

Comments regarding the Mid Broadway Development

For the Public Hearing June 21, 2016

Chairman Daily, and members of the Planning Board

Thank you for the opportunity to submit these comments regarding the Mid Broadway Development.

The lot that Mill Street Partners wants to use on Johnston Street is a defacto playground every afternoon. The neighborhood kids leave balls, bikes and hoops there, and play there every afternoon after school. These kids need an outlet for their play, so there needs to be a public amenity of open space as part of the development. In NYC large developers are routinely required to add a public amenity to any large development. This brings the project into the neighborhood, and creates a better planned city. Frankly, in exchange for the right to make a substantial profit on the development, an amenity is created for the community. In the long run, it also makes it a better project, and a better neighborhood, and a better city. It's just good planning.

There needs to be green space that is beautiful, accessible, and maintained as part of the project.

Permeable pavement. This is good sense with storm runoff. They are proposing making 2 full acres now permeable to be not permeable. This was done when the Mount paved a parking lot on Gidney, and the result was sewage backup into surrounding homes. There needs to be a sewer capacity study done by the City, and paid for by the developer (that is what the contract with the City says) to see if the Sewer can sustain the added runoff. Permeable pavement must be used to help control runoff.

Storm runoff must be diverted into the groundwater through retention rings diverting the vast majority of all runoff into the groundwater before the line connects with the city sewer system. Newburgh is under a consent order with the DEC to stop sewage treatment overflow during storms. The way this project is proposed, they will dramatically worsen this problem. They propose to have separate storm and sanitary, and then leave it up to the City to replace the entire sewer system. That is backwards and destructive to the city, and to the Hudson River. The developer must separate storm runoff, and insure that it does not enter the sanitary sewer.

Stick structure over steel commercial. This is a poor choice designed to save money at the expense of fire safety. Please ask your Fire Dept for comment on this. While it meets the minimum requirement of code it is not advisable. When you privilege profits over fire safety, you are asking for trouble.

Digging deep trenches and putting workers in them way above their heads with no shoring and no protection whatsoever endangers the lives of workers, and deliberately confusing the code inspector by showing him only the shallow, no problem hole and failing to show him the deep one shows a level of deception that is troubling. When I presented this information to the City Council, Mill Street's lawyer claimed I made it all up, but I took pics, and the City's codes chief saw it for himself. This episode was the second time that Mill Street did this. They did the same thing two years ago, they were caught, they denied it, pictures proved them wrong, and they said I'm sorry, we promise to comply with laws and local codes in the future. First time a problem, second time, a very worrisome trend about how this developer works.

Bait and switch. In the proposal that Mill Street submitted to the City, they offer on page 2 of section D entitled "Proposed Project Concept and Schedule," as one of the main goals of the project: "Adding

new real estate tax revenues to the City's revenue stream." Last month, in his presentation to this Board, Mr. Normoyle erroneously claimed that there was no bait and switch. I'm sorry to say that is very very far from the truth. In fact they want to pay only \$45,000/year for 30 years. That's less than 5 typical homeowners would pay. The cold truth is they will draw tax revenue from the City and will be failing to even pay for the services they use.... The store alone should pay \$45,000 in taxes. Based on their construction budget, they should pay over 1 million \$/year in taxes. The school costs \$22,395 /student in 2015. 92 units might have 100 or more children... costing \$2,239,500/ year. That money has to come from the other tax payers. That means taxes will go up even more, as Newburgh is already suffering because it is considered a high tax city. I have scanned and attached the first two pages of that section of their proposal and included it at the end.

You will note on their proposal, they also suggest that they want to support commercial development... I guess they mean subsidizing a super market with tax levy funds. What happens to the other markets in the area? Do we offer them subsidies too, or they simply go out of business because we have created a new option with a public subsidy.

They promise "linking infrastructure improvement to redevelopment efforts.? Wait a minute. Does that mean they are going to upgrade the Water and Sewer system instead of overloading it with storm runoff? They need to be held to this promise.

They promise, "...to undertake public improvement projects." Like a public park? That would be great! Green Space? That would be great! Unfortunately that was part of the enticement to get the job, but somehow didn't make it into the final proposal. I ask you to hold the developer to this promise.

Parking. This developer previously submitted a parking study, but decided subsequently that they did not want to develop the required parking spaces, so what do they do? Make a new study paid for and tailor designed to require only the spaces that they have decided in advance that they want to build. Based on what? Need? No, of course not. Budget and Profit. The developer does not want to provide adequate parking because it would cut into their profits. The proper way to do this is for the City or the Planning Board to commission the study, paid for by the developer, and then it would be a fair and more accurate study.... If you ask the fox about the Chicken House, he will describe dinner. They could do several things to provide parking... they could go higher and add parking beneath, they could build a parking deck... but it is not my job to design for them, only to say that as a resident, and a neighbor, I can say that the existing parking is close to capacity. After snow, beyond capacity. They claim part of the parking that the DMV uses. The County believes they have a valid lease and an option to buy that. The lease specifically gives them exclusive use of the parking. (See attached letter from County Planner David Church.) This has to be resolved by negotiation between the City and the County before any discussion can be made of using part of that lot for the new development. In addition, the lot is often full, or close to full during a typical workday, and during a snow emergency, good luck finding parking now. *Since the new Traffic Study was not available in a timely manner I ask that the hearing be open for another month.* In the proposal they submitted, they claim they can get away with a SEQRA short form. This is just another way this developer is trying to sneak one past you. A project of this size and complexity MUST do a SEQRA long form.

Respectfully Submitted.

Stuart Sachs
28 Lander Street

The parking lot is ugly and should not be allowed.

D. PROPOSED PROJECT CONCEPT AND SCHEDULE

PROJECT CONCEPT

CPCR, MSP and RECAP believe that a public/private partnership approach is the only way to achieve the goals of both the City and the development team. Given Our development team's unique mission and commitment, we can point to numerous examples of successful public/private partnerships where our team was able to undertake challenging redevelopment projects which led to a broader revitalization in those communities. This demonstrated track record of success, in partnership with local government partners, sets this team apart from most other developers.

City of Newburgh's Goals for Revitalization

In preparing a response to this RFQ, the development team reviewed many of the City's key planning documents including the Plan-it Newburgh Sustainable Master Plan, the draft City of Newburgh Future Land Use Plan, the Local Waterfront Revitalization Plan, the Economic Adjustment Strategy (from September 2001), and the more recent reports prepared by the Pace Land Use Law Center and Center for Community Progress.

Based upon this information, the City of Newburgh's critical goals for the Mid-Broadway and broader downtown and waterfront revitalization effort include:

- Maximizing community involvement and input during the planning process
- Creating a linkage between the existing waterfront attractions and the downtown
- Leveraging the Mid-Broadway redevelopment as a way to galvanize additional revitalization up Lander Street and to encourage the redevelopment of other vacant and underutilized properties throughout the area
- Utilizing the Mid-Broadway redevelopment to set the stage for the redevelopment of the waterfront assemblage
- Expanding homeownership opportunities throughout the downtown and surrounding area as a way to stabilize these neighborhoods
- Supporting commercial development to create new job opportunities for Newburgh residents
- Creating a long-term relationship with the selected developer to pursue additional public-private partnerships that advance achievement of the

- City's revitalization goals
- Adding new real estate tax revenues to the City's revenue stream
 - Linking infrastructure improvements to redevelopment efforts
 - Leveraging state and federal funding to undertake important public improvement projects which complement and foster further private development
 - Emphasis on high quality, sustainable design which is compatible with the local historical vernacular

Proposed Development Plan

Based upon our understanding of the City's priorities, our team attempted to craft an initial master plan for the Mid-Broadway development area which addressed the goals noted above.

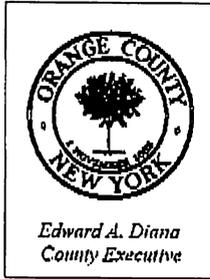
Specifically, the Mid-Broadway Master Plan was broken into two phases:

Phase 1: The Phase 1 development site includes the main parcel along Broadway. Our development plan for this site calls for a mixed-use development consisting of 18,000SF of first floor retail with residential rental units on the upper floors. We created two options for the residential apartments above: a 5 story option with 56 total residential units and a 6-story option with 70 residential units.

Phase 2: The Phase 2 development site consists of a large parcel along Johnson Street where we propose the creation of thirteen (13) two-family homeownership sites (total units = 26).

The Phase 1 development program follows:

- The development team proposes to create an 18,000SF full-service supermarket on the first floor of this building. Currently, the downtown is devoid of a high-quality, full-service supermarket. As a consequence, most local residents need to leave the downtown area to shop at a real supermarket (with many of them having to pay for cabs). We have initiated discussions with several quality supermarket operators, all whom have expressed a strong interest in this development and this location. From a planning perspective, commercial development of the first floor is critical to creating the type of pedestrian traffic and activity you want in the downtown business district. In addition, the supermarket would employ approximately 60 to 80 local residents. As the development



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: *Newburgh City Council* **County ID #:** *NBC07-13M*
Applicant: *City of Newburgh* **Tax Map #:** *30-3-21 → 38*
Project Name: *Mid Broadway Housing Project* **Local File #:** *N/A*
Proposed Action: *Site plan and special use permit*
Reason for County Review: *Located within 500' of State Highway 17K/Broadway*
Date of Full Statement: *October 1, 2013*

Comments: The Department has reviewed the above referenced site plan and special use permit and has determined that the proposed action has the potential to cause inter-municipal or countywide impacts. We therefore recommend that the local referring board address the **binding comments** outlined below. The local referring board may not act contrary to such recommendations except by a vote of a majority plus one of all the members thereof or by disapproving the action.

1. It is the opinion of this Department that a majority of the off-site parking (50 spaces) at the neighboring municipal parking lot is unavailable due to prior commitments to Orange County for adjoining public facilities. As such, the parking analysis and the site plan must be recalculated. Additional information and documentation about these prior commitments can be obtained from this Department or from John McCarey, Director of OC Real Property Tax Service Agency.
2. Tandem parking is a relatively new concept that should be used cautiously. With such a parking arrangement, motorists will utilize the first available parking space unless the parking spaces are assigned and there is some type of private enforcement. Therefore, a parking and enforcement plan needs to be provided that ensures residents will be guaranteed their allotted parking spaces.
3. The emergency entrance should be a third entrance/exit for the project. Opening a third exit/entrance will reduce congestion by allowing residents unobstructed access and egress during peak shopping times.

Additionally, this Department offers the following **advisory comments** for your consideration.

4. Due to tight space limitations, it is essential to have Fire Department personnel review and approve the proposed design.
5. A left hand turning lane or dedicated signal should be considered from Broadway (eastbound) onto Johnston Street.

6. Rear entrances from the parking lot into the supermarket do not appear on the site plan but are necessary for off-street motorists to conveniently access the market. In order to be competitive and successful, this market should offer plenty of free, unobstructed parking and safe, accessible entrances as the many existing markets do just a mile down Broadway.
7. Urban markets typically install bollards in an effort to keep stray carts on the premises. Such a plan should be examined and approved during this review period as limited space restrictions will hinder future pedestrian and vehicular circulation patterns.

County Recommendation: Approval subject to binding conditions 1 through 3

Date: October 31, 2013
Prepared by: Kate Schmidt



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 on-line at www.orangecountygov.com/planning.

CC: John McCarey, Commissioner of Real Property

LEASE AGREEMENT

THIS LEASE is entered into as of this ^{4th} day of OCTOBER 2002, by and between RAC DEVELOPMENT OF NEWBURGH, LLC (formerly known as Gemma Development of Newburgh, LLC), a New York limited liability company, having an office located c/o Robert Carchietta, P.O. Box 299, Goshen, New York 10924 (hereinafter referred to as "Landlord"), and COUNTY OF ORANGE, NEW YORK, a municipal corporation, a County of the State of New York, with principal offices at the Government Center, 255-275 Main Street, Goshen, New York 10924 (hereinafter referred to as "Tenant").

ARTICLE 1: Premises, Term & Rents.

1.01 Landlord hereby leases to Tenant, and Tenant hereby hires from Landlord, the premises hereinafter described, in the building located at 128 Broadway, Newburgh, New York, Section 30, Block 4, Lot 28 on the City of Newburgh Tax Maps (the "Building"), for the term and rents hereinafter stated, and upon and subject to the conditions and covenants hereinafter provided.

1.02 The premises hereby leased to Tenant will consist of approximately 25,000 gross square feet of the Building, 14,000 square feet above grade and 11,000 feet below grade (hereinafter called the "Demised Premises").

1.03 The term of the Lease, for which the Demised Premises are hereby leased, shall commence when the Demised Premises are available for Tenant's occupancy in accordance with paragraph 13 of the Rider to Lease attached hereto (hereinafter called the "Commencement Date"), and shall expire at noon, twenty (20) years thereafter (hereinafter the "Expiration Date"), subject to Article 24, or on such earlier date upon which said term may expire or be cancelled or terminated pursuant to any of the conditions or covenants of this Lease or pursuant to law. The parties will enter into an agreement memorializing the Commencement Date as it occurs. All references in this Lease to the term of the Lease shall be deemed to include the renewal term of the Lease, if any, as provided in Article 24. ← *

1.04 The "rent" reserved under this Lease, for the term hereof, shall be and consist of the "fixed rent" shown upon Schedule "A" attached hereto and made a part hereof, and "additional rent" consisting of all such other sums of money as shall become due from and payable by Tenant to Landlord hereunder, all to be paid to Landlord at its office, or such other place, or to such agent and at such place, as Landlord may designate by written notice to Tenant.

1.05 Tenant shall pay the fixed rent and additional rent herein reserved promptly as and when the same shall become due and payable.

1.06 If the Commencement Date occurs on a day other than the first day of a calendar month, the fixed rent for such calendar month shall be prorated.

ARTICLE 2: Use.

2.01 Tenant shall use and occupy the Demised Premises for executive and general offices, and for any and all municipal or municipal-related purposes, and for no other purposes.

2.02 Tenant shall not at any time use or occupy, or suffer or permit anyone to use or occupy, the Demised Premises, or do or permit anything to be done in the Demised Premises, in violation of the Certificate of Occupancy for the Demised Premises or for the Building.

ARTICLE 3: Preparation of the Demised Premises.

3.01 Subject to Tenant's timely compliance with all of its obligations contained in this Lease, Landlord agrees that, at its expense, prior to the Commencement Date, Landlord will provide its building standard work in the Demised Premises (hereinafter, "Building Standard Work"). Building Standard Work shall include the interior buildout of the Demised Premises and/or site improvements, including interior walls, doors, closets and offices, hallways, bathrooms, heating, ventilating and air conditioning systems, electrical systems, light fixtures, new roof, new sidewalks and exterior exits. Prior to the Commencement Date, Landlord shall cause the municipal parking lot immediately adjacent to the Building to be renovated so that fifty (50) parking spaces are made available for the exclusive use of Tenant. Landlord is under no obligation for the ongoing maintenance of the municipal parking lot.

Landlord agrees to provide, at no cost to Tenant, the services of its architect, if any, to Tenant to draw plans for the Demised Premises, including Tenant Extra Work, as defined in paragraph 3.02. Landlord shall complete the Building Standard Work in accordance with the plans. In any event, Tenant agrees to furnish to Landlord, or, if applicable, Landlord's architect, with necessary details to allow plans to be completed by Landlord and approved by Landlord and Tenant within thirty (30) days after the execution of this Lease. Tenant shall designate a representative to deal with Landlord and Landlord's architect, if any. If Tenant delays submission of its plans beyond thirty (30) days, then the Commencement Date shall be advanced by an equivalent number of days.

If Landlord and Tenant shall fail to agree on the plans within sixty (60) days after the date of this Lease, then Landlord or Tenant may cancel this Lease by written notice to the other within seven (7) days after the expiration of such period (TIME BEING OF THE ESSENCE) and, upon such cancellation, neither party shall have any further claim or right against the other.

Tenant shall pay Landlord for any additional work above Building Standard Work requested by Tenant, at an amount and/or rate agreed upon in writing between Landlord and Tenant prior to any such work being undertaken by Landlord. As to Tenant, such written agreement must only be executed by the County Executive for Tenant.

3.02 Tenant Extra Work shall mean any and all work performed by the Landlord for the Tenant's use which is not included in Building Standard Work. Tenant shall be responsible for the cost of all Tenant Extra Work. Landlord shall notify Tenant in

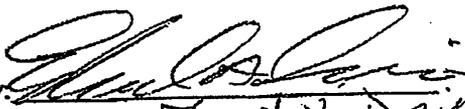
28.04 The obligations of this Lease shall bind and benefit the successors and assigns of the parties hereto with the same effect as if mentioned in each instance where a party is named or referred to.

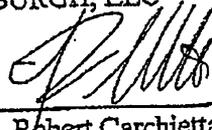
SEE RIDER ATTACHED HERETO AND MADE A PART HEREOF

IN WITNESS WHEREOF, Landlord and Tenant have duly executed this Lease as of the day and year first above written.

COUNTY OF ORANGE, NEW YORK

RAC DEVELOPMENT OF
NEWBURGH, LLC

By: 

By:  *WGR*

Name: Edward A. Diana
Title: County executive

Robert Carchietta, Manager