County Recommendation:**

**Local Determination**

**Date:** April 23, 2018

**Prepared by:** Megan Tennermann, AICP, Planner

David Church, AICP  
Commissioner of Planning

As per NYS General Municipal Law 239-m & n, within 30 days of municipal final action on the above referred project, the referring board must file a report of the final action taken with the County Planning Department. For such filing, please use the final action report form attached to this review or available online at [www.orangecountygov.com/planning](http://www.orangecountygov.com/planning).