

## City of Newburgh Council Work Session

5:00 pm  
April 18, 2013

### AGENDA

1. Executive Session:
  - a. Matters pertaining to the employment of a particular individual
2. Review of Tentative Agenda for Monday night:
  - a. Approval of the minutes of the City Council meeting of April 8, 2013
  - b. Approval of the minutes of the Work Session of April 4, 2013
  - c. Departmental Reports
  - d. Matters of Litigation
  - e. A public hearing will be held regarding the Mid-Broadway site SEQRA
3. Economic and Community Development/Real Estate:
  - a. (Res. 81) Workforce Development Institute
  - b. Commercial Builders Summit will be on May 9
  - c. Discussion regarding the request to release the restrictive covenants to 1 Edward Street
4. Finance:
  - a. Monthly cash report
  - b. (Res. 82) Agreement with Hess Corp. through the Municipal Electric and Gas Alliance for a two-year term at a fixed rate.
  - c. (Res. 83) Amendment to the 2013 Budget to transfer \$1,004,000.00 from Fund Balance to Capital Fund for the purpose of purchasing vehicles (BAN).
  - d. (Res. 84) Agreement with International Data Base Corp. to provide web-based solicitation and bidding services.
5. Grants/Contracts:
  - a. (Res. 85) Precision Pipeline Solutions request for a license agreement to allow access onto City-owned property for the purpose of storage of equipment during the 2013 construction season.
  - b. (Res. 86) Kiska Construction request for a license agreement to allow access onto City-owned property for the purpose of storage of equipment related to the repair of the Route 9W Bridge.

April 18, 2013

- c. (Res. 87) Authorization to enter into agreements with various parties to provide performing artists and related services in connection with the Newburgh Illuminated Festival.

6. Discussion:

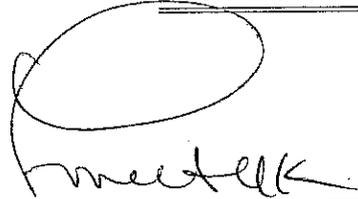
- a. (Res. 88) Resolution to oppose the proposed merger of CH Energy Group, Inc. with Fortis, Inc.
- b. Vacant Building Registry and Rental Property Licensing
- c. Code officer dedicated to Broadway
- d. Environmental review of amended easement in connection with the City of Newburgh v. Mark Sarna, Sarna Enterprises, Inc., New Windsor Development Co., LLC and Drainage District No. 6, Mt. Airy Estates (the Reserve), Town of New Windsor, New York settlement
- e. Councilman Brown Request: Resolution to amend the 2013 budget and payroll book to adjust the salaries of Mike Vatter and Craig Marti retroactive to Jan. 1, 2013.
- f. Councilman Brown Request: A resolution amending the City Manager authority to give pay raises and grade increases when it come to non- bargaining employees.
- g. Councilman Brown Request: Revisit the Mayors best practice resolution

7. Executive Session:

- a. Pending Litigation

Account#	Account Description	Fee Description	Qty	Local Share
	Marriage License	Marriage License	31	542.50
	Vet Fees	Vet Fees	1	35.00
		<b>Sub-Total:</b>		<b>\$577.50</b>
1550	Bordatella Booster	Bordatella Booster	1	38.00
		<b>Sub-Total:</b>		<b>\$38.00</b>
2590	Recycling License	Junkyard License	2	500.00
		<b>Sub-Total:</b>		<b>\$500.00</b>
A1255	Conservation	Conservation	9	27.76
		<b>Sub-Total:</b>		<b>\$27.76</b>
A12550003	Misc. Fees	Certified Copies - Marriage	31	310.00
		<b>Sub-Total:</b>		<b>\$310.00</b>
A12550008	Misc. Fees	Copies	202	50.50
		<b>Sub-Total:</b>		<b>\$50.50</b>
A12550012	Thumbprint Fee	Thumbprint Fee	1	5.00
		Thumbprint Fee	3	15.00
		<b>Sub-Total:</b>		<b>\$20.00</b>
A1550	Public Pound	Public Pound	1	10.00
		<b>Sub-Total:</b>		<b>\$10.00</b>
A15500004	Dog Redemption	Redemptions	1	35.00
		<b>Sub-Total:</b>		<b>\$35.00</b>
A15500010	Vet Bill (rabies)	Vet Bill (Rabies)	1	28.00
		<b>Sub-Total:</b>		<b>\$28.00</b>
A25010001	Liquor Tax	Liquor Tax	1	224.00
		<b>Sub-Total:</b>		<b>\$224.00</b>
A2544	Dog Licensing	Female, Spayed	11	82.50
		Female, Unspayed	4	50.00
		Male, Neutered	8	60.00
		Male, Unneutered	4	50.00
		<b>Sub-Total:</b>		<b>\$242.50</b>
A25900019	Taxi Application Fee	Taxi Application Fee	3	300.00
		<b>Sub-Total:</b>		<b>\$300.00</b>
A25900020	Taxi Drivers License	Taxi Drivers License	1	100.00
		<b>Sub-Total:</b>		<b>\$100.00</b>

Account#	Account Description	Fee Description	Qty	Local Share
			<b>Total Local Shares Remitted:</b>	<b>\$2,463.26</b>
Amount paid to:	NYS Ag. & Markets for spay/neuter program			43.00
Amount paid to:	NYS Environmental Conservation			475.24
Amount paid to:	State Health Dept. For Marr. Licenses			697.50
<b>Total State, County &amp; Local Revenues:</b>		<b>\$3,679.00</b>	<b>Total Non-Local Revenues:</b>	<b>\$1,215.74</b>



City Clerk

4/2/13

Date



# CITY OF NEWBURGH

CITY CLERK'S OFFICE  
83 BROADWAY  
NEWBURGH, NEW YORK 12550  
PHONE (845)569-7311  
FAX (845)569-7314

LORENE VITEK  
CITY CLERK

APRIL 2, 2013

KATRINA COTTEN  
LISETTE ACOSTA-RAMIREZ  
DEPUTY CLERKS

## MEMORANDUM

TO: MAYOR AND CITY COUNCIL  
FROM: REGISTRAR OF VITAL STATISTICS

I RESPECTFULLY REPORT THAT THERE HAS BEEN  
RECEIVED IN THE OFFICE OF VITAL STATISTICS DURING THE MONTH  
OF MARCH 2013 THE SUM OF \$6,934.00 AS FOLLOWS:

250 CERTIFIED COPIES OF BIRTH CERTIFICATES	\$2,500.00
443 CERTIFIED COPIES OF DEATH CERTIFICATES	<u>\$4,434.00</u>
TOTAL	\$6,934.00

### IN ADDITION:

253 BIRTHS HAVE BEEN FILED IN THIS OFFICE TO DATE,  
182 DEATHS HAVE BEEN FILED IN THIS OFFICE TO DATE,

---

LORENE VITEK

**PERSONNEL REPORT**  
**CIVIL SERVICE COMMISSION**  
**MARCH/APRIL 2013**

**ENGINEERING:**

Jason Morris 11 Van Dam Road Hyde Park, NY	Asst. City Engineer Appointed Provisional 4/19/13 \$61,472
--	--

**PARKING  
TRIBUNAL:**

Keith Douglas 1271 Albany Post Road Croton on Hudson, NY	Director of Parking Violations Appointed Provisional 4/8/13 \$61,472
--	--

**POLICE:**

Joseph Lee 600 South Street Newburgh, NY	P/T Prisoner Attendant Deceased 3/31/13 \$20.00/hr.
--	---

**FIRE:**

David Acker 25 Ridge Avenue Walden, NY	Fire Lieutenant Service Retirement 3/28/13 \$68,046
--	---

**DPW:**

Joecephous Smith 12 Bush Avenue Newburgh, NY	From Sanitation Worker to Permanent Laborer 3/29/13 \$38,748
--	--

Kenyon Nolcox 241 Third Street Newburgh, NY	From Temp CDBG Laborer to Permanent Sanitation Worker 3/29/13 \$38,748
---	--

Sharrieff Anderson 56 Bay View Terrace Newburgh, NY	From Temp CDBG Laborer to Permanent Laborer 3/29/13 \$38,748
---	--

**PLANNING &  
DEVELOPMENT:**

Acacia Bellamy 80 Prospect Street Newburgh, NY	Intern End of term 3/29/13 \$10/hr.
--	---



# CITY OF NEWBURGH

CITY CLERK'S OFFICE  
83 BROADWAY  
NEWBURGH, NEW YORK 12550  
PHONE (845)569-7311  
FAX (845)569-7314

LORENE VITEK  
CITY CLERK

KATRINA COTTEN  
LISETTE ACOSTA-RAMIREZ  
DEPUTY CLERKS

## MEMORANDUM

TO: Michelle Kelson, Corporation Counsel

FROM: Lisette Acosta-Ramirez, Deputy City Clerk

RE: Notice of Claim:  
Deborah Perez vs. City of Newburgh

DATE: April 09, 2013

Please find attached Notice of Claim regarding the above, which was hand delivered to our office on this date.

Attachment

Cc City Manager  
Mayor & Council

## In the Matter of the Claim of



TO:

PLEASE TAKE NOTICE that the undersigned claimant(s) hereby make(s) claim and demand against you as follows:

1. The name and post-office address of each claimant and claimant's attorney is:

Deborah Perez  
P.O. Box 10004  
Newburgh, NY 12550  
(845) 926-0463

2. The nature of the claim:

Car was parked and overgrown tree branch  
fell on my car breaking back windshield  
and damaging my speakers. Seeking payment.

3. The time when, the place where and the manner in which the claim arose:

9.18.12 at about 1:00pm, at 132 Dubois St.  
in Newburgh, NY 12550. Car Parked  
and overgrown branch fell on car.

4. The items of damage or injuries claimed are (do not state dollar amounts)

Back Windshield and back speakers,  
of my 1998 Honda Accord Coupe.

The undersigned claimant(s) therefore present this claim for adjustment and payment. You are hereby notified that unless it is adjusted and paid within the time provided by law from the date of presentation to you, the claimant(s) intend(s) to commence an action on this claim.

Dated:

*Deborah Perez*

The name signed must be printed beneath

*Debbie Perez Prose*

The name signed must be printed beneath

Attorney(s) for Claimant(s)  
Office and Post Office Address, Telephone Number

**CORPORATE VERIFICATION**

State of New York, County of

ss.:

being duly sworn, deposes and says that deponent is the of

corporate claimant named in the within action; that deponent has read the foregoing Notice of Claim and knows the contents thereof, and that the same is true to deponent's own knowledge, except as to the matters therein stated to be alleged upon information and belief, and as to those matters deponent believes it to be true.

This verification is made by deponent because said claimant is a corporation, and deponent an officer thereof, to wit its The grounds of deponent's belief as to all matters not stated upon deponent's knowledge are as follows:

**INDIVIDUAL VERIFICATION**

State of New York, County of *Orange* ss.:

*Deborah Perez*  
being duly sworn, deposes and says that deponent is the claimant in the within action; that She has read the foregoing Notice of Claim and knows the contents thereof; that the same is true to deponent's own knowledge, except as to the matters therein stated to be alleged on information and belief, and that as to those matters deponent believes it to be true.

*Kathryn E. Moloney*

Sworn to before me, this *5<sup>th</sup>* day of *April*, 2013

KATHRYN E. MOLONEY  
NOTARY PUBLIC, STATE OF NEW YORK  
NO. 01M061184624  
QUALIFIED IN ORANGE COUNTY  
COMMISSION EXPIRES NOVEMBER 15, 20*16*

Sworn to before me, this day of

In the Matter of the Claim of

Notice of Claim Against

Attorney(s) for Claimant(s)  
Office and Post Office Address

**Windshields To Go USA Inc.**From: [orders@windshieldstogo.com](mailto:orders@windshieldstogo.com)

Sent: Wed 9/26/12 11:00 AM

To: [deborahperez@live.com](mailto:deborahperez@live.com)**Thank you for your order!**

You can now view the status of your order online at any time. You can also send us a question or comment about your order.

<http://www.windshieldstogo.com/status/>

You will be granted access by entering your Order Number and Customer Key.

Your Order Number is: 55548

Your Customer Key is: 5683

**Windshields To Go USA Inc.**

Corporate Office

960 Tulare Street

Pismo Beach, CA 93449

Toll-Free: (800) 549-4470

**Order # 55548****Customer Information**

Name: Debra Perez

Address: 128 Dubois St  
Newburgh, NY 12550

## Company:

Phone: 845-926-0463 / 845-464-4015

Fax:

Cross Street:

Requested Date: September 21 2012

Requested Time: 1 to 5

**Billing Information**

Name: Debra Perez

Address: 128 Dubois St  
Newburgh, NY 12550Email: [debraperez@live.com](mailto:debraperez@live.com)

## Company:

Phone: 845-926-0463 / 845-464-4015

Payment: Visa

Expires: 6/2015

**Order Summary**

Year: 1998

Make: Honda

Model: Accord

Style: 2 Door Coupe

Installed: Yes

Hardware: N/A

Part: ns:bd45c815

NAGS® #: FB20358

Molding Part:

Quantity: 1

Details: GTN

Subtotal: \$246.87

Shipping: \$0.00

Total: \$246.87 (includes any discounts)

Comments:

I HEREBY AUTHORIZE the above repair work to be done along with the necessary material.

SIGNATURE \_\_\_\_\_ VIN \_\_\_\_\_ LIC \_\_\_\_\_ Miles \_\_\_\_\_

CONDITION OF SALE: I authorize my insurance company to pay the company named above. I authorize the above named company to endorse my signature on any insurance checks or drafts issued for glass replacement. A FINANCE CHARGE of 1.5% per month or 18% annual may be added to all past-due accounts. If collection is made, by suit or otherwise, I agree to pay interest at the above rate until the amount due is paid; also collection costs including reasonable attorney's fees, legal and administrative expenses.

CUSTOMER SIGNATURE: \_\_\_\_\_

**Our Guarantee:**

Your order will be processed and scheduled for the date and time you have requested, if for any reason we can not meet your request, a customer service representative will contact you. Please note that if you have placed your order over a weekend, we will not be able to process your order until the following Monday.

We guarantee our auto glass against any manufacturer defect and the installation for as long as you own your vehicle. (Pre-existing rust or body damage voids this guarantee)



# CITY OF NEWBURGH

CITY CLERK'S OFFICE  
83 BROADWAY  
NEWBURGH, NEW YORK 12550  
PHONE (845)569-7311  
FAX (845)569-7314

LORENE VITEK  
CITY CLERK

KATRINA COTTEN  
LISETTE ACOSTA-RAMIREZ  
DEPUTY CLERKS

## MEMORANDUM

TO: Michelle Kelson, Corporation Counsel

FROM: Lorene Vitek, City Clerk

RE: Notice of Claim:  
Eleonora Yudovich vs. City of Newburgh

DATE: April 9, 2013

Please find attached Notice of Claim regarding the above, which was received in our office via Certified Mail on this date.

Attachment

Cc City Manager ✓  
Mayor & Council

-----X  
**In the Matter of the Claim of**

ELEONORA YUDOVICH,

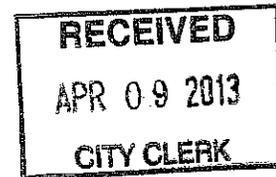
Claimant,

*-against-*

the CITY OF NEWBURGH, a Municipal Corporation of  
the State of New York located in Orange County,  
New York,

Defendant.  
-----X

**NOTICE OF CLAIM**



**PLEASE TAKE NOTICE THAT** the undersigned Claimant, pursuant to Section 50-e of the General Municipal Law of the State of New York, to the extent required thereby, if any, hereby makes claim against the CITY OF NEWBURGH, orange County, New York, and in support of such claim , states the following:

1. Claimant: ELEONORA YUDOVICH, residing at 702 Suffern Road, Teaneck, New Jersey 07666.
2. Claimant's attorneys: Jacobowitz and Gubits, LLP, 158 Orange Avenue, P. O. Box 367, Walden, New York 12586.
3. This claim is against the City of Newburgh for property damage, trespass, negligence, public nuisance, private nuisance, loss of use and value of property and related claims, and governmental taking of property and property rights. The claim arose on or about January 9, 2013. The City of Newburgh and City Council of the City of Newburgh authorized, directed and/or permitted the demolition of an abandoned building adjoining Claimant's property, which demolition resulted in a crater on the adjoining lot causing instability and cracks in the foundation of Claimant's house, and generation of debris falling onto the roof of Claimant's house which lead to damage to the roof resulting in the discovery of leaks from the roof and within the walls. The demolition resulted in damage to Claimant's property and the loss of tenants, loss of revenue and the security, safety, use and enjoyment and value of the property. Claimant has suffered significant damages in an amount to be determined.
4. The property affected by the aforesaid tortious conduct is located on 157 Grand Street in the City of Newburgh, Orange County, and is shown on the Tax Map of the City of Newburgh as

S/B/L 18-6-17.

**WHEREFORE**, ELEONORA YUDOVICH, respectfully requests that this claim be allowed by the CITY OF NEWBURGH.

Dated: Walden, New York  
April 8, 2013

  
ELEONORA YUDOVICH  
By her Attorney in Fact MASHA YUDOVICH

  
MASHA YUDOVICH

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

I, MASHA YUDOVICH, Attorney in Fact for ELEONORA YUDOVICH, being duly sworn, says: I have read the annexed Notice of Claim, know the contents thereof and the same are true to my knowledge.

  
MASHA YUDOVICH

Sworn to before me this  
8<sup>th</sup> day of April, 2013

  
Notary Public - State of New York

SALLY A. CHRISTIAN  
Notary Public, State of New York  
No. 4890610  
Qualified in Ulster County  
Commission Expires May 4, 2015

## GENERAL POWER OF ATTORNEY

**KNOW EVERYONE BY THESE PRESENTS**, which are intended to constitute a Durable General Power of Attorney, **THAT I, Eleanora Yudovich**, having an address at 702 Suffern Road, Teaneck, NJ 07666, hereby make, constitute and appoint **Masha Alexandra Yudovich**, having an address at 702 Suffern Road, Teaneck, NJ 07666, as my attorney-in-fact TO ACT in my name, place and stead in any way which I could do, if I were personally present, to the extent that I am permitted by law to act through an agent:

(a) to ask, demand, sue for, recover and receive all manner of goods, chattels, debts, rents, interest, sums of money and demands whatsoever, due or to become due, that are thought to be owing, belonging or payable to me in my own right or otherwise, and to execute, acknowledge and deliver acquittances, receipts, releases, satisfactions or other discharges for the same;

(b) to sell, transfer, exchange, convert, abandon, or otherwise dispose of, or grant options with respect to, real and personal property, at public or private sale, with or without security, in such manner, at such times, for such prices, and upon such terms and conditions as my attorney-in-fact may deem necessary or appropriate;

(c) to buy, sell, exchange, invest and reinvest in common or preferred stocks, bonds, commodities, options, limited liability companies, investment trusts, mutual funds, regulated investment companies and other types of securities and financial instruments, foreign or domestic, including any undivided interest in any one or more common trust funds, whether or not such investments be of the character permissible for investments by fiduciaries under any applicable law, and without regard to the effect any such investment may have upon the diversity of investments; to demand, receive and obtain any money or other things of value to which I am or may become or may claim to be entitled in connection with any stocks, bonds or other financial instruments; to cause securities or other property to be held or registered in the name of a nominee or nominees or unregistered or in any other form; to vote in person at meetings of stock or security holders and adjournments thereof, to enter into voting trusts, and to vote by general or limited proxy with respect to any stock or securities;

(d) to make, execute, endorse, accept and deliver in my name or in the name of my attorney-in-fact all checks, notes, drafts, warrants, securities, stock certificates, certificates of deposit, bonds, acknowledgments, and any other agreements, certificates or instruments of any nature, as my attorney-in-fact may deem necessary or appropriate;

(e) to deposit and withdraw any sums to or from any bank, savings or similar account maintained by me alone or jointly; to open, continue, modify or terminate any account or banking arrangement in my name or jointly with others; to borrow money at such interest rates and upon such terms and conditions as my attorney-in-fact may deem necessary or appropriate, and to provide security therefor from my assets; to pay, renew or extend the time of payment of any note given by me or on my behalf; to prepare financial statements concerning my assets and liabilities or income and expenses, and deliver them to financial institutions; to receive statements, notices and other documents from financial institutions; to open or cause to be opened any safe deposit box in my name and to examine and remove any or all of the contents of such box; and to conduct such other banking transactions as set forth in Section 2 of P.L. 1991, c.95 (C.46:2B-10 et seq.) as my attorney-in-fact may deem necessary or appropriate;

(f) to take possession of, recover, obtain and hold any tangible personal property belonging to me or to which I may be entitled, and to receive and take for me and in my name any rents, issues and profits of any such property; to purchase, invest in, reinvest in, accept as a gift, sell, exchange, lease, grant options upon, assign, transfer, abandon, pledge, encumber or otherwise dispose of any personal property of any nature and wherever situate; to store property for hire or on a gratuitous bailment; to make repairs and alterations; and to execute, acknowledge and deliver all contracts, leases, notes, security agreements, guarantees, bills of sale, assignments, extensions, releases, waivers, consents, and any other agreements, writings and instruments of any nature affecting any personal property, as my attorney-in-fact may deem necessary or appropriate;

(g) to possess, recover, manage, hold, control, develop, subdivide, partition, mortgage, lease or otherwise deal with any real property belonging to me or to which I may be entitled; to purchase, invest in, reinvest in, accept as a gift, sell, exchange, lease, sublease, grant options upon, convey with or without covenants, quitclaim, assign, transfer, abandon, encumber or otherwise dispose of any real property of any nature and wherever situate; to borrow money at such interest rates and upon such terms and conditions as my attorney-in-fact may deem necessary or appropriate, and to provide security therefor by mortgage or pledge of any property; to satisfy, discharge, release or extend the term of any mortgage; to apply for zoning, rezoning or other governmental permits; to make repairs, replacements and improvements, structural or otherwise; to pay, compromise or contest real estate taxes, assessments, water charges and sewer rents; to abstain from the payment of real estate taxes, assessments, water charges and sewer rents, repairs, maintenance and upkeep of the same; to abandon property if deemed to be worthless

or not of sufficient value to warrant keeping or protecting; to permit property to be lost by tax sale, foreclosure or other proceeding or to convey property for a nominal consideration or without consideration; and to execute, acknowledge and deliver all contracts, deeds, leases, mortgages, notes, security agreements, guarantees, transfers to trusts, bills of sale, assignments, extensions, satisfactions, releases, waivers, consents, and any other agreements, writings and instruments of any nature affecting any real property, as my attorney-in-fact may deem necessary or appropriate;

(h) to commence any actions or proceedings for the recovery of any real or personal property or for any other purpose; to appear in, answer and defend any actions or proceedings commenced against me; and to prosecute, maintain, appeal, discontinue, compromise, arbitrate, mediate, settle and adjust all actions, proceedings, accounts, dues and demands that now or hereafter may exist, as my attorney-in-fact may deem necessary or appropriate;

(i) to create, amend or terminate one or more trusts, partnerships, corporations, limited liability companies, co-tenancies or any other form of ownership or entity for the purpose of dealing with any property or property interest of any nature that I may have or hereafter acquire, under such terms and with such provisions as my attorney-in-fact may deem necessary or appropriate; to transfer any or all property in which I have an interest into any trusts, partnerships, corporations, limited liability companies, co-tenancies or other entities, whether created by me or my attorney-in-fact or otherwise (and, in this regard, that my attorney-in-fact may be a remainderman, partner, shareholder, member, co-tenant or beneficiary of any such entity shall not affect the validity of any action hereunder, and shall not, by itself, constitute a breach of fiduciary duty); to remove property from any such entity; and to give to any such entity, or to any person acting as agent or trustee under any instrument executed by me or on my behalf, such instructions or authorizations as I may have the right to give;

(j) to join or become a party to, or to oppose, any reorganization, readjustment, recapitalization, foreclosure, merger, voting trust, dissolution, consolidation or exchange, and to deposit any securities with any committee, depository or trustee, and to pay any fees, expenses and assessments incurred in connection therewith, and to charge the same to principal, and to exercise conversion, subscription or other rights, and to make any necessary payments in connection therewith, or to sell any such privileges;

(k) to deal with all matters relating to all forms of insurance and annuities, including the procurement, maintenance and termination thereof; however,

notwithstanding the powers given my attorney-in-fact in this and other provisions of this power of attorney, my attorney-in-fact shall have no incidents of ownership in any life insurance policy in which I own an interest and which insures the life of my attorney-in-fact;

(l) to do all acts necessary to maintain my customary standard of living and that of my family and other persons customarily supported by me, including without limitation the power to pay for medical, dental and surgical care, living quarters, usual vacation and travel expenses, shelter, clothing, food, education, organizational fees and contributions, and other living costs;

(m) to act for me in all matters which affect my right to government benefits and assistance, including without limitation Social Security, Medicare, Medicaid, qualified state tuition programs, and other governmental benefits and benefits relating to civil or military service; to file, prosecute, submit to arbitration or settle any claim for benefits or assistance; to establish new residency and domicile; and to receive the proceeds of claims and conserve, invest, disburse and use them on my behalf;

(n) to take all steps and remedies necessary or appropriate for the conduct and management of any business in which I may have an interest; to exercise in person or by proxy any right, privilege or option which I may have with respect to any business; to continue, modify, negotiate, renegotiate, extend and terminate any and all contracts or agreements heretofore or hereafter made with respect to the business; to pay, compromise or contest business taxes or other claims or obligations; to determine the policies of the business as to the location, methods and manner of its operations including its financing, accounting, and insurance; and to add or remove capital from the business;

(o) to employ such agents, attorneys, accountants, investment counsel, trustees, caretakers and other persons and entities providing services or advice, irrespective of whether my attorney-in-fact may be associated therewith, and to rely upon information or advice furnished thereby or to ignore the same, and to delegate duties hereunder and pay such compensation, as my attorney-in-fact may deem necessary or appropriate; and

(p) to do, execute, perform and finish for me and in my name all things which my attorney-in-fact shall deem necessary or appropriate in and about or concerning my property or any part thereof.

This power of attorney is a durable power of attorney, and it shall not be affected by my becoming disabled, incompetent or incapacitated or the lapse of time. It

is my intent that the authority conferred herein shall be exercisable notwithstanding my physical disability or mental incompetence.

It may be necessary for my attorney-in-fact to have access to my medical records to establish whether medical bills are valid and appropriate or for other purposes. I grant to my attorney-in-fact the authority and power to serve as my personal representative for all purposes of the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, and the regulations in 45 C.F.R. Sec. 160 et seq., and any other applicable federal, state or local laws or regulations (collectively "HIPAA"), including the authority to request, receive, obtain and review, and be granted full and unlimited access to, and consent to the disclosure of complete unredacted copies of any and all health, medical and financial information and any information or records referred to in 45 C.F.R. Sec. 164.501 and regulated by the Standards for Privacy of Individually Identifiable Health Information found in 65 Fed. Reg. 82462 as protected private records or otherwise covered under HIPAA. I understand that health and medical records can include information relating to subjects such as sexually transmitted diseases, acquired immunodeficiency syndrome (AIDS), AIDS-related complex (ARC) and human immunodeficiency virus (HIV), behavioral or mental health services, and treatment for alcohol or drug abuse or addiction. I understand that I may have access to or receive an accounting of the information to be used or disclosed as provided in 45 C.F.R. Sec. 164.524 et seq. I further understand that authorizing the disclosure of this health information is voluntary and that I can refuse to sign this authorization. I further understand that any disclosure of this information carries with it the potential for an unauthorized further disclosure of this information by third parties and that such further disclosure may not be protected under HIPAA. In order to induce the disclosing party to disclose the aforesaid private and/or protected confidential information, I forever release and hold harmless said disclosing party who relies upon this instrument from any liability under confidentiality rules arising under HIPAA as a consequence of said disclosure. I authorize my attorney-in-fact to execute any and all releases or other documents that may be necessary in order to obtain disclosure of my patient records and other medical information subject to and protected by HIPAA.

To induce any third party to act hereunder, I hereby agree that any third party receiving a duly executed copy or facsimile of this power of attorney may act hereunder, and that revocation or termination hereof shall be ineffective as to such third party unless and until actual notice or knowledge of such revocation or termination shall have been received by such third party. I, for myself and my heirs, executors, legal representatives and assigns, hereby agree to indemnify and hold harmless any such third party from and against any and all claims that may arise against such third party by reason of such third party having relied upon the provisions of this power of attorney.

This power of attorney shall be governed by New Jersey law, although I request that it be honored in any state or other location in which I or my property may be found. If any provisions hereof shall be unenforceable or invalid, such unenforceability or invalidity shall not affect the remaining provisions of this power of attorney.

IN WITNESS WHEREOF, I have executed this power of attorney this 16th day of April, 2009.

E. Yudovich  
Eleanora Yudovich

WITNESS:

[Signature]

residing at

11 Spruce St  
Garden City, NY 11530

[Signature]

residing at

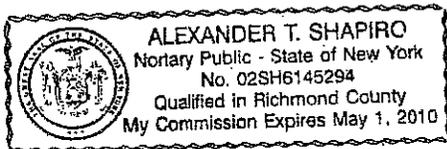
300 E 64th St., Apt. 2  
New York, NY 10003

STATE OF NEW YORK, COUNTY OF KINGS, ss.

Be it remembered that on this 16<sup>th</sup> day of April, 2009, before me, the subscriber, a notary public authorized to take acknowledgments and proof in said County and State, personally appeared Eleanora Yudovich, who I am satisfied is the individual named in and who executed the within power of attorney, and she acknowledged that she signed, sealed and delivered said power of attorney as her act and deed for the uses and purposes therein expressed.

[Signature]

Notary Public  
My commission expires on



NOTE: The following affidavit may be executed by the attorney-in-fact at a later date if some third party requests evidence that the power of attorney is in effect.

**AFFIDAVIT THAT POWER OF ATTORNEY  
IS IN FULL FORCE AND EFFECT**

STATE OF NEW YORK, COUNTY OF KINGS, ss.

I, Masha Alexandra Yudovich, being duly sworn, depose and say:

THAT Eleanora Yudovich, having an address at 702 Suffern Road, Teaneck, NJ 07666, as principal, did, in a writing dated April 16, 2009, appoint me her true and lawful attorney-in-fact, and that attached hereto is a true copy of said power of attorney.

THAT I have no actual knowledge or actual notice of the revocation or termination of the aforesaid power of attorney by death or otherwise, or knowledge of any facts indicating the same. I further represent, to the best of my knowledge after diligent search and inquiry, that: said principal is now alive; has not, at any time, revoked, terminated, suspended or repudiated the power of attorney; and the power of attorney still is in full force and effect.

THAT I make this affidavit for the purpose of inducing

to accept delivery of the following instrument(s), as executed by me in my capacity of attorney-in-fact of said principal, with full knowledge that this affidavit will be relied upon in accepting the execution and delivery of said instrument(s) and in paying good and valuable consideration therefor:

Dated:

\_\_\_\_\_  
Masha Alexandra Yudovich

Subscribed and sworn to before me  
on

\_\_\_\_\_  
Notary Public



# CITY OF NEWBURGH

CITY CLERK'S OFFICE  
83 BROADWAY  
NEWBURGH, NEW YORK 12550  
PHONE (845)569-7311  
FAX (845)569-7314

LORENE VITEK  
CITY CLERK

KATRINA COTTEN  
LISETTE ACOSTA-RAMIREZ  
DEPUTY CLERKS

## MEMORANDUM

TO: Michelle Kelson, Corporation Counsel

FROM: Katrina Cotten, Deputy City Clerk

RE: Notice of Claim:  
Cesar Lujan vs. City of Newburgh

DATE: April 9, 2013

Please find attached Notice of Claim regarding the above, which was hand delivered to our office on this date.

Attachment

Cc City Manager  
Mayor & Council

In the matter of the claim of

OF CESAR LUJAN

-AGAINST-

NOTICE OF CLAIM

RECEIVED  
APR 08 2013  
CITY CLERK

City of NEWBURGH N.Y. X

TO: RISK MGMT.

PLEASE TAKE NOTICE that the claimant herein hereby makes Claim and Demand against PUBLIC WORKS

1) The name and post office address of the claimant:

CESAR LUJAN  
1104 PURISIMA CT.  
WAKE FOREST, NC. 27587 (845) 926-0376

2) The nature of the claim: Claim Number 0281671875

a. Claim for property damage to motor vehicle owned by subrogor of claimant in the sum of \$ 3,000.00 Year/make 1997-NISSAN-SENTRA  
Plate number YVV 2213

b. Claim for personal injury protection benefits paid to subrogor of claimant in the sum of \$ \_\_\_\_\_

3) Date 4/5/2013

Place IN FRONT of City Hall @ W BROADWAY

Dept involved PUBLIC WORKS Year/Make \_\_\_\_\_

Plate number \_\_\_\_\_ Operator \_\_\_\_\_

Accident description ATTACK FROM city of NEWBURGH Public Works  
BACK IN TO MY PASSENGER SIDE DOOR, WHEN HE WAS LEAVING  
HIS PARKING SPACE, DAMAGING MY BOTH PASSENGER DOORS.

That said Claim and Demand is hereby presented for adjustment and payment.

Dated 4/9/13

City of New York  
County of Rockland

Sworn to before me this  
9 day of Apr., 2013

Respectfully yours,

By [Signature]

[Signature]  
Notary Public

LUIS A. PEÑA  
Notary Public, State of New York  
Qualified in Orange County  
Reg. No. 01PE6225959  
My Commission Expires Aug. 2, 2014



# CITY OF NEWBURGH

CITY CLERK'S OFFICE  
83 BROADWAY  
NEWBURGH, NEW YORK 12550  
PHONE (845)569-7311  
FAX (845)569-7314

LORENE VITEK  
CITY CLERK

KATRINA COTTEN  
LISETTE WILLIAMS  
DEPUTY CLERKS

## MEMORANDUM

TO: Michelle Kelson, Corporation Counsel

FROM: Katrina Cotten, Deputy City Clerk

RE: Notice of Claim:  
Jessica Olivencia vs. City of Newburgh

DATE: March 21, 2013

Please find attached Notice of Claim regarding the above, which was personally served on our office on this date.

Attachment

Cc City Manager  
Mayor & Council

\*\*\* Attached rider to Notice of Claim \*\*\*

In the Matter of Claim of

---

JESSICA OLIVENCIA,

Claimant,

-against-

CITY OF NEWBURGH,

---

Respondent,

3. Continued.

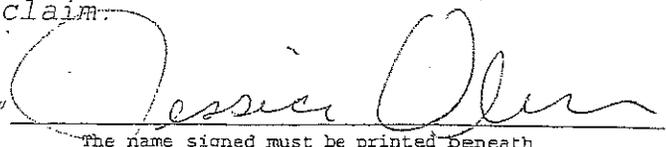
negligence, wantonness, recklessness and carelessness of the respondents, their agents, servants and/or employees, in causing and/or permitting their motor vehicle to come into contact with the motor vehicle in which this claimant was a passenger; in failing to take those steps necessary to avoid the contingency which herein occurred; in failing to keep the motor vehicle under proper control; in failing to operate the motor vehicle in a manner and at a speed that was reasonable and proper under the prevailing traffic conditions; in failing to properly keep and maintain the motor vehicle so as to prevent the contingency which herein occurred; in failing to properly operate the braking and acceleration devices of the motor vehicle under the circumstances of the roadway where the accident occurred; in failing to keep a proper lookout; in failing to stop and/or slow down; in violating the rules of the road; in failing to observe that degree of caution, prudence and care which was reasonable and proper under the controlling circumstances; in acting with reckless disregard for the safety of others; in failing to keep alert and attentive; in following too closely; in failing to avoid a rear-end collision; in failing to properly apply brakes; in failing to sound horn; in failing to obey traffic signs, signals and/or lights; in hiring and continued to employ inept, incompetent and/or unskilled employees, and the respondents, their agents, servants and/or employees were in other ways negligent, wanton, reckless and careless.

\*\*See attached rider to Notice of Claim \*\*

The undersigned claimant(s) therefore present this claim for adjustment and payment. You are hereby notified that unless it is adjusted and paid within the time provided by law from the date of presentation to you, the claimant(s) intend(s) to commence an action on this claim.

Dated: March 18, 2013 200

Finkelstein & Partners, LLP  
Attorneys for Claimant  
1279 Route 300  
P.O. Box 1111  
Newburgh, NY 12551  
Phone No: (800) 634-1212

"X" 

The name signed must be printed beneath  
JESSICA OLIVENCIA

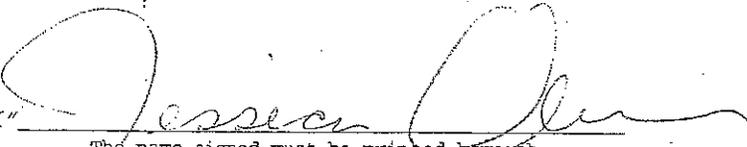
"X" \_\_\_\_\_  
The name signed must be printed beneath

By:   
DAVID E. GROSS, ESQ.

INDIVIDUAL VERIFICATION

State of New York, County of Orange SS.:

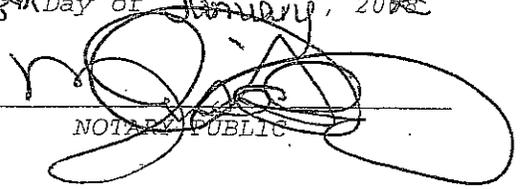
being duly sworn, deposes and says that deponent is the claimant in the within action; that he/she has read the foregoing Notice of Claim and knows the contents thereof; that the same is true to deponents own knowledge, except as to the matters therein stated to be alleged on information and belief, and that as to those matters deponent believes it to be true.

"X" 

The name signed must be printed beneath  
JESSICA OLIVENCIA

"X" \_\_\_\_\_  
The name signed must be printed beneath

Sworn to before me, this 13  
8th Day of January, 2013

  
NOTARY PUBLIC

MELISSA ANN NELSON  
Notary Public, State Of New York  
Qualified In Orange County  
Registration #01NE608068  
Commission Expires September 9, 2014



# CITY OF NEWBURGH

CITY CLERK'S OFFICE  
83 BROADWAY  
NEWBURGH, NEW YORK 12550  
PHONE (845)569-7311  
FAX (845)569-7314

LORENE VITEK  
CITY CLERK

KATRINA COTTEN  
LISETTE ACOSTA-RAMIREZ  
DEPUTY CLERKS

## MEMORANDUM

TO: Michelle Kelson, Corporation Counsel

FROM: Katrina Cotten, Deputy City Clerk

RE: Notice of Claim:  
Christopher Page vs. City of Newburgh

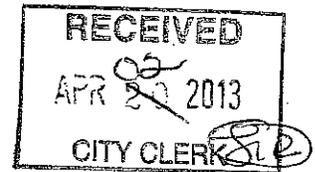
DATE: April 2, 2013

Please find attached Notice of Claim regarding the above, which was hand delivered to our office on this date.

Attachment

Cc City Manager  
Mayor & Council

In the Matter of the Claim of  
Christopher Page  
-vs-  
City of Newburgh



TO:

PLEASE TAKE NOTICE that the undersigned claimant(s) hereby make(s) claim and demand against you as follows:

1. The name and post-office address of each claimant and claimant's attorney is:

Christopher Page  
296 Carpenter Avenue  
Newburgh, New York 12550

2. The nature of the claim:

Monetary Compensation  
as a result of Car  
accident

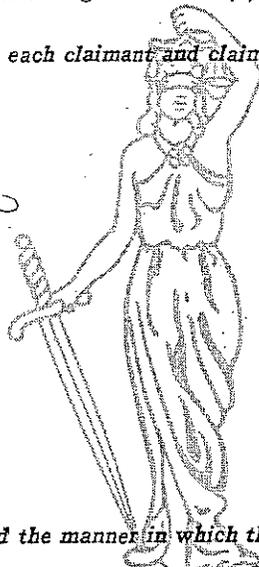
3. The time when, the place where and the manner in which the claim arose:

Wed. March 20, 2013 09:35am City of Newburgh, N.Y.

There was an incident in which my vehicle was struck by a City of Newburgh owned and insured vehicle. The result of the accident was a total loss of my vehicle.

4. The items of damage or injuries claimed are (do not state dollar amounts)

2003 Pontiac Grand Am and other monetary losses incurred as a result of the car accident.





# CITY OF NEWBURGH

CITY CLERK'S OFFICE  
83 BROADWAY  
NEWBURGH, NEW YORK 12550  
PHONE (845)569-7311  
FAX (845)569-7314

LORENE VITEK  
CITY CLERK

KATRINA COTTEN  
LISETTE ACOSTA-RAMIREZ  
DEPUTY CLERKS

## MEMORANDUM

TO: Michelle Kelson, Corporation Counsel

FROM: Lorene Vitek, City Clerk

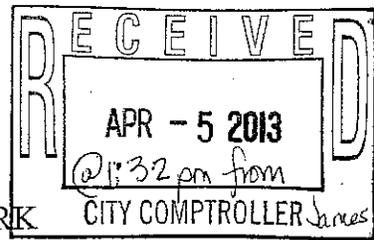
RE: Notice of Claim:  
Maria F. Vacante vs. City of Newburgh

DATE: April 5, 2013

Please find attached Notice of Claim regarding the above, which was served on the Comptroller's Office and forwarded to our office on this date.

Attachment

Cc City Manager ✓  
Mayor & Council



SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF ORANGE

CITY COMPTROLLER James Korosi  
Process Server

-----X  
MARIA F. VACANTE,

Claimant,

--against--

NOTICE OF  
CLAIM

CITY OF NEWBURGH,

Defendant.  
-----X



To: The Comptroller of the City of Newburgh  
Newburgh City Hall - 4<sup>th</sup> Floor  
83 Broadway  
Newburgh, New York 12550

PLEASE TAKE NOTICE that the claimant, MARIA F. VACANTE, hereby claims damages against the CITY OF NEWBURGH for serious and permanent bodily injuries as specified in the statement below, and that an action will be commenced against said CITY OF NEWBURGH to recover for such damages pursuant to law. The following statement of said claim is made pursuant to the General Municipal Law of the State of New York:

1. The post office address of the claimant herein, MARIA F. VACANTE, is 379 South Street, Newburgh, New York 12550.
2. The attorneys for the claimant herein are LAWRENCE R. TRANK, PLLC, and their post office address and telephone number are: 124 Main Street, Suite 2B, P.O. Box 308, New Paltz, New York 12561; (845) 255-2848.
3. The defendant, CITY OF NEWBURGH, was and still is a municipal corporation within the County of Orange, State of New York.

4. The nature of the claim is a claim for personal injuries sustained by the claimant, MARIA F. VACANTE, as a result of the hazardous, dangerous, and defective condition of the City of Newburgh owned sidewalk adjacent to 385 South Street, located in the City of Newburgh, County of Orange, State of New York.

5. The time, place, and manner in which such claim arose and the nature of same are as follows: upon information and belief, on January 7, 2013, at approximately 10:15 a.m., the claimant, MARIA F. VACANTE, was a lawful pedestrian on a City of Newburgh owned sidewalk located adjacent to 385 South Street, in the City of Newburgh, County of Orange, State of New York, when, through the negligence and misconduct of said CITY OF NEWBURGH, its officers, agents or employees and without any fault on the claimant's part, claimant, MARIA F. VACANTE, was caused to trip, fall and be violently precipitated to the ground by reason of a hazardous, dangerous and defective condition on the sidewalk, to wit, the surface of the subject sidewalk was uneven, cracked, broken and deteriorated to the extent that it represented a tripping hazard, and which caused claimant, MARIA F. VACANTE, to be violently precipitated to the ground, and as a result thereof, claimant, MARIA F. VACANTE sustained severe personal injuries as hereinafter set forth. Annexed hereto and made a part hereof as Exhibit "A" is a photocopy of a photograph depicting the subject location. Annexed hereto and made a part hereof as Exhibit "B" is a copy of a map depicting the subject location.

6. That, upon information and belief, at all times herein mentioned, the portion of said sidewalk located on South Street in the City of Newburgh, County of Orange, State of New York, was constructed several years prior to this action and

has since been maintained by the CITY OF NEWBURGH, its officers, agents or employees, and the CITY OF NEWBURGH, its officers, agents or employees duly undertook to design, construct, repair, keep in repair, maintain, and assume all charge of such portion of said sidewalk over a period of several years, specifically including the date of this incident.

7. Upon information and belief, the items of damages and injuries claimed are as follows: by reason of the negligence and carelessness of the CITY OF NEWBURGH, its officers, agents or employees as aforesaid, claimant, MARIA F. VACANTE sustained various and diverse personal injuries, including but not limited to, the following: a severe fracture of her right arm resulting in limitations of motion and restriction of use of her right upper extremity; scrapes, abrasions and bruises on her arms and muscles; other personal injuries of which the claimant is not yet informed, including permanent effects, the nature of which is not yet known to this claimant; and pain and suffering; that the claimant, MARIA F. VACANTE, has been and will be compelled to incur medical and hospital expenses.

8. That upon your failure to pay such claim within the statutory period provided therefore, it is the intention of the claimant, MARIA F. VACANTE, to commence an action against said CITY OF NEWBURGH and such others as may be liable therefore, to recover the damages sustained by this claimant as hereinbefore set forth.

WHEREFORE, this claimant respectfully requests that this, her claim, be adjusted and paid as provided by law.

Dated: April 2, 2013  
New Paltz, New York

Yours, etc.

LAWRENCE R. TRANK, PLLC  
Attorneys for Plaintiff

A handwritten signature in cursive script, appearing to read "Lawrence R. Trank", is written over a horizontal line.

By: LAWRENCE R. TRANK  
124 Main Street - Suite 2B  
P.O. Box 308  
New Paltz, NY 12561  
(845) 255-2848

INDIVIDUAL VERIFICATION

STATE OF NEW YORK        }  
                                      } ss.:  
COUNTY OF ULSTER        }

MARIA F. VACANTE, being duly sworn, deposes and says that deponent is the claimant in the within action; that deponent has read the foregoing NOTICE OF CLAIM against the CITY OF NEWBURGH and knows the contents thereof; that the same is true to deponent's own knowledge, except as to matters therein stated to be alleged upon information and belief, and that as to those matters deponent believes it to be true.

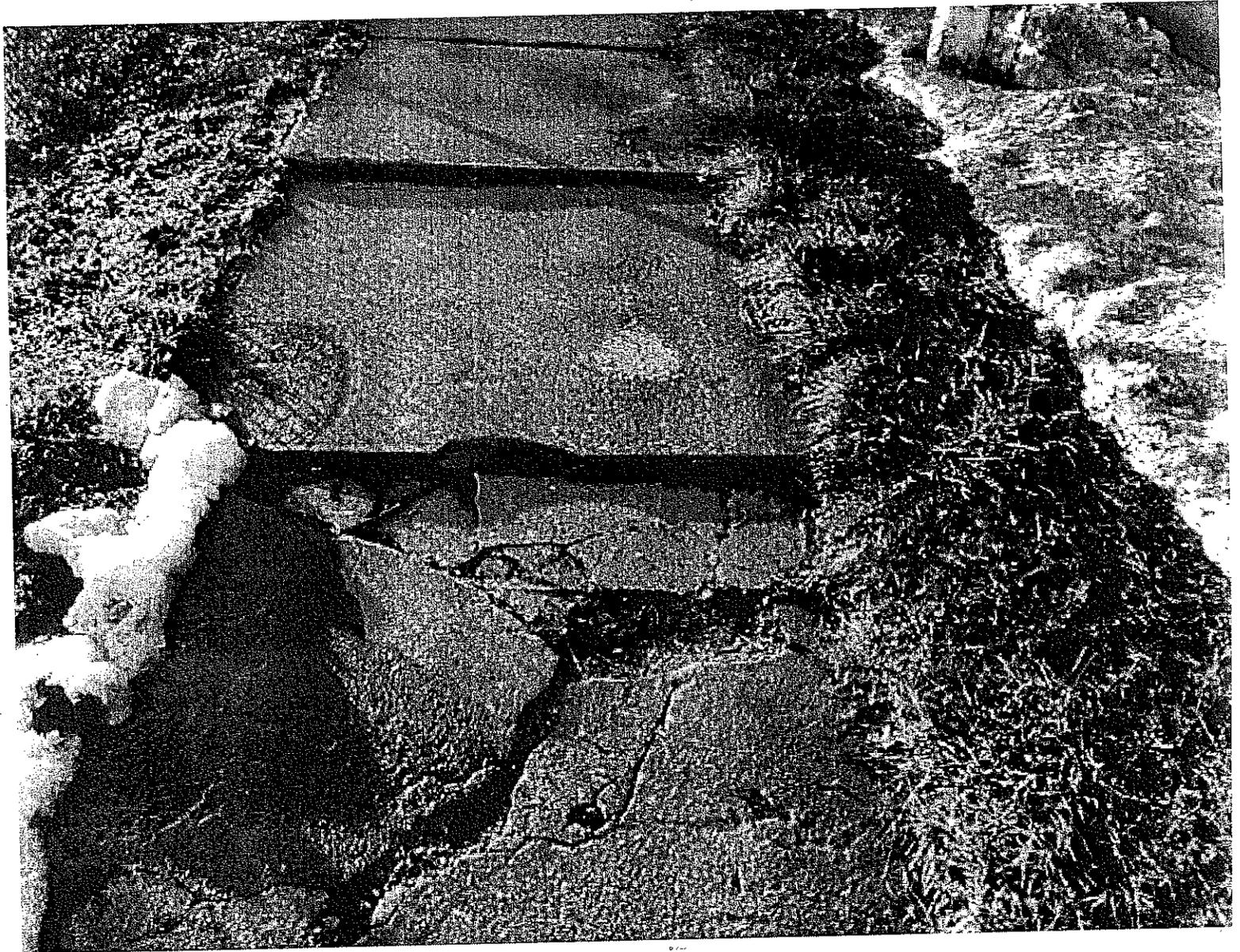
*Maria Vacante*  
\_\_\_\_\_  
MARIA F. VACANTE

Sworn to before me this  
2<sup>ND</sup> day of April, 2013.

*Lawrence Trank*  
\_\_\_\_\_  
NOTARY PUBLIC

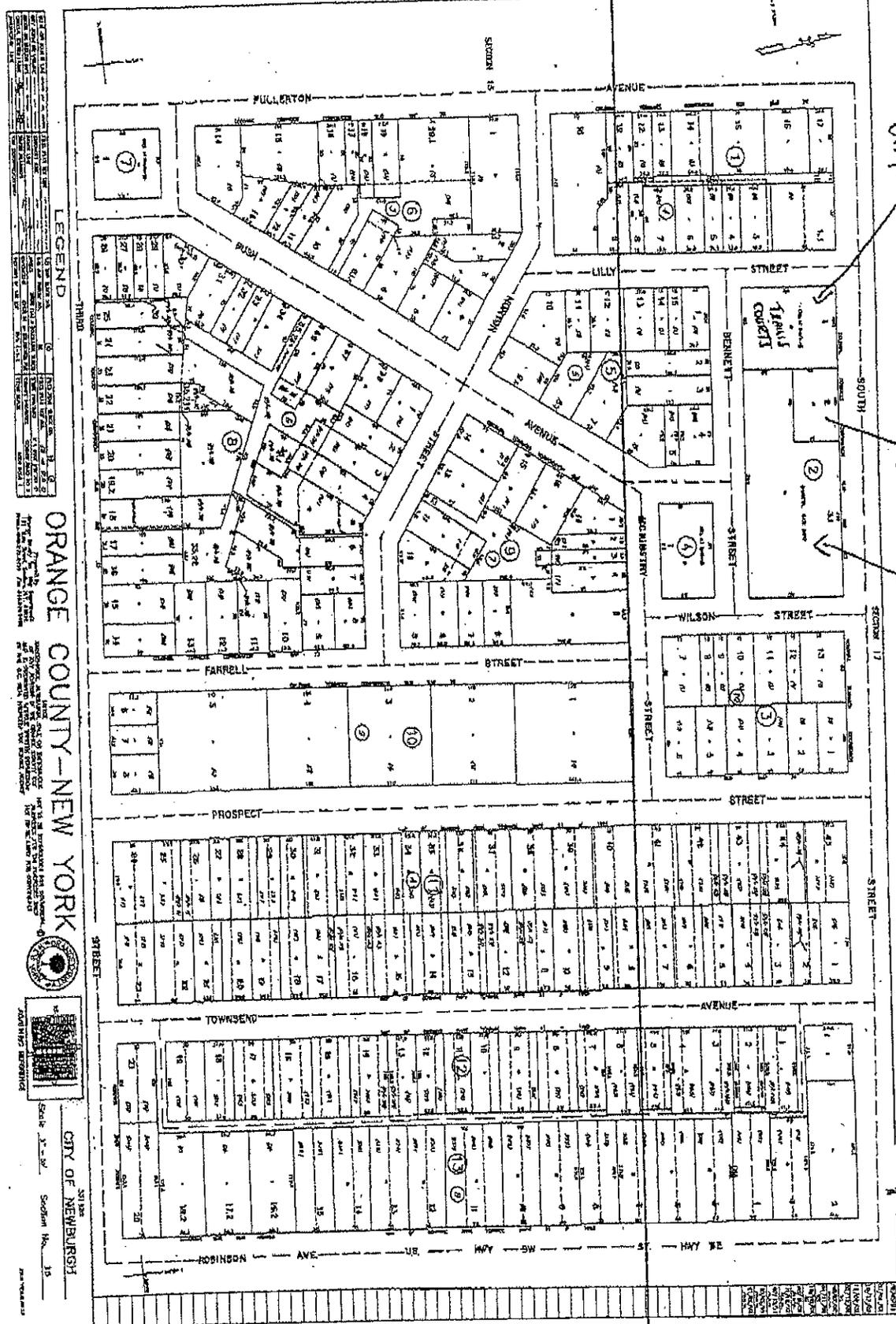
LAWRENCE TRANK  
Notary Public, State of New York  
No. 02TR5030931  
Qualified in Dutchess County  
My Commission Expires July 25, 2014

**EXHIBIT "A"**



**EXHIBIT "B"**

From:



385 South St  
City of Newburgh

375 South St  
4 Bennett St  
City of Newburgh

30-35 South St  
City of Newburgh

**PUBLIC HEARING**

**PLEASE TAKE NOTICE** that the City Council of the City of Newburgh will hold a public hearing on Monday, April 22, 2013 at 7:00 p.m. at the City Council Chambers, 3<sup>rd</sup> Floor, City Hall, 83 Broadway, Newburgh, New York to receive comments concerning "An Ordinance to Amend Article VII, entitled "Special Use Permits" of Chapter 300 entitled "Zoning" of the Code of Ordinances of the City of Newburgh to add Section 300-38 entitled "Large-Scale Mixed-Use Development Special Use Permit"

**LORENE VITEK  
CITY CLERK**

**DATED: April 9, 2013**

**PUBLISH: April 16, 2013 (The Sentinel)**

**April 17, 2013 (Hudson Valley Press  
& Mid-Hudson Times)**



**ADOPTION OF AMENDMENTS TO THE TC-1 ZONING DISTRICT TO ALLOW  
A LARGE-SCALE MIXED-USE DEVELOPMENT SPECIAL USE PERMIT**

City of Newburgh, New York

ENVIRONMENTAL ASSESSMENT FORM – Part 1

March 25, 2013

BFJ Planning

**ADOPTION OF AMENDMENTS TO THE TC-1 ZONING DISTRICT TO ALLOW A  
LARGE-SCALE MIXED-USE DEVELOPMENT SPECIAL USE PERMIT**

**City of Newburgh, New York**

**ENVIRONMENTAL ASSESSMENT FORM PART 1**

**Prepared on behalf of:**

City of Newburgh City Council  
City Hall  
83 Broadway  
Newburgh, NY 12550-5617

**Prepared by:**

BFJ Planning  
115 Fifth Avenue  
New York, NY 10003

**Prepared:                    March 25, 2013**

*Large-Scale Mixed-Use Development Special Use Permit EAF  
March 25, 2013*

## TABLE OF CONTENTS

	Page
INTRODUCTION	1
1.0 LOCATION AND PROJECT COMPATIBILITY	1
1.1 Project Location	1
1.2 Project Compatibility	1
2.0 DESCRIPTION OF PROPOSED ACTION	9
3.0 ANALYSIS	8
4.0 FULL ENVIRONMENTAL ASSESSMENT FORM – Parts 1 and 2	14

Appendix A: Proposed Zoning Text Amendments

## 1.0 INTRODUCTION: LOCATION, PROJECT COMPATIBILITY AND DESCRIPTION OF THE PROPOSED ACTION

Pursuant to the New York State Environmental Quality Review Act [6 NYCRR Part 617 (SEQR)], the proposed action discussed in this Full Environmental Assessment Form (EAF) is the adoption of text amendments to the City of Newburgh Zoning Code to create a Large-Scale Mixed-Use Development Special Use Permit within the City's Tourist Commercial (TC-1) District.

### 1.1 Project Location

The City of Newburgh is located on the western shore of the Hudson River in Orange County, approximately 60 miles north of New York City. The City is bordered by the Town of Newburgh to the west and north, the Hudson River to the east and the Town of New Windsor to the south (see Figure 1). Newburgh is a small, densely settled community, comprising 3.9 square miles.

The proposed zoning text amendments will only apply within the City's TC-1 Zoning District and only to parcels located within the TC-1 District that have frontage along Broadway (see Figure 2: Existing Zoning Map). Of the 310-acres of land zoned TC-1 the proposed new large-scale mixed-use special use permit would only apply within the 13.8 acres of TC-1 land fronting Broadway located between Concord Street to the east and Colden Street to the west (see Figure 3: .....

### 1.2 Project Compatibility

The proposed action is consistent with the recommendations made in the 2008 "Plan-It Newburgh" Sustainable Master Plan and the 2011 City of Newburgh Future Land Use Plan which was adopted as an addendum to the 2008 Master Plan.

#### *"Plan-It Newburgh" Sustainable Master Plan*

The "Plan-It Newburgh" Sustainable Master Plan, adopted December 8, 2008, describes the "visions and hopes of the city regarding future growth and development." Goals, targets and strategies in the Master Plan outline how the City of Newburgh will accommodate growth and development until the target date 2040. The objective of the Master Plan is to direct and guide public and private decisions and actions in a consistent and logical manner (pg. 8). Specifically, the Master Plan included targets to provide balance in the City's zoning districts to accommodate all types of land use, including mixed-use development and directing that a future land use plan be prepared to assess where residential development can be accommodated at increased densities in appropriate areas (Housing Goal 2, pg. 61-62). In addition, the Master Plan called for a

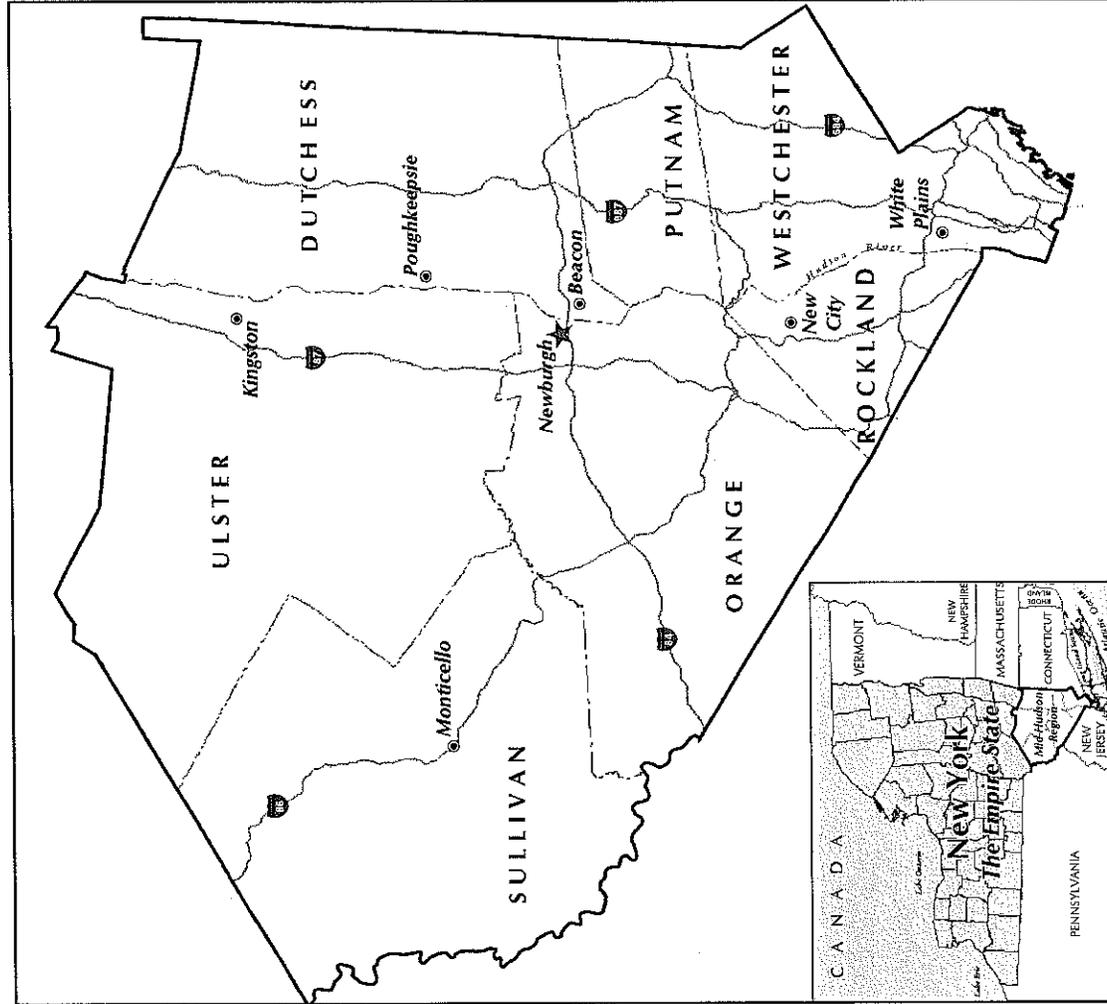
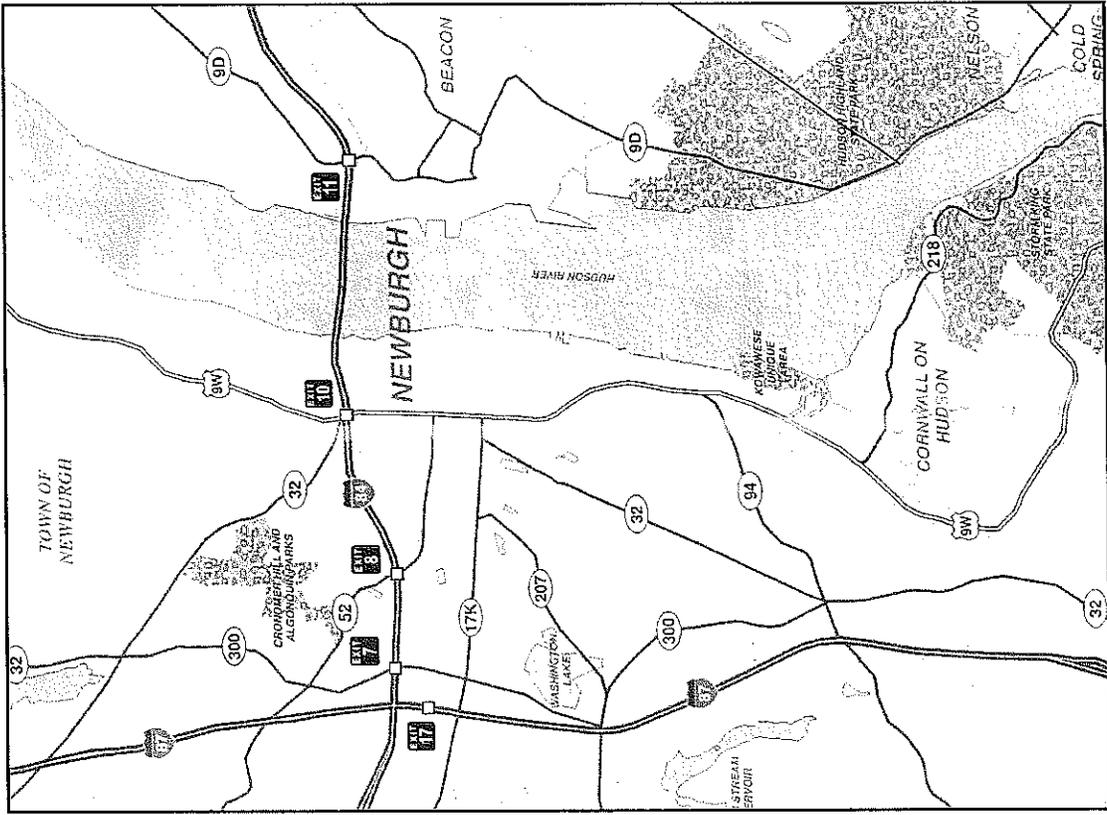


FIGURE 1: REGIONAL LOCATION MAP

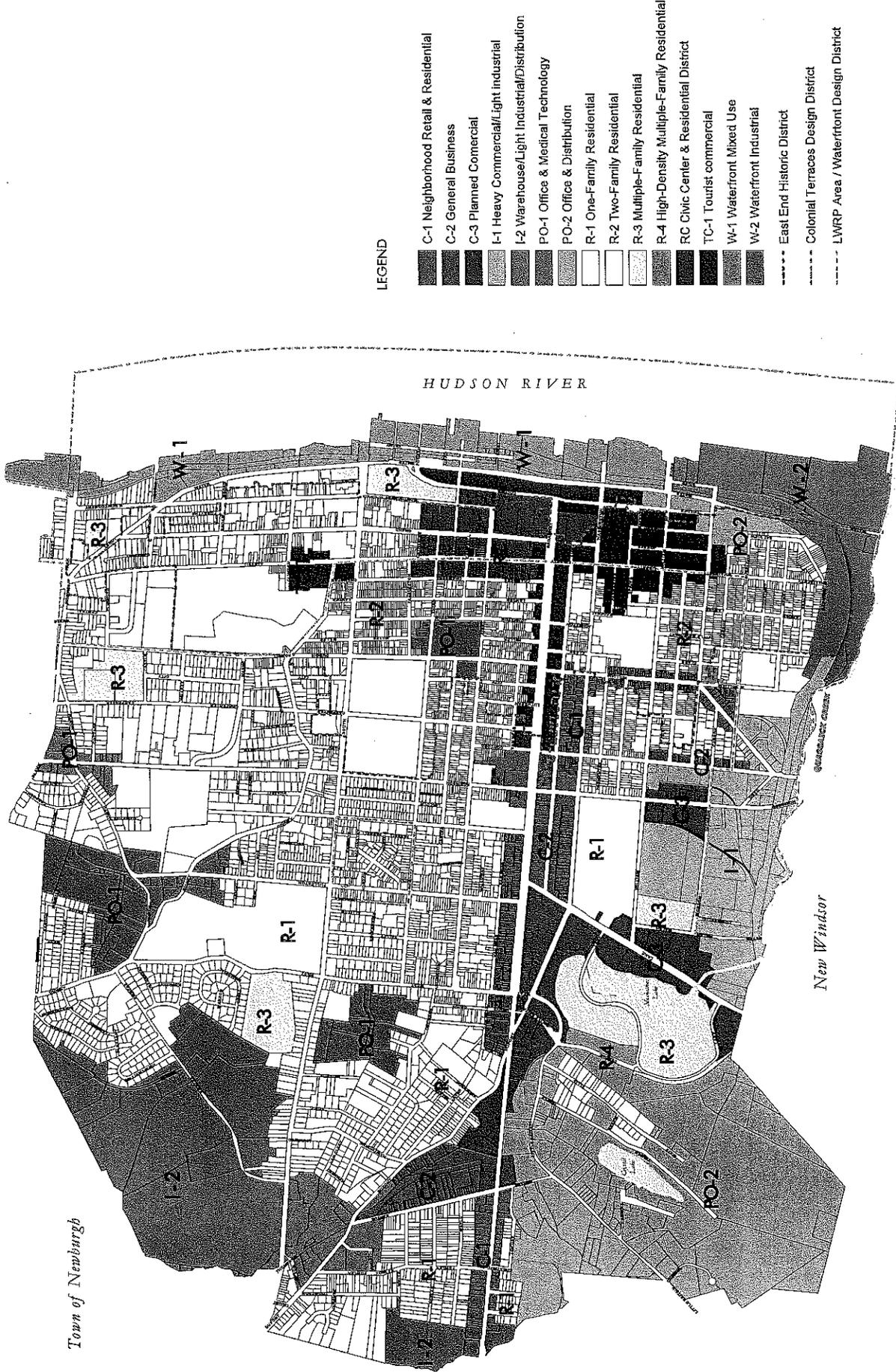
LARGE-SCALE MIXED-USE DEVELOPMENT SPECIAL USE PERMIT EAF

SOURCE: PLAN-IT-NEWBURGH MASTER PLAN, 2008

NEWBURGH, NY



BRJ Planning



LARGE-SCALE MIXED-USE DEVELOPMENT SPECIAL USE PERMIT EAF FIGURE 2: CITY OF NEWBURGH EXISTING ZONING MAP



LARGE-SCALE MIXED-USE DEVELOPMENT SPECIAL USE PERMIT EAF

FIGURE 3: TC-1 PARCELS FRONTING BROADWAY



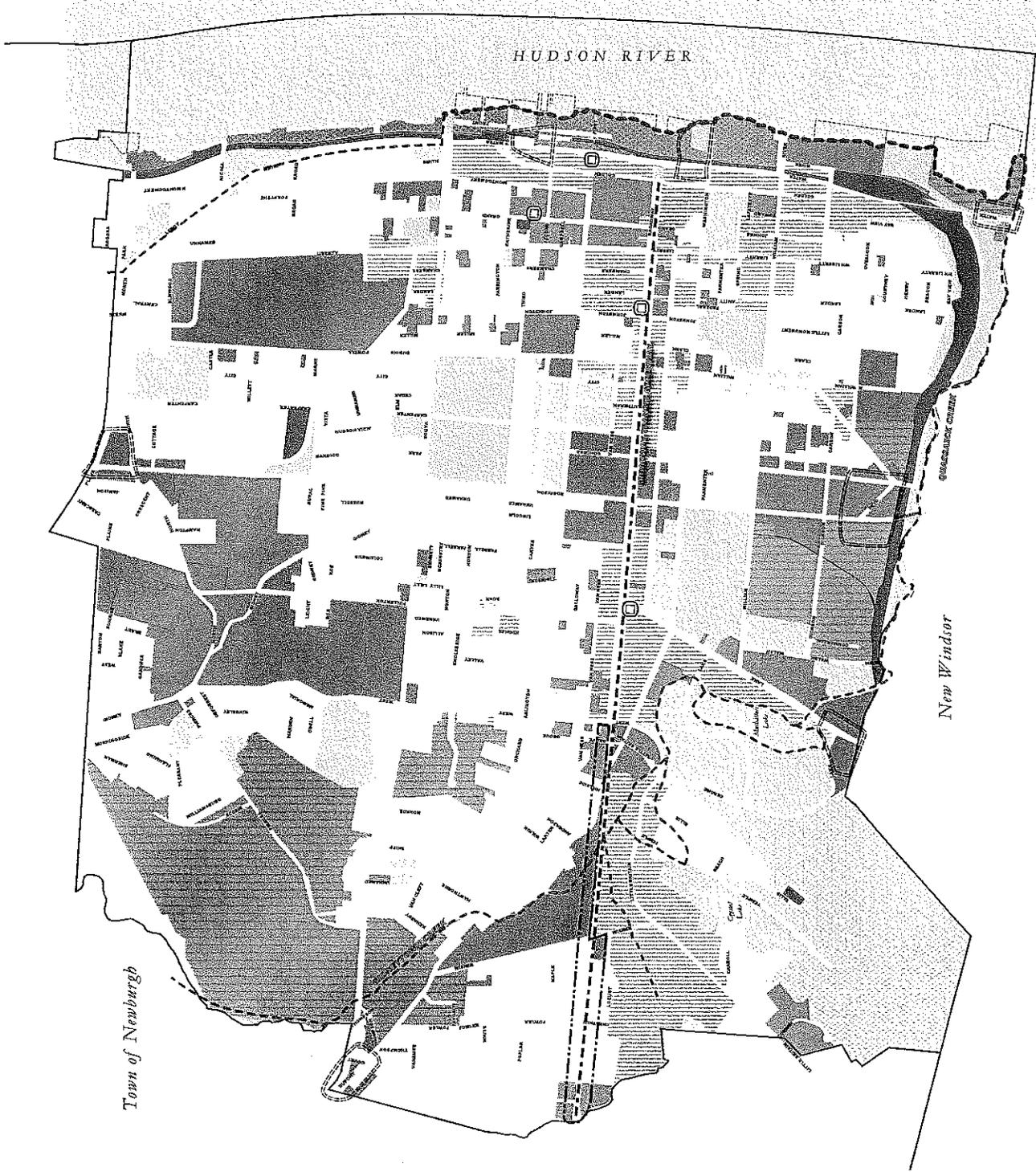
reduction in off-street parking requirements in traditional mixed-use and business/retail corridors where adequate off-street parking is within walking distance (Economic Development Goal 2, pg. 88) as well as a reduction or elimination of front yard setback requirements to allow for traditional neighborhood design (Economic Development Goal 4, pg. 90). The proposed zoning text amendments are consistent and compatible with the recommendations of the 2008 Master Plan and seek to implement, on a limited scale, the Plan recommendations outlined above.

### *Future Land Use Plan*

Although the Master Plan identified and described issues regarding land use planning, the document did not specifically contain a future land use component, which provides a framework for potential future zoning changes. The proposed Future Land Use Plan, adopted September 12, 2011, supports the goals enumerated in the 2008 Master Plan and was prepared as an addendum to the plan, pursuant to the New York State General City Law §28. The proposed Future Land Use Plan serves as the land use component of the Master Plan. All land use regulations adopted in the City must be in accordance with the proposed Future Land Use Plan.

Specifically, the Future Land Use Plan calls for higher density mixed-use development in the Lower Broadway corridor [See Figure 4: Future Land Use Plan (Opportunity Area 1), pg. 15]. The Future Land Use Plan states that “there is a significant opportunity in this area to promote the re/development of a traditional urban/city neighborhood that has a mix of uses; is pedestrian oriented; and provides for a diverse public to live, learn, work and play” (pg. 15). Further, the plan recommends that an increase in mixed-use development in the Lower Broadway area will promote an urban lifestyle typical of thriving urban areas where residences, related commercial and entertainment uses support one another and that by promoting mixed-use development and increasing residential density in this area, the City will re-establish a physical and walkable connection between the Broadway corridor and the waterfront.

The Future Land Use Plan also included revisions to the Zoning Code are proposed to include “building coverage” standards and Floor Area Ratios (FAR), where appropriate, to the existing schedules of area and bulk controls. When combined with a height control, building coverage and FAR control density on any given site. Recommended revisions to the City’s parking standards and use group definitions as well as to the City’s administrative and enforcement aspects of the Zoning Code are also proposed.



**LEGEND**

- 1-4 Family
- 5+ Family
- Mixed Use w/ Res
- Commercial
- Industrial/Commercial/Recreational
- Institutional
- Conservation Area Development
- Planned Waterfront Development
- Park/Open Space
- Utility
- Broadway Transit Corridor
- Greenway
- Waterfront Buffer/Walkway
- Public Plaza
- Gateway District
- Residential Transitional Zone

FIGURE 4: FUTURE LAND USE MAP

SOURCE: NEWBURGH FUTURE LAND USE PLAN, 2011

0 1,000 ft



The Plan recommends zoning changes that support the goal of increasing opportunities for mixed-use development at increased densities. In the Broadway portion of the existing TC-1 District, the Plan recommends zoning changes that would permit heights ranging from 6-8 stories and significant increases in residential densities. The proposed zoning text amendments are a first step in implementing the land use and zoning recommendations contained in the Future Land Use Plan. The proposed action is consistent and compatible with the Future Land Use Plan.

## 2.0 DESCRIPTION OF THE PROPOSED ACTION

The Newburgh City Council, through the adoption of the proposed action seeks to support the recommendations to provide opportunities for mixed-use development of an increased scale and density along the Lower Broadway Corridor expressed in both the 2008 Master Plan and 2011 Future Land Use Plan. The proposed zoning text amendments are compatible with both the Master Plan and Future Land Use Plan. Specifically, the City Council is proposing amendments to the City Zoning Code (§300-38 and §300 Attachment 8) adding a new special use permit subject to review and approval by the City Council to permit new large-scale mixed-use developments within the TC-1 District.

The proposed zoning text amendments would create a new "Large-Scale Mixed-Use Development" Special Use Permit within the City's existing TC-1 District. The purpose of this special use permit is to facilitate the redevelopment of vacant or underutilized properties along the Lower Broadway Corridor with a mix of vibrant residential and commercial uses. This new special use permit would be added to the *Schedule of Use and Bulk Regulations* for the TC-1 District (§300 Attachment 8). In order to apply for a large-scale mixed-use development special use permit an applicant would have to meet the following area and bulk requirements:

- Only applicable to TC-1 zoned lots with frontage on Broadway;
- Projects may extend from Broadway through the length of the block to the next public street, irrespective of the zone, provided that the portion outside the TC-1 zone is part of a unified development parcel with frontage on Broadway;
- 20,000 square foot minimum lot size;
- 100 foot minimum lot width;
- 15 foot minimum front yard and up to a 5 foot side yard, subject to reduction or elimination at the discretion of the City Council;
- 20 foot minimum rear yard; and
- Maximum building height of 65 feet/6 stories within 200 feet of Broadway and 45 feet/4 stories beyond 200 feet.

In addition, a new special use permit section (§300-38) has been added within the Zoning Code to allow large-scale mixed-use developments within the TC-1 District. This section sets forth the power, applicability, conditions to be fulfilled and the standards that must be met in order to qualify for a large-scale mixed-use development special use permit. The conditions and standards set forth in this section are similar to other special permit uses in the City, except that this special use permit can only be granted by the City Council; all other special permit uses in the City are subject to review and approval by the Planning Board. The approval authority for this special permit use has been placed with the City Council in recognition of the importance of the Lower Broadway Corridor to the City as a whole, as well as the potential benefits these types of large-scale projects could have on the City. The proposed zoning text also includes provisions for shared parking and grants the City Council the authority to modify parking requirements based on a parking analysis that demonstrates that the parking demands of a proposed development can be met through the provision of fewer spaces than those required by the City's off-street parking regulations. Finally, the City Council may also allow up to 25% of the required parking spaces to be provided at an off-site location within 300 feet of the project site.

See Appendix A for the proposed Zoning Text Amendments.

### 3.0 ANALYSIS OF DEVELOPMENT POTENTIAL

Based on a review of the TC-1 zoned lots with frontage along Broadway, it is projected that only two potential development sites exist that are likely to be developed under the proposed special use permit. These two sites, shown on Figure 5, are both currently vacant and meet all of the dimensional requirements set forth in the proposed zoning text amendments. Additional large-scale mixed-use development sites may exist, but due to current ownership constraints, their redevelopment would require assembling numerous parcels from multiple property owners which would most likely serve to hinder this type of large-scale development. Small scale mixed-use developments are currently permitted within the TC-1 District as-of-right.

Since the special use permit process for a large-scale mixed-use development will be discretionary and based on a review of site specific development plan, the exact number of future potential residential units and commercial square footage cannot be determined with certainty at this time. However, based on a cursory review of the two potential development sites illustrated in Figure 5, which total approximately 105,600 square feet, it is estimated that redevelopment of these parcels could result in approximately 144 residential units and 19,500 square feet of commercial space. This estimate assumes a 30% building coverage and groundfloor retail uses fronting Broadway. In addition, this estimate assumes a 6-story building within 200 feet of Broadway tapering down to a 4-story building beyond 200 feet of Broadway.



LARGE-SCALE MIXED-USE DEVELOPMENT SPECIAL USE PERMIT EAF

FIGURE 5: POTENTIAL LARGE-SCALE MIXED-USE DEVELOPMENT SITES

NEWBURGH, NY

SOURCE: BEJ PLANNING



BEJ Planning

This potential increase in density along the Broadway Corridor and the resultant potential increase in population, could result in impacts to the City's infrastructure, including water, sewer, and transportation systems. Given that special use permits are not granted as-of-right, any site specific proposal for a large-scale mixed-use development would be required to comply with the special use permit standards set forth in the proposed zoning text amendments as well as all existing standards set forth in the City's Zoning Code, including site plan review as well site specific review under SEQR. Therefore, the exact number and unit type of residential units and associated parking requirements, the projected future population, and breakdown of commercial space cannot be determined. However, when testing the implications of new zoning, a realistic market based approach and demographic based projection of what the likely population that could result is an important benchmark.

Within this context, it is important to look at Newburgh's population over time, as well as to project anticipated future growth within the City over the next 10 years. Table 1 below, presents the City's population, as reported by the US Census, since 1940. As this table demonstrates, the City's population peaked in 1950 and steadily declined by 27% over the following 30 years. Since the 1980s the City's population has grown, but is still 9.7% lower than the 1950 historic high.

**Table 1: City of Newburgh Population**

Year	Population	% Change from Previous 10-year period
1940	31,883	--
1950	31,956	2.3%
1960	30,979	-3.1%
1970	26,219	-15.1%
1980	23,438	-10.6%
1990	26,454	12.9%
2000	28,259	6.8%
2010	28,866	2.1%
<b>% Change 1950 – 2010:</b>		<b>-9.7%</b>

Source: US Bureau of the Census. <http://www.census.gov/prod/www/abs/decennial>

Using population growth projections generated by Orange County<sup>1</sup>, and adjusting for the actual 2010 US Census data, the City of Newburgh is only projected to grow to 29,410

<sup>1</sup>The Orange County Planning Department generated population projections using four different methodologies for each of the County's municipalities. For Newburgh, depending on the methodology used, the County projected growth rates of -0.03%, 0.07%, 0.09%, and 0.17%. To be conservative, the highest projected growth rate of 0.17% has been used in this analysis. [http://www.orangecountygov.com/filestorage/124/1362/3210/Municipal\\_Population\\_Projections\\_Comparison\\_Sheet.pdf](http://www.orangecountygov.com/filestorage/124/1362/3210/Municipal_Population_Projections_Comparison_Sheet.pdf)

residents by 202, an increase of only 1.9% over the next 10 years and still 8.0% below the 1950 population high. The City's overall infrastructure is able to reasonably sustain the small impact of the proposed zoning text amendments as any increase in population reasonably anticipated to occur over the next 10 years would be below the peak 1950 numbers.

However, in part, the purpose of the zoning text amendments is to foster development along the Lower Broadway Corridor that could in turn result in related increases in population density. This possible increase in density could result in impacts to the City's infrastructure as discussed below<sup>2</sup>.

### *Water*

The City of Newburgh's water supply is from the Washington Lake reservoir, located at the intersection of Route 300 and Little Britain Road, in the Town of New Windsor. The Washington Lake Reservoir was constructed in 1907 and holds approximately 1.5 billion gallons of water. An emergency water supply source from the NYC Catskill Aqueduct is also available. Raw water from the reservoir is conveyed to the City's water filtration plant through a 30-inch diameter water main. The City's water filtration plant has the ability to treat approximately 9 million gallons of water per day (MGD) and its current average daily demand is 4.2 MGD. The plant employs a series of mechanical and chemical treatments to remove color, odor, and tastes along with organic material, dirt, and particles. The water then passes through a series of sand filters; chlorine is added for disinfection; fluoride is added to help promote sound dental health; and corrosion inhibitors are added to reduce the corrosive effects of water on pipes and plumbing. Once treated, the water is pumped to the distribution system.

The City water system is comprised of two zones, the high service zone, which services properties north of Broadway and west of Lake Street, and the low service zone, which services the remainder of the City, including Lower Broadway. The high service district is serviced by two water storage tanks, a one (1) million gallon tank located on Brady Avenue and a one and one half (1.5) million gallon tank located on Marne Avenue. A small pumping station is located on Marne Avenue to boost the pressure for residence located around the base of the tank (University Heights neighborhood in the vicinity of Mount St. Mary's College). The two tanks are fed by the Marne Avenue/Carter Street Pumping Station, which draws water from the low service district.

---

<sup>2</sup> The analysis in this section is based in part on the analysis contained in the June 2008 Preliminary DEIS for "The Newburgh Waterfront Redevelopment Project Preliminary DEIS," prepared by Saccardi & Schiff, Inc. as well as on an October 15, 2010 meeting between BFJ Planning and Craig Marti, Newburgh City Engineer.

The low service district is serviced by two (2) water storage tanks. The first tank is a two (2) million gallon tank located near the water treatment plant on Little Britain Road. A second two (2) million gallon tank is located on Ellis Avenue. The high water level of the tanks is at approximately 275 ft.

Water distribution for the City is through approximately 80 miles of water mains ranging from 4 inches to 30 inches in diameter. The mains within the City are, for the most part, interconnected for improved hydraulic characteristics and decrease of minor losses. The distribution system provides domestic water and fire demand for residents within the water district.

As demonstrated there is not a significant constraint on serving the entire City with water. The water demand of the City would have to more than double (a 100% increase in demand) before any constraints to the design capacity of the City's water filtration plant would occur. As the population of Newburgh is only projected to grow by approximately 1.9% over the next ten years, even if the zoning text amendments result in an increase in density along Lower Broadway, no impact to the City's water supply are anticipated.

According to the Newburgh City Engineer, the issue with water is not one of capacity, but rather has to do with water pressure in certain parts of the City, in particular the University Heights section. Water pressure is not an issue for areas along Lower Broadway which may increase in density as a result of proposed zoning text amendments.

#### *Sanitary Sewer*

The City of Newburgh is serviced by the City of Newburgh wastewater treatment plant (WWTP), located in the southern portion of the waterfront, off of Martin Luther King Boulevard. The WWTP has a dry weather capacity of nine (9) million gallons per day (MGD); 3.8 MGD are reserved for the Town of Newburgh and 5.2 MGD are available for the City of Newburgh. The plant currently operates at an average daily flow rate of approximately six (6) MGD, of which 1.6 MGD is generated by the Town of Newburgh. Based on the current flow rates, approximately 3 MGD of remaining plant capacity is available for use by the City of Newburgh and available to meet the needs of any future population generated by the proposed zoning text amendments; a 68% increase in demand would need to occur before the WWTP would reach dry weather capacity.

#### *Traffic and Parking*

The adoption of the proposed zoning text amendments does not appear to result in significant traffic issues along Broadway. Localized impacts at specific intersections may occur as part of implementation of future projects seeking the proposed special use permit, but these would be addressed during site specific review of future actions under

SEQR. The Newburgh Waterfront Redevelopment Project proposed the development of approximately 1,170 residential units, a 150-room hotel, 100,000 square feet of office space, and 140,000 of retail space to be located in the area just west of the TC-1 District parcels with frontage along Broadway.

The traffic study, prepared by Saccardi & Schiff, Inc. as part of the Preliminary Draft Environmental Impact Statement (DEIS) for the Waterfront Redevelopment Project found that the proposed development program outlined above would have an impact on the operation of the road network in the area, including slight changes in the level of service at the intersections of Broadway and Robinson Avenue, Robinson Avenue and South Street, Robinson Avenue and Plank Road, and North Street and Balmville Road. The DEIS did provide mitigation measures for these localized intersection impacts; these measures should be considered, and implemented, if deemed appropriate, as part of the SEQR review of future development projects seeking the large-scale mixed-use development special use permit, if deemed applicable.

In addition to on-street metered parking that is available on most of the streets located within the vicinity of the Lower Broadway Corridor, the City of Newburgh currently has a significant amount of off-street parking. Much of the off-street parking is located in close proximity to Broadway and Martin Luther King Jr. Boulevard. Currently there is approximately 22 acres of parking east of Route 9W, roughly 13 acres of which is located east of Liberty Street within close proximity to Broadway and the TC-1 District.

As demonstrated above, Newburgh has the water capacity, sewer capacity and street network capacity to sustain a substantial amount of growth. In the case of Newburgh, the population has slightly increased over the last 30 years, but is still 9.7% below its 1950 historic peak. In addition, using the most aggressive growth rate provided by the County, the population is only projected to grow by 1.9% over the next 10 years; which is still 8.0% below the historic peak. Therefore, the limited growth that might realistically be expected to occur can be accommodated by the City's existing infrastructure.

Further, as special use permits are not granted as-of-right, any site specific large-scale mixed-use development proposal would be required to comply with the special use permit standards set forth in the proposed zoning text amendments as well as all existing standards set forth in the City's Zoning Code, including site plan review as well site specific review under SEQR.

#### 4.0 FULL ENVIRONMENTAL ASSESSMENT FORM

This EAF evaluates the potential for environmental impacts to be created by the adoption of amendments to the City of Newburgh Zoning Code to create a Large-Scale Mixed-Use Development Special Use Permit within the City's Tourist Commercial (TC-1) District. This legislative action is generic in nature, not site-specific, and does not directly result in any physical changes to the environment. Part 1 of the Full EAF is designed for a site specific action rather than area-wide or generic proposals. As a result, many of the questions in Part 1 are not relevant to the proposed action and have been answered "not applicable" or "NA."

**PART 1--PROJECT INFORMATION**  
**Prepared by Project Sponsor**

NOTICE: This document is designed to assist in determining whether the action proposed may have a significant effect on the environment. Please complete the entire form, Parts A through E. Answers to these questions will be considered as part of the application for approval and may be subject to further verification and public review. Provide any additional information you believe will be needed to complete Parts 2 and 3.

It is expected that completion of the full EAF will be dependent on information currently available and will not involve new studies, research or investigation. If information requiring such additional work is unavailable, so indicate and specify each instance.

Name of Action Adoption of Amendments to the TC-1 Zoning District to allow a Large-Scale Mixed-Use Development Special Use Permit

Location of Action (include Street Address, Municipality and County)

Broadway between Concord Street and Grand Street, City of Newburgh, Orange County, NY 12550

Name of Applicant/Sponsor City of Newburgh City Council

Address City Hall, 83 Broadway

City / PO Newburgh State NY Zip Code 12550-5617

Business Telephone (845) 569-7301

Name of Owner (if different) N/A

Address \_\_\_\_\_

City / PO \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

Business Telephone \_\_\_\_\_

Description of Action:

Pursuant to the New York State Environmental Quality Review Act [6 NYCRR Part 617 (SEQR)], the proposed action discussed in this Full Environmental Assessment Form (EAF) is the adoption of text amendments to the City of Newburgh Zoning Code to create a Large-Scale Mixed-Use Development Special Use Permit within the City's Tourist Commercial (TC-1) District. The purpose of this special use permit is to facilitate the redevelopment of vacant or underutilized properties along the Lower Broadway Corridor with a mix of vibrant residential and commercial uses. This new special use permit would be added to the Schedule of Use and Bulk Regulations for the TC-1 District (§300 Attachment 8). Please see the attached project description for a detailed discussion of the proposed action.

**Please Complete Each Question--Indicate N.A. if not applicable**

**A. SITE DESCRIPTION**

Physical setting of overall project, both developed and undeveloped areas.

1. Present Land Use:  Urban     Industrial     Commercial     Residential (suburban)     Rural (non-farm)  
 Forest     Agriculture     Other mixed-use, vacant

2. Total acreage of project area: 13.8 acres.

APPROXIMATE ACREAGE	PRESENTLY	AFTER COMPLETION
Meadow or Brushland (Non-agricultural)	<u>N/A</u> acres	<u>N/A</u> acres
Forested	<u>N/A</u> acres	<u>N/A</u> acres
Agricultural (Includes orchards, cropland, pasture, etc.)	<u>N/A</u> acres	<u>N/A</u> acres
Wetland (Freshwater or tidal as per Articles 24,25 of ECL)	<u>N/A</u> acres	<u>N/A</u> acres
Water Surface Area	<u>N/A</u> acres	<u>N/A</u> acres
Unvegetated (Rock, earth or fill)	<u>N/A</u> acres	<u>N/A</u> acres
Roads, buildings and other paved surfaces	<u>N/A</u> acres	<u>N/A</u> acres
Other (Indicate type) <u>vacant</u>	<u>N/A</u> acres	<u>N/A</u> acres

3. What is predominant soil type(s) on project site? Urban Land

- a. Soil drainage:  Well drained \_\_\_% of site     Moderately well drained \_\_\_% of site.  
N/A     Poorly drained \_\_\_% of site

b. If any agricultural land is involved, how many acres of soil are classified within soil group 1 through 4 of the NYS Land Classification System? N/A acres (see 1 NYCRR 370).

4. Are there bedrock outcroppings on project site?  Yes     No

a. What is depth to bedrock N/A (in feet)

5. Approximate percentage of proposed project site with slopes: N/A

- 0-10% \_\_\_%     10- 15% \_\_\_%     15% or greater \_\_\_%

6. Is project substantially contiguous to, or contain a building, site, or district, listed on the State or National Registers of Historic Places?  Yes     No

7. Is project substantially contiguous to a site listed on the Register of National Natural Landmarks?  Yes     No

8. What is the depth of the water table? >6.5 (in feet)

9. Is site located over a primary, principal, or sole source aquifer?  Yes     No

10. Do hunting, fishing or shell fishing opportunities presently exist in the project area?  Yes     No

11. Does project site contain any species of plant or animal life that is identified as threatened or endangered?  Yes  No

According to:

Not known. The proposed action is generic in nature and will not result in any direct impacts to plant or animal species; however, the TC-1 District is predominantly comprised of urban developed land and formerly developed vacant land. The potential for threatened or endangered species limited.

Identify each species:

There are no state-designated Significant Coastal Fish and Wildlife Habitats located within Newburgh.

12. Are there any unique or unusual land forms on the project site? (i.e., cliffs, dunes, other geological formations?)

Yes  No

Describe:

N/A

13. Is the project site presently used by the community or neighborhood as an open space or recreation area?

Yes  No

If yes, explain:

14. Does the present site include scenic views known to be important to the community?  Yes  No

Newburgh's View Preservation District regulations identify the following view planes for protection: Grand and Washington Streets, Washington's Headquarters, Broadway and Colden Street, Grand and Second Streets, Public Library, First and Grand Streets.

15. Streams within or contiguous to project area:

None.

a. Name of Stream and name of River to which it is tributary

16. Lakes, ponds, wetland areas within or contiguous to project area:

None.

b. Size (in acres):

17. Is the site served by existing public utilities?  Yes  No
- a. If YES, does sufficient capacity exist to allow connection?  Yes  No N/A
- b. If YES, will improvements be necessary to allow connection?  Yes  No N/A
18. Is the site located in an agricultural district certified pursuant to Agriculture and Markets Law, Article 25-AA, Section 303 and 304?  Yes  No
19. Is the site located in or substantially contiguous to a Critical Environmental Area designated pursuant to Article 8 of the ECL, and 6 NYCRR 617?  Yes  No
20. Has the site ever been used for the disposal of solid or hazardous wastes?  Yes  No

**B. Project Description** N/A\*

1. Physical dimensions and scale of project (fill in dimensions as appropriate).
- a. Total contiguous acreage owned or controlled by project sponsor: N/A acres.
- b. Project acreage to be developed: N/A acres initially; N/A acres ultimately.
- c. Project acreage to remain undeveloped: N/A acres.
- d. Length of project, in miles: N/A (if appropriate)
- e. If the project is an expansion, indicate percent of expansion proposed. N/A %
- f. Number of off-street parking spaces existing N/A; proposed N/A
- g. Maximum vehicular trips generated per hour: N/A (upon completion of project)?
- h. If residential: Number and type of housing units: N/A
- |            | One Family | Two Family | Multiple Family | Condominium |
|------------|------------|------------|-----------------|-------------|
| Initially  | _____      | _____      | _____           | _____       |
| Ultimately | _____      | _____      | _____           | _____       |
- i. Dimensions (in feet) of largest proposed structure: N/A height; N/A width; N/A length.
- j. Linear feet of frontage along a public thoroughfare project will occupy is? N/A ft.
2. How much natural material (i.e. rock, earth, etc.) will be removed from the site? N/A tons/cubic yards.
3. Will disturbed areas be reclaimed  Yes  No  N/A
- a. If yes, for what intended purpose is the site being reclaimed?
- 
- b. Will topsoil be stockpiled for reclamation?  Yes  No
- c. Will upper subsoil be stockpiled for reclamation?  Yes  No
4. How many acres of vegetation (trees, shrubs, ground covers) will be removed from site? N/A acres.

\*The proposed action is the adoption of a Zoning Text Amendments to the City's TC-1 District to allow a new special use permit with respect to large-scale mixed-use developments. This legislative action is generic in nature, not site-specific, and does not directly result in physical changes to the environment. Thus, project-related impacts assumed by the EAF are generally not applicable or variable dependent on location within the City.

5. Will any mature forest (over 100 years old) or other locally-important vegetation be removed by this project?

Yes  No

6. If single phase project: Anticipated period of construction: N/A months, (including demolition)

7. If multi-phased:

a. Total number of phases anticipated \_\_\_\_\_ (number)

b. Anticipated date of commencement phase 1: \_\_\_\_\_ month \_\_\_\_\_ year, (including demolition)

c. Approximate completion date of final phase: \_\_\_\_\_ month \_\_\_\_\_ year.

d. Is phase 1 functionally dependent on subsequent phases?  Yes  No

8. Will blasting occur during construction?  Yes  No N/A

9. Number of jobs generated: during construction N/A; after project is complete N/A

10. Number of jobs eliminated by this project None.

11. Will project require relocation of any projects or facilities?  Yes  No N/A

If yes, explain:

12. Is surface liquid waste disposal involved?  Yes  No N/A

a. If yes, indicate type of waste (sewage, industrial, etc) and amount \_\_\_\_\_

b. Name of water body into which effluent will be discharged \_\_\_\_\_

13. Is subsurface liquid waste disposal involved?  Yes  No Type \_\_\_\_\_

14. Will surface area of an existing water body increase or decrease by proposal?  Yes  No

If yes, explain:

15. Is project or any portion of project located in a 100 year flood plain?  Yes  No

16. Will the project generate solid waste?  Yes  No N/A

a. If yes, what is the amount per month? \_\_\_\_\_ tons

b. If yes, will an existing solid waste facility be used?  Yes  No

c. If yes, give name \_\_\_\_\_; location \_\_\_\_\_

d. Will any wastes not go into a sewage disposal system or into a sanitary landfill?  Yes  No

e. If yes, explain:

17. Will the project involve the disposal of solid waste?  Yes  No

a. If yes, what is the anticipated rate of disposal? \_\_\_\_\_ tons/month.

b. If yes, what is the anticipated site life? \_\_\_\_\_ years.

18. Will project use herbicides or pesticides?  Yes  No N/A

19. Will project routinely produce odors (more than one hour per day)?  Yes  No N/A

20. Will project produce operating noise exceeding the local ambient noise levels?  Yes  No N/A

21. Will project result in an increase in energy use?  Yes  No N/A

If yes, indicate type(s)

22. If water supply is from wells, indicate pumping capacity N/A gallons/minute.

23. Total anticipated water usage per day N/A gallons/day.

24. Does project involve Local, State or Federal funding?  Yes  No

If yes, explain:

**25. Approvals Required:**

			Type	Submittal Date
City, Town, Village Board	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<u>City Council - Resolution to</u> <u>Amend Zoning Text</u>	_____
City, Town, Village Planning Board	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	<u>Referral to Newburgh</u> <u>Planning Board</u>	_____
City, Town Zoning Board	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	<u>Referrals to adjoining</u> <u>municipalities: Town of</u> <u>Newburgh, Town of New</u> <u>Windsor</u>	_____
City, County Health Department	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No		_____
Other Local Agencies	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	<u>Referral to County Planning</u> <u>Department</u>	_____
Other Regional Agencies	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No		_____
State Agencies	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No		_____
Federal Agencies	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No		_____

**C. Zoning and Planning Information**

1. Does proposed action involve a planning or zoning decision?  Yes  No

If Yes, indicate decision required:

- |  |   |   |                                      |
|--|---|---|--------------------------------------|
| <input checked="" type="checkbox"/> Zoning amendment | <input type="checkbox"/> Zoning variance    | <input checked="" type="checkbox"/> New/revision of master plan | <input type="checkbox"/> Subdivision |
| <input type="checkbox"/> Site plan                   | <input type="checkbox"/> Special use permit | <input type="checkbox"/> Resource management plan               | <input type="checkbox"/> Other       |

2. What is the zoning classification(s) of the site?

TC-1 Tourist Commercial

3. What is the maximum potential development of the site if developed as permitted by the present zoning?

Approximately 937,759 square feet.

4. What is the proposed zoning of the site?

N/A.

5. What is the maximum potential development of the site if developed as permitted by the proposed zoning?

N/A.

6. Is the proposed action consistent with the recommended uses in adopted local land use plans?  Yes  No

The Propose Zoning Text Amendments are consistent with both the 2011 Future Land Use Plan and the 2008 Sustainable Master Plan.

7. What are the predominant land use(s) and zoning classifications within a ¼ mile radius of proposed action?

Uses within a 1/4-mile include residential, office, commercial and institutional zones.

Zoning districts include: C-1 Neighborhood Retail and Residential, C-2 General Business, RC Civic Center and Residential District, R-2 Two-family Residential, PO-1 Office and Medical Technology, and R-1 One-Family Residential.

8. Is the proposed action compatible with adjoining/surrounding land uses with a ¼ mile?  Yes  No

9. If the proposed action is the subdivision of land, how many lots are proposed? No

a. What is the minimum lot size proposed? \_\_\_\_\_

10. Will proposed action require any authorization(s) for the formation of sewer or water districts?  Yes  No

11. Will the proposed action create a demand for any community provided services (recreation, education, police, fire protection)?

Yes  No

a. If yes, is existing capacity sufficient to handle projected demand?  Yes  No

12. Will the proposed action result in the generation of traffic significantly above present levels?  Yes  No

a. If yes, is the existing road network adequate to handle the additional traffic.  Yes  No

**D. Informational Details**

Attach any additional information as may be needed to clarify your project. If there are or may be any adverse impacts associated with your proposal, please discuss such impacts and the measures which you propose to mitigate or avoid them.

**E. Verification**

I certify that the information provided above is true to the best of my knowledge.

Applicant/Sponsor Name Sarah K. Yackel Date March 25, 2013

Signature *Sarah K. Yackel*

Title Associate Principal, BFJ Planning

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

**Appendix A**

**Proposed Zoning Text Amendments**

Article VII. SPECIAL USE PERMITS

§ 300-35. Special uses.

§ 300-36. Procedures.

§ 300-37. Standards for individual special uses.

§ 300-38. Large-Scale Mixed-Use Development Special Use Permit  
and § 300-39. (Reserved)

§ 300-35. Special uses.

A. Power. The Planning Board shall have the power to hear and decide on applications to permit the proper integration into the community of uses which may be suitable only in specific locations in a zone or only if such uses are designed and laid out on the site in a particular manner, provided that this chapter otherwise permits such uses subject to the validation of the Planning Board.

B. Conditions to be fulfilled. In applying for a special use permit, the applicant need not demonstrate hardship, since the basis for the action is general benefit to the City as a whole. In granting a special use permit, the Planning Board, with due regard to the nature and condition of all adjacent structures and uses, the zone within which the same is located, the Master Plan, the Local Waterfront Revitalization Program (LWRP) and any relevant urban renewal plans, shall find all of the following general conditions to be fulfilled:

(1) The use requested is listed among the special uses in the zone for which application is made.

(2) The special use is essential or desirable to the public convenience or welfare.

(3) The special use will not impair the integrity or character of the zone or adjoining zones nor be detrimental to the health, morals or welfare.

(4) The special use will be in conformity with the Master Plan.

(5) Consistency with policies.

(a) The special use, if undertaken within the waterfront area, will be consistent with the LWRP policies, standards and conditions, which are derived from and further explained and described in Section III of the City of Newburgh LWRP.

[1] To revitalize deteriorated and underutilized waterfront areas (Policies 1, 1A, 1B, 1C, 1D and 1E).

[2] To retain and promote commercial and recreational water-dependent uses (Policy 2).

[3] To strengthen the economic base of smaller harbor areas by encouraging traditional uses and activities (Policies 4 and 4A).

[4] To ensure that development occurs where adequate public infrastructure is available to reduce health and pollution hazards (Policy 5).

[5] To protect significant and locally important fish and wildlife habitats from human disruption and chemical contamination (Policies 7, 7A, 8 and 8A).

[6] To maintain and expand commercial fishing facilities to promote commercial and recreational fishing opportunities (Policies 9, 9A and 10).

[7] To minimize flooding and erosion hazards through nonstructural means, carefully selecting long-term structural measures and appropriate siting of structures (Policies 11, 11A, 12, 13, 14, 16, 17 and 28).

[8] To safeguard economic, social and environmental interests in the coastal area when major actions are undertaken (Policies 18 and 18A).

[9] To maintain and improve public access to the shoreline and to water-related recreational facilities while protecting the environment (Policies 2, 19, 19A, 20, 20A, 21, 21A, 21B, 22 and 22A).

[10] To protect and restore historic and archaeological resources (Policies 23 and 23A).

[11] To protect and upgrade scenic resources (Policy 25).

[12] To site and construct energy facilities in a manner which will be compatible with the environment and contingent upon the need for a waterfront or water location (Policies 27, 29 and 40).

[13] To prevent ice management practices which could damage significant fish and wildlife and their habitat (Policy 28).

[14] To protect surface and groundwater from direct and indirect discharge of pollutants and from overuse (Policies 30, 31, 33, 34, 35, 36, 36A, 37 and 38).

[15] To perform dredging and dredge spoil in a manner protective of natural resources (Policies 15 and 35).

[16] To handle and dispose of solid and hazardous wastes and effluents in a manner which will not adversely affect the environment nor expand existing landfills (Policies 39 and 39A).

[17] To protect air quality (Policies 41, 42 and 43).

[18] To protect freshwater wetlands (Policy 44).

(b) The Planning Board will consider the recommendations of the Waterfront Advisory Committee when determining consistency with the above policies.

C. Factors to be considered. In making such determination, the Planning Board shall give consideration to any or all of the following as they may be appropriate:

(1) The character of the existing uses and the probable development of uses in the district and the peculiar suitability of such district for the location of any of such permissive uses.

(2) The conservation of property values and the encouragement of the most appropriate uses of land.

- (3) The effect that the location of the proposed use may have upon the creation of or undue increase of vehicular traffic congestion on public street or highways.
- (4) The availability of adequate and proper public or private facilities for the treatment, removal or discharge of sewage, refuse or other effluent, whether liquid, solid, gaseous or otherwise, that may be caused or created by or as a result of the use.
- (5) Whether the use or materials incidental thereto or produced thereby may give off obnoxious gases, odors, smoke or soot.
- (6) Whether the use will cause disturbing emission of electrical discharges, dust, light, vibration, noise or radioactivity.
- (7) Whether the operations in pursuance of the use will cause undue interference with the orderly enjoyment by the public of parking or of recreational facilities, if existing, or if proposed by the City or by other competent governmental agency.
- (8) The necessity for bituminous-surfaced space for the purpose of off-street parking of vehicles incidental to the use and whether such space is reasonably adequate and appropriate in area and design and can be furnished by the owner of the plot sought to be used within or adjacent to the plot wherein the use shall be had.
- (9) Whether a hazard to life, limb or property because of fire, flood, erosion or panic may be created by reason of or as a result of the use, by the structures to be used therefor, by the inaccessibility of the property or structure thereon for the convenient entry and operation of fire and other emergency apparatus or by the undue concentration or assemblage of persons upon such plot.
- (10) Whether the use of the structures to be used therefor will cause an overcrowding of land or undue concentration of population.
- (11) Whether the plot area is sufficient, appropriate and adequate for the use and the reasonably anticipated operation and expansion thereof.
- (12) Whether the use to be operated is unreasonably near to a church, school, theater, recreational area or other place of public assembly.

D. Planning Board action. The Board may approve, approve with modifications, or disapprove any application for a special use permit. The Planning Board shall have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed special use permit and may be necessary in the Board's opinion to meet the objectives herein set forth. Upon its granting of said special use permit, any such conditions must be met in connection with the issuance of permits by applicable enforcement agents or officers of the City.

- (1) Such conditions may include a time limitation.
- (2) Conditions may be imposed which require that one or more improvements be done before the use requested can be initiated; for example, that a solid board fence be erected entirely around the site to a height of six feet before the use requested is initiated.

(3) Conditions of a continuing nature may be imposed. For example, exterior loudspeakers shall not be used between the hours of 10:00 p.m. and 9:00 a.m.

(4) The Planning Board may establish a schedule of inspection to be conducted by the Building Inspector to determine continued compliance with this chapter and any conditions of the special use permit.

E. Reversion to permitted use. Whenever all the conditions required are of such type that they can be completely and permanently satisfied, the administrative official, upon request of the applicant, may, if the facts warrant, make a determination that the conditions have been satisfied and enter said determination on the file copy of the special use permit. Thereafter, said special use, provided that it continues to meet the other requirements of the chapter, will be treated as a permitted use.

F. Compliance with other codes. Granting of a special use permit does not exempt the applicant from complying with all of the requirements of building codes and other ordinances.

G. Revocation. In any case where the conditions of a special use permit have not been or are not being complied with, the administrative official shall give the permittee notice of intention to revoke such permit at least 10 days prior to a Planning Board review thereon. After conclusion of the review, the Planning Board may authorize the administrative official to revoke such permit.

H. Expiration. In any case where a special use permit has not been exercised within the time limit set by the Planning Board, or within one year if no specific time limit has been set, then, without further action, the permit shall be null and void. "Exercised," as set forth in this section, shall mean that binding contracts for the construction of the main building have been let or, in the absence of contracts, that the main building is under construction to a substantial degree or that prerequisite conditions involving substantial investment are contracted for, in substantial development, or completed (sewage, drainage, etc.). When construction is not a part of the use, "exercised" shall mean that the use is in operation in compliance with the conditions set forth in the permit.

#### § 300-36. Procedures.

The powers and duties of the Planning Board shall be exercised in accordance with the procedures set forth in this article plus the following additional procedures:

A. Strict compliance. The Planning Board shall act in strict accordance with the procedures specified by law and by this chapter.

B. Fees. All applications made to the Planning Board shall be accompanied by the fee established by the City Council as provided for in § 300-83. The Board may, in its discretion, return to the applicant part or all of the fee paid by him in the event that his appeal is under § 300-78 hereof and is partially or wholly successful. The fees filed in connection with applications under § 300-35 shall not be returnable regardless of the disposition of the case by the Planning Board.

C. Submission. An application for a special use permit shall be submitted to the Planning Board office on the last business day of the month preceding the month in which the application is to be heard.

D. Contents of applications. Each application shall fully set forth the circumstances of the case. Every application shall refer to the specific provision of the chapter involved.

- E. Site plan required. Application for a special use permit shall require site plan approval in accordance with the site plan regulations contained in this chapter, except that the Planning Board may waive site plan approval for a special use permit application that will involve no physical alteration or disturbance to a site. At a minimum, the application for a special permit use shall be accompanied by a plan showing the size and location of the lot, and the location of all buildings and proposed facilities, including access drives, parking areas, and all streets within 200 feet of the lot lines.
- F. Public hearings. The Planning Board shall conduct a public hearing within 62 days from the day a complete application is received by the Planning Board. At least 10 days prior to such hearing the Secretary of the Board shall mail, by regular mail, at the applicant's expense, a notice of such hearing and of the substance of the application to the owners of all properties within 300 feet of the exterior boundaries of the property affected by the application. At least 10 days prior to such hearing, the Secretary of the Planning Board, at the expense of the applicant, to be paid in advance, shall cause to be published in the official newspaper of the City a notice of such hearing and of the substance of the appeal or application. Prior to said hearing, the applicant shall submit to the Board affidavits of the Secretary of the Board swearing that the required mailings and publication have been performed, which documents shall become part of the application. For the purpose of the mailings required by this section, the term "owner" shall be construed to mean the owner as indicated on the assessment roll of the City of Newburgh.
- G. Notice to the applicant and the Orange County Planning Department. At least 10 days prior to the public hearing, the Planning Board shall mail notices thereof to the applicant and to the Orange County Planning Department, as required by § 239-m of the General Municipal Law, which shall be accompanied by a full statement of the matter under consideration, as defined therein.
- H. Architectural Review Commission advisory opinion. The Planning Board shall, within 10 days of its submission, refer any special use permit application within historic districts or architectural design districts to the Architectural Review Commission for review and recommendations. The Planning Board shall defer any decision on these matters pending the receipt of a report from the Architectural Review Commission.
- I. Waterfront Advisory Committee. Whenever a request for a special use permit involves a use to be located within the City's waterfront districts, the Planning Board shall refer a copy of a completed coastal assessment form (CAF) to the Waterfront Advisory Committee within 10 days of its submission and, prior to making its determination, shall consider the recommendation of the Waterfront Advisory Committee with reference to the consistency of the proposed action as set forth in Chapter 296 of the Code of the City of Newburgh, known as the "City of Newburgh Waterfront Consistency Review Law." In the event that the Waterfront Advisory Committee recommendation is not forthcoming within 30 days following referral of the CAF, the Planning Board shall make its decision without the benefit of the Waterfront Advisory Committee recommendation.
- J. Decision. The Planning Board shall decide upon an application within 62 days after the public hearing is closed. The time within which the Planning Board must render its decision may be extended by mutual consent of the applicant and the Planning Board.
- K. Filing. The decision of the Planning Board shall be filed in the office of the City Clerk within five business days after such decision is rendered and a copy thereof mailed to the applicant.

L. Existing violations. No special use permit shall be issued for property where the Building Inspector has found a violation of this chapter, and where such violation has not been corrected, unless the granting of such special use permit and site plan approval will result in a correction of said violation.

M. Area variance. Where a proposed special use permit would require an area variance, an application may be made to the Zoning Board of Appeals without the necessity of a denial of an administrative official charged with enforcement of this chapter.

§ 300-37. Standards for individual special uses.

The following individual standards are hereby established for special uses:

A. Garages, filling stations, auto repair shops, used car lots, automobile painting, automobile rebuilding or reconditioning, tire retreading or recapping, and taxi and limousine service shall be subject to the following:

(1) Notwithstanding any grant of authority contained elsewhere in this chapter, no special permit or variance shall be granted for a use enumerated herein to be located within a designed historic district or architectural design district unless the Architectural Review Commission shall certify to the Planning Board that said use will not be out of keeping with the architectural character of the district and will not be out of harmony with the style, materials, colors, line and details of the buildings in the district and that said use will not detrimentally affect the preservation of the beauty and character of the district. Said certification must be reviewed by the Planning Board prior to its acceptance of any application for a special use permit.

(2) Any special use permit granted shall be granted only for an initial period of six months, after which the Planning Board shall review the compliance with the permit conditions and may vote to permanently grant the permit or to continue the special permit for an additional limited time period, in the absence of which said special permit shall lapse and become null and void.

(3) Sufficient off-street parking is to be provided for all cars brought for repair; a minimum of five off-street parking spaces are to be provided.

(4) No repair or storage of vehicles shall be on the public street.

(5) The property must be maintained in a neat and orderly manner with no accumulation of junk vehicles, tires, auto parts, garbage, refuse or debris on the property.

(6) Hours of operation are to be established by the Planning Board so as to limit the effect of noise and traffic on the neighborhood.

(7) All facilities are to conform to the New York State Uniform Fire Prevention and Building Code, environmental regulations and sewer use regulations and ordinances, particularly in regard to prevention of the discharge of oil, grease, or other petroleum products into the public sewers.

(8) All surfaces for vehicle travel or storage are to be provided with a desirable dustless surface to be approved by the Planning Board and an adequate system of storm drainage.

(9) All lighting is to be installed in accordance with a plan to be submitted to and approved by the City Engineer and the Building Inspector and so designed as to prevent light from being thrown onto neighboring properties.

(10) All parking, vehicle storage areas and driveways must be constructed so as to meet the requirements of Article VIII of this chapter.

(11) The use shall be screened from all abutting residences or residential districts in accordance with § 300-12 of this chapter, except that the Planning Board may permit the substitution of an eight-foot-high wooden fence or masonry wall as a substitute for or in addition to the plantings provided in § 300-12. The screening strips of 10 feet in width must be measured entirely within the property lines of the parcel to be devoted to the use.

(12) The Planning Board shall have the power to impose such additional conditions as it may deem required in accordance with the standards established by § 300-35 of this chapter. However, the Planning Board shall not have the power to delete or modify any of the conditions required by Subsection A(1) through (11) of this section.

(13) Where the Zoning Board of Appeals has approved a special use permit and said permit is subject to renewal, the Planning Board shall be responsible for renewing said special use permit.

B. Home occupation or professional office. Customary home occupations are deemed to be accessory uses to a single-family detached dwelling subject to the requirements contained herein. A home occupation shall not require full site development plan submission. However, an applicant shall be required to submit a lot survey indicating the location of the home and the area of the home to be used for purposes of the home occupation.

(1) The minimum lot size shall be 7,500 square feet.

(2) Such occupation is carried on in an area not exceeding 25% of the gross floor area of the principal building.

(3) At no time shall any premises be used in such a manner to cause the emanation therefrom of offensive or noxious odors, vapors, fumes, glare, dust, smoke, gas, vibration, noise or radiation or be used in such a manner as to cause injury, annoyance or disturbance to any of the surrounding properties and to their owners and occupants.

(4) Equipment capable of causing interference with radio or television reception in the neighborhood shall be prohibited unless also equipped with means to prevent such interference.

(5) There shall be no outdoor storage of materials, supplies, or equipment associated with the home occupation.

(6) Such occupation is incidental to the residential use of the premises and is carried on in the principal building by a resident therein with not more than two nonresident assistants.

(7) A studio where dancing or music instruction is offered is permitted, provided only up to a maximum of four pupils at any one time are instructed. Concerts or recitals are prohibited.

(8) The Planning Board may restrict the number of deliveries of materials or supplies associated with the home occupation.

(9) The Planning Board may approve the operation of a home occupation subject to any condition it deems necessary to ensure that the use does not diminish or impact the peace, security and the overall residential quality of the neighborhood.

C. Day-care center. The standards for a day-care center shall be as follows:

(1) The application shall describe the anticipated occupancy of the facility by age group, i.e., infant, toddler, and school age, and the hours of operation of the facility.

(2) A floor plan of the day-care center shall be submitted.

(3) In addition to the parking space requirements contained in Article **VIII**, Table 1, *Editor's Note: See § 300-45*, additional parking spaces shall be provided for dropoff and pickup of children at a rate of one parking space per 15 children. Said spaces shall be provided directly in front of the facility along an internal driveway or in an approved parking area. The most appropriate location for dropoff parking shall include a consideration of emergency access and shall be determined by the Planning Board during site plan review. The dropoff location shall be clearly posted with appropriate signage or pavement markings. Fire lanes shall not be used for dropoff areas.

(4) A minimum outdoor play area of 125 square feet per child under three years of age, or per child three and over, whichever is greater, shall be provided. Said outdoor play area shall be located at a minimum distance of 25 feet from any lot line or from any parking area and 50 feet from any public right-of-way. Outdoor play areas shall be directly accessible from the principal structure and shall not require crossing any street, driveway, or parking area for access. The Planning Board may, as part of site plan review and in consultation with the prospective operator, modify the area requirement to apply only to the largest age group enrollment scheduled to use the outdoor play area at one time.

(5) A six-foot-high solid fence or opaque fence combined with hedge or tree plantings shall be provided to screen the outdoor play area where it abuts a residential zoning district.

(6) Said facility shall provide a minimum of two exits.

(7) Day-care centers shall adhere to the requirements of the New York State Uniform Fire Prevention and Building Code and all other applicable state guidelines that govern said uses.

(8) If included as part of a professional office building, said day-care center shall occupy the ground floor only.

(9) Hallways with a length of 20 feet or greater between the building exterior and the day-care center shall be prohibited.

D. Bed-and-breakfasts shall be subject to the following:

(1) Applicability. A bed-and-breakfast is permitted as an accessory use to a single-family residence. A single-family residence must be in existence at the date of adoption of these regulations to

become eligible to be a bed-and-breakfast. Except as otherwise specified herein, the single-family residence shall be required to meet the bulk requirements for single-family residences within the applicable zoning district.

(2) Application submission. In addition to the general requirements for special use permit approval, the applicant shall also submit:

- (a) A sketch showing the floor plan of the home and the location of proposed guest rooms.
- (b) A site plan delineating the location of the residence on the tax parcel, minimum setback distances, proposed parking areas, proposed screening, and any other information applicable.
- (c) If a sign is proposed, a sign plan, including type and location of illumination, if proposed.
- (d) A certification that the owner resides and will continue to reside within the residence while the special use permit is in effect. A change in owner occupancy shall require renewal of the special use permit.
- (e) Proof of insurance to operate a bed-and-breakfast.

(3) Requirements and conditions of operation.

- (a) The bed-and-breakfast shall be the primary residence of the owner.
- (b) The number of paying guests accommodated per night shall not exceed 10 guests, and no guest shall stay for a period exceeding 15 days. The bed-and-breakfast shall maintain a guest registry identifying the arrival and departure dates of guests.
- (c) A maximum of two adult guests and accompanying minor children shall be allowed to occupy each guest bedroom, subject to fire safety standards.
- (d) There shall be no more than five bedrooms occupied by paying guests. Said rooms shall not be equipped with a kitchenette or other cooking devices.
- (e) As a minimum, one bathroom shall be provided for each two guest rooms. In addition, a separate bathroom shall be maintained for the owners of the single-family residence.
- (f) Each guest bedroom shall be equipped with a smoke detector alarm installed and maintained in a functional condition on or near the ceiling.
- (g) A bed-and-breakfast is permitted one sign, not to exceed two square feet, identifying the name of the facility. Illumination may be permitted, subject to Planning Board approval. The Planning Board shall take into consideration the proximity of adjoining residences and potential nighttime disturbance. Said sign shall not be illuminated between 9:00 p.m. and sunrise.
- (h) No parking space shall be located within the front yard. Parking spaces shall be set back a minimum distance of 15 feet from any side or rear lot line. A minimum of two spaces shall be provided for the single-family dwelling, plus a minimum of one off-street parking space shall be provided for each guest bedroom. Each space shall measure not less than nine feet by 18 feet in

size. New parking areas required to meet these requirements shall limit the introduction of impervious surfaces.

(j) The Planning Board shall consider the need for landscaping to screen views from adjoining residences.

(i) The dwelling shall not be altered in a manner which would cause the premises to differ from its residential character, nor shall any extensions or additions to the dwelling be made for the purpose of renting such space for overnight accommodations. Accessory buildings detached from the principal dwelling shall not be used for the purpose of a bed-and-breakfast.

(k) There shall be no more than two employees in addition to the owner.

(l) Each facility shall be operated and maintained so as to preserve the character and integrity of the surrounding residential neighborhood.

(4) Approval. A special use permit to operate a bed-and-breakfast shall be valid for one year from the date of issuance, subject to continuing compliance with the conditions of the special use permit and subject to continuing compliance with the New York State Uniform Fire Prevention and Building Code.

(5) Permit renewal. The applicant may renew the permit for additional two-year time periods, subject to approval by the Planning Board and any fees applicable to the review of special use permit applications. The Planning Board shall notify the Building Inspector, 15 days prior to the meeting at which the renewal is being considered, who shall provide a description, in writing, of any changes that have occurred in the floor or site plan since the time the special use permit was approved or last renewed and a list of violations or complaints, if applicable. The Planning Board shall take the Building Inspector's report into consideration when rendering a decision.

(6) Enforcement. The Building Inspector shall be given access to the premises for the purpose of making inspections as deemed necessary from time to time to ensure compliance with these regulations and with the New York State Uniform Fire Prevention and Building Code. Such inspections shall be conducted in accordance with procedures set forth in this chapter. Any facility operated in violation of this chapter shall have its permit suspended on a first violation and revoked for a second violation. No permit shall be reinstated until the owner fully complies with the provisions of this chapter.

(7) Registry. The Planning Board Secretary shall maintain a record of bed-and-breakfasts, including the name of the owner, the address, the maximum occupancy of the establishment, and the date of special use permit approval.

E. Community parking area. Community parking areas shall be subject to the following:

(1) A plan shall be submitted detailing the parking lot layout. Parking lots shall be macadam and parking spaces shall be appropriately striped. The City Engineer, in consultation with the Building Inspector, shall be responsible for reviewing and shall favorably recommend the layout prior to Planning Board approval of the special use permit.

(2) Adequate drainage shall be provided.

- (3) The owner shall be responsible for keeping said parking area clean and debris-free.
- (4) The community parking area shall be screened from abutting residential uses in accordance with § 300-12.
- (5) Mature trees in excess of eight inches dbh (diameter breast height) shall be identified on the site plan. The parking layout shall incorporate mature trees into the design of the parking area to the maximum extent practicable.
- (6) No more than one curb cut shall be permitted per each street frontage.

E. Planned residential development shall be subject to the following:

- (1) A planned residential development may consist of a mix of multiple-family dwellings or single-family attached (townhome) dwellings.
- (2) The site plan shall be accompanied by building elevations and a landscape plan.
- (3) The maximum density shall be 12 units per acre for multiple-family dwellings. The maximum density for townhomes shall be eight units per acre. A minimum of 25% of the site shall be maintained as open space.
- (4) No building shall exceed 120 feet in length.
- (5) Principal buildings shall be separated a minimum distance equal to the height of the taller of adjoining buildings, but in no case shall a building be located closer than 30 feet to any other principal building.
- (6) Accessory buildings, including recreational facilities, shall be located a minimum of 25 feet from principal buildings or from any lot line.
- (7) To the maximum extent practicable, buildings shall be situated in a manner so that the front facade and the main entry point to the dwellings face to the street line.
- (8) Off-street parking is prohibited in the front yard or adjacent to a street bounding the lot when the other side of the street is zoned residential. Parking shall be located to the rear of the principal buildings. The Planning Board may allow parking in a side yard, provided that said parking area shall be screened from the street and pedestrian traffic by means of a planted strip or fence of a height of at least three feet. Parking areas shall not be located closer than 10 feet to a principal building or outside deck or recreational space and shall be suitably screened from said buildings and spaces with appropriate landscape materials.
- (9) The applicant shall make provisions for the maintenance of any open space or common areas in a manner that is satisfactory to the Planning Board and the City Council of the City of Newburgh.
- (10) All off-street parking areas shall be attractively landscaped. A minimum of 20% of the parking area shall be landscaped.

(11) Where provided, dumpsters shall be located in a fenced enclosure which shall be suitably screened with appropriate landscape materials.

(12) Each dwelling unit shall be provided with an outdoor deck or space consisting of a minimum of 25 square feet.

(13) On-site lighting shall not spill over onto adjoining residential properties.

G. Adaptive reuse of an existing building for residential use in the W-1 District shall be subject to the following:

(1) The ground floor of said structure shall be used for nonresidential uses permitted or allowed by special use permit in the W-1 District.

(2) Each dwelling unit shall contain a minimum of 1,000 square feet in area.

(3) On-site indoor or outdoor accessory recreational facilities are permitted, e.g., swimming pools or tennis or squash courts. The Planning Board may impose restrictions on the type and operation of lighting associated with outdoor recreational facilities in order to protect the "night sky" of the Hudson River.

(4) A landscape plan shall be submitted with the site plan.

(5) Off-street parking shall be provided in accordance with the standards for multifamily dwellings.

(6) The applicant shall make provisions for the maintenance of any open space or common areas in a manner that is satisfactory to the Planning Board and the City Council of the City of Newburgh.

H. Boarding homes shall be subject to the following:

(1) In the R-4 District, up to three nontransient roomers or boarders may be accommodated for remuneration by the resident owner of the dwelling.

(2) The owner of the dwelling shall occupy the dwelling and shall constitute the principal use thereof.

(3) Kitchen and dining facilities shall be limited to use by the resident owner, roomers or boarders and bona fide guests but shall not be open to the general public. There shall be no individual kitchen or dining facilities for any sleeping room.

(4) There shall be no more than one rented sleeping room for each 2,000 square feet of lot area, with a maximum of three rooms being permitted.

(5) Each sleeping room for rent to a roomer or boarder shall be at least 100 square feet in area.

(6) One off-street parking space shall be provided for each rented sleeping room. The Planning Board may require landscaping or screening around the parking area.

(7) In order to preserve the residential character of the neighborhood, there shall be no exterior alteration or expansion of the structure to allow the use of the dwelling for boarders and roomers, except for parking.

I. Colleges or universities shall be subject to the following:

- (1) All buildings shall be located at least 100 feet from the street lot line and 50 feet from all other property lines. Grandstands, gymnasiums, central heating plants and similar buildings shall be located at least 200 feet from all property lines. The distance between principal buildings shall be at least equal to the height of the taller building. Total building coverage of the site shall be limited to 30%. On-campus housing, dormitory buildings or single-family detached dwellings shall be permitted as accessory buildings, provided that the minimum lot area for the entire site shall be increased by at least 1,000 square feet for each dormitory bed and by at least the minimum lot area of the applicable zoning district for each single-family dwelling. Use of such dormitories or dwellings shall be limited exclusively to students, teachers, or other members of the staff of the college or university, and a dormitory or dwelling shall not subsequently be sold or rented as a private residence or for any other legal use unless the building and any required lot surrounding it shall meet all regulations of the district in which it is located.
- (2) Multiple-family dwellings for the exclusive use of teachers and other members of the staff of the school shall be permitted as accessory buildings, provided that, in addition to all other site requirements, there shall be land set aside for each such dwelling of an area at least equal to the minimum residential lot size of the district in which such school site is located times the number of dwelling units in such dwelling and provided that each multifamily dwelling shall be at least 100 feet from any property line and be so located with respect to the required additional land that a lot could be separated from the balance of the school site and meet these area requirements. No such dwellings shall subsequently be rented or sold unless the above-mentioned lot shall be created with frontage on an approved street and unless the Planning Board shall find that the school to which such dwellings are accessory has ceased to operate or that the type of school has changed to one which no longer requires staff housing.
- (3) The minimum area that shall be dedicated to playgrounds and playfields shall be three acres, plus an additional two acres per 100 students.
- (4) Suitable fencing, landscaping and screening shall be provided to prevent any nuisance to surrounding properties and to protect students attending the school.
- (5) The college shall comply with any standards established for schools by the New York State Commissioner of Education.
- (6) The Planning Board may approve the design of a parking area to serve more than one use, provided that such uses will require parking facilities at different times. Parking areas shall be located at least 50 feet from all property lines, except that in the case of a property line adjacent to permanently reserved open space, parking areas may be located no closer than 25 feet therefrom. Access and interior drives shall be located so as to prevent unnecessary traffic on local residential streets and to avoid unsafe conditions and traffic congestion.

J. Used car lots shall be subject to the following:

- (1) All existing used car lots shall have a paved surface constructed in accordance with specifications of the City Engineer, an adequate system of storm drainage, screening in accordance with § 300-12 of this chapter to protect adjacent residential properties or residential-zoned areas and provision for lighting that is satisfactory to the City Building Inspector.

§ 300-38. and Large-Scale Mixed-Use Development Special Use Permit

A. Power. The City Council shall have the power to hear and decide on applications for a large-scale mixed-use development special use permit.

B. Applicability. The Large-Scale Mixed-Use Development Special Use Permit shall apply in the Tourist Commercial (TC-1) zoning district only, and only to parcels with frontage on Broadway. However, said project may extend from Broadway through the length of the block to the next public street, irrespective of the zone, provided that the portion outside of the TC-1 zone is part of a unified development parcel with frontage on Broadway.

C. Conditions to be fulfilled. In applying for a large-scale mixed-use development special use permit, the applicant need not demonstrate hardship, since the basis for the action is general benefit to the City as a whole. In granting a large scale mixed-use development special permit, the City Council, with due regard to the nature and condition of all adjacent structures and uses, shall consider the requirements of the zone within which the same is located, the Master Plan, the Future Land Use Plan, the Local Waterfront Revitalization Program (LWRP) and any relevant urban renewal plans and shall find all of the general conditions set forth in §300-35B.(1) through (5) fulfilled.

D. Factors to be considered. In making a determination that the conditions specified above have been fulfilled, the City Council shall give consideration to any or all of the factors set forth in §300-35C.(1) through (12).

E. City Council action. The City Council may approve, approve with modifications, or disapprove any application for a large-scale mixed-use development special use permit. The Council shall have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed large-scale mixed-use development special use permit and may be necessary in the Council's opinion to meet the objectives herein set forth. Upon the granting of said large-scale mixed-use development special use permit, any such conditions must be met in connection with the issuance of permits by applicable enforcement agents or officers of the City. Such conditions include those set forth in §300-35D.(1) through (4), or any that the Council determines reasonable and necessary.

F. Other conditions for approval. The application for a large-scale mixed-use development special use permit shall meet the conditions and provisions set forth in §300-35E. through (H).

G. Standards for large-scale mixed-use development special use permits.

The following individual standards are hereby established for large-scale mixed-use development special use permits:

- (1) Area standards. The proposed development shall meet the minimum lot area, width and depth; yard; and maximum building height requirements for large-scale mixed-use development as set forth in the Schedule of Use and Bulk Regulations for the TC-1 District.
- (2) In the case that the proposed large-scale mixed-use development contains any use which would be individually subject to a special permit from the Planning Board, the standards for such use, as provided in in §300-37., shall apply, unless the City Council determines that the application of said standards is unreasonably or unnecessary or impractical due to the unique characteristics of the site, mix of uses or other factors.

- (3) At a minimum, the special use permit application must be accompanied by a site plan prepared in accordance with §300-52.
- (4) To the maximum extent practicable, buildings shall be situated in a manner so that the front façade and the main entry face to the street line.
- (5) Off-street parking.
- (a) The City Council may modify the area requirements (length and width) of off-street parking spaces as set forth in §300-44, provided that in no case shall the width be decreased by more than 6 inches and the length by no more than one foot. In granting such reductions, the City Council shall consider such benefits as increased landscaping and screening within and adjacent to off-street parking areas;
- (b) When based on a Parking Analysis, the City Council may reduce the off-street parking space and loading berth requirements as set forth in §300-45 provided that the parking capacity to be provided will substantially meet the intent of this Article. The Parking Analysis shall be prepared assuming peak-hour utilization and demonstrate that sufficient parking spaces will exist so that no overflow parking is likely to occur in any public street; and
- (c) The City Council may permit a portion, not to exceed 25%, of the total required spaces, the total number of which shall be determined pursuant to §300-38.G.(5)(b) above, to be located at an off-site location no further than 300 feet from the premises to which they are appurtenant.
- (6) Shared parking. The use or uses proposed for the large-scale mixed-use development shall provide the required number of off-street parking spaces pursuant to §300-45., except that the number of required spaces may be reduced if the City Council finds that the parking capacity to be provided will substantially meet the intent of this Article by reason of variation in the probable time of maximum use by patrons, employees or residents of such establishments, provided that:
- (a) The City Council shall base its finding upon a Shared Parking Analysis to be prepared, assuming peak-hour utilization, to demonstrate that sufficient parking spaces will exist so that no overflow parking is likely to occur in any public street; and
- (b) In the event that any establishment changes use, the applicant seeking approval for the new use or uses shall adequately demonstrate, based upon a Shared Parking Analysis, that the new use configuration will continue to allow for sufficient parking capacity, or alternatively, that additional off-street parking spaces will be provided to ensure such capacity.
- (7) Off-street parking is prohibited in the front yard. Parking shall be located to the rear of the principal buildings. The City Council may allow parking in a side yard, provided that said parking area shall be screened from the street and pedestrian traffic by means of a planted strip or

fence. Parking areas shall be located a reasonable distance from principal buildings or outside decks or recreational spaces and shall be suitably screened from said buildings and spaces with appropriate landscape materials.

(8) When abutting a residential district, off-street parking areas must be appropriately landscaped and screened.

(9) The applicant shall make provisions for the maintenance of any open space or common areas in a manner that is satisfactory to the City Council.

(10)Mature trees in excess of eight inches dbh (diameter breast height) shall be identified on the site plan. The proposed development shall incorporate such mature trees into the plan to the maximum extent practicable.

(11)Where provided, dumpsters shall be located in a fenced enclosure which shall be suitably screened with appropriate fencing and/or landscaping materials.

(12)On-site lighting shall be designed and situated so that it does not spill over onto adjoining residential properties or create potential driving hazards. The City Council may require a lighting plan to verify that the proposed lighting will not present such adverse impacts.

H. Procedures. The powers and duties of the City Council in considering large-scale mixed-use development special permits shall be exercised in accordance with the procedures set forth in this article and in §300-36., except that, where relevant, said procedures shall apply to the City Council and not to the Planning Board.

§ 300-39. (Reserved)

Zoning

300 Attachment 8

City of Newburgh  
Schedule of Use and Bulk Regulations  
TC-1 Tourist Commercial District<sup>1</sup>

Use	Use Type	Minimum Lot Area (feet)	Minimum Lot Width (feet)	Minimum Lot Depth (feet)	Minimum Front Yard (feet)	Minimum Side Yard Each (feet)	Minimum Rear Yard (feet)	Maximum Building Height	
								Stories	Feet
One-family detached dwelling	P	7,500	50	100	15	10	20	2.5	35
One-family attached (duplex, town home)	P	2,500**	25	100	15	0/10*	20	3	45
Two-family dwelling	P	10,000	75	100	15	10	20	2.5	35
Mixed use: residential on upper floors only****	P	2,500	25	100	15	0/5**	20	3	45
Professional and business office	P	2,500	25	100	15	0/5**	20	3	45
Government office	P	2,500	25	100	15	0/5**	20	3	45
Tourist-related retail use	P	2,500	25	100	15	0/5**	20	3	45
Art and antique gallery	P	2,500	25	100	15	0/5**	20	3	45
Museum	P	2,500	25	100	15	0/5**	20	3	45
Church and similar place of worship	P	7,500	75	100	15	15	20	3	45
Assembly hall	SP	2,500	25	100	15	0/5**	20	3	45
Craft shop	SP	2,500	25	100	15	0/5**	20	3	45
Restaurant, bar	SP	2,500	25	100	15	0/5**	20	3	45
Fast-food restaurant, without drive-through facility	SP	2,500	25	100	15	0/5**	20	3	45
Laundromat	SP	2,500	25	100	15	0/5**	20	3	45
Conference center	SP	10,000	100	100	25	15	25	3	45
Hotel	SP	10,000	100	100	25	15	25	3	45
Theater	SP	10,000	100	100	25	15	25	3	45
Large-scale mixed use development****	SP	20,000	100	100	15****	0.5****	20	6/4****	55/45****
Swimming pools accessory to one-family detached	A								
Other customary accessory uses and buildings, provided that such use is clearly incidental to the principal use	A								

P = Permitted      SP = Special Permit Use      A = Accessory Use

NOTES:

- <sup>1</sup>In the TC-1 District, residential uses are not permitted east of Washington Place and Colden Street
- \* Where existing buildings share common wall, no side yard is required. All other buildings require five-foot side yard.
- \*\* Minimum area is per unit.
- \*\*\*\* One dwelling unit is permitted for each 1,000 square feet of gross floor area per upper story floor.
- \*\*\*\*\* Only applicable to lots with frontage on Broadway pursuant to Section 300-38.
- \*\*\*\*\* Front and side yard requirements may be waived, reduced or otherwise modified at the discretion of the City Council as part of the Special Use Permit process.
- \*\*\*\*\* Six stories (65 feet) are permitted within 200 feet of Broadway. Four stories (45 feet) are permitted beyond 200 feet pursuant to Section 300-38.