

## **1. INTRODUCTION**

This document constitutes the “Reasons Supporting This Determination” portion of Part 3 of the Environmental Assessment Form (EAF) for the City of Newburgh Zoning Code Update. This Part 3 of the FEAF provides additional information to assist the Newburgh City Council, as Lead Agency under the State Environmental Quality Review Act (SEQRA) (6 NYCRR Part 617), to make a determination on whether the Proposed Action will have significant adverse environmental impacts. This EAF was prepared pursuant to all SEQRA regulations and includes sufficient information for the City Council to make a reasoned determination on environmental significance. Adoption of the Zoning Code Amendments and Zoning Map are considered a Type I action under the State Environmental Quality Review Act (SEQRA).

The Proposed Action would result in numerous revisions to Chapter 300 of the Newburgh City Code to update the zoning code and map to support the implementation of the City’s adopted planning documents and studies, including in particular the Future Land Use Plan. The proposed amendments would take effect city-wide with certain actions having specific geographic applications, including the creation of four Form-Based Districts in downtown Newburgh.

It should be noted that additional SEQRA review will be required for development applications seeking approvals from the City, in accordance with the proposed zoning text amendments, should they be adopted. This environmental review analyzes the potential generic impacts associated with the Proposed Action and generic development projected to occur under the Proposed Action, not any potential impacts specific to site conditions associated with future development applications.

The Proposed Action comprises the following actions being considered by the Newburgh City Council, acting as Lead Agency under SEQRA:

- Repeal existing Zoning Code
- Adopt new Zoning Code
- Amend existing Zoning Map

**1.1. DESCRIPTION OF PROCESS**

The process to update the Zoning Code began in January 2013 with the formation of a Zoning Advisory Team, comprised of City officials, staff, and board members, as well as leaders of various community groups. The Advisory Team was charged with updating the City’s zoning code and zoning map incorporating recommendations of the City’s previously adopted planning documents, including in particular the Future Land Use Plan. The Advisory Team included the following members:

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| <ul style="list-style-type: none"><li>• Mayor</li><li>• Corporation Counsel</li><li>• Code Compliance Supervisor</li><li>• Building Inspector</li><li>• City Planner</li><li>• Planning Board, Chair</li><li>• Zoning Board, Chair</li><li>• City Council Representative</li><li>• Waterfront Advisory Committee, Chair</li><li>• Quassaick Creek Advisory Committee, Chair</li><li>• Industrial Development Agency, Chair</li><li>• Architectural Review Commission, Chair</li><li>• Newburgh Business Association CAT, Chair</li></ul> | <ul style="list-style-type: none"><li>• Greater Newburgh Partnership, Chair</li><li>• Newburgh Christian Ministerial Fellowship, Chair</li><li>• Newburgh Armory Unity Center, Chair</li><li>• Community Voices Heard, Lead Organizer</li><li>• Latinos Unidos, Chair</li><li>• Independent Living, Executive Director</li><li>• Orange County Citizens Foundation, President</li><li>• Board of Education, Newburgh Enlarged City School District, President</li><li>• Orange County Planning Department, Commissioner</li></ul> |
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The Executive Director of the Greater Newburgh Partnership (GNP) and the City Manager served as an Ex Officio members of the Advisory Team and were supported by the Assistant to the City Manager, and the Director of Administration and Grants for GNP. The process was funded by the Greater Newburgh Partnership, who engaged the services of AKRF, Inc., a professional planning and environmental consulting firm.

Over the course of 2013, the Advisory Team met approximately 17 times to draft the Zoning Code Update. Minutes from these meetings were posted on the City’s website and on GNP’s website. In addition, Advisory Team members served as information conduits to their constituency groups reporting on project progress and soliciting feedback. When the draft Zoning Code Update was complete, the Advisory Team convened two public engagement sessions to solicit community input on the draft updates before formally presenting its recommendations to the City Council. The public engagement sessions were held on February 8 and February 12, 2014 at the Newburgh Free Library. The presentation from these sessions, as well as a summary of the questions and answers from the sessions, were posted on both the City’s website and on GNP’s website.

The City Council was also directly informed of the Team's progress during the drafting of the updates. Formal presentations were made to the Council on July 11, 2013 and January 9, 2014. On February 24, 2014, the City Council formally received and accepted the Advisory Team's recommended Zoning Code Update and agreed to commence the environmental review. At that time, the full text of the proposed Zoning Code Update was posted on the City's website and on GNP's website.

## 1.2. PURPOSE & NEED

The stakeholders involved with interpreting the City's existing Zoning Code agree that the existing code simply does not work well for the City. Property owners have struggled with zoning regulations that do not match the existing land use pattern within the City. For example, much of the City's residential areas have minimum lot sizes that few, if any, existing lots meet. This requires applicants to seek a variance from the Zoning Board of Appeals on even the most routine matters. Those tasked with implementing the Zoning Code also find it difficult. The steps required to process applications and move them to the appropriate board (or boards) for review and approval is cumbersome.

In addition, after decades of declining population, the City of Newburgh began experiencing population growth in the early nineties. While the growth has been modest, the City has recognized the need to appropriately plan for this change. The City also recognized the opportunity presented by this growth trend to revitalize parts of the City that have long been neglected. Accordingly, in the mid-2000's, the City began updating its Planning Documents. In 2008, the City adopted *Plan-It Newburgh*, the City's sustainable Master Plan, followed in 2011 by the adoption of the *Future Land Use Plan*, which described and mapped the City's desired land use goals. In 2012, the City adopted a report by the Pace Land Use Law Center on streamlining the Land Use review and approval process.

Concurrently, the City began drafting an update of its Local Waterfront Revitalization Plan and commissioned several other studies, including *Newburgh 2020*, and the *Liberty-Grand Street Heritage Corridor* report. In 2007, the City undertook an extensive waterfront planning charette process facilitated by world-renowned planner Andres Duany. Duany, on behalf of the Leyland Alliance, a potential developer of the waterfront, engaged the City's residents and business owners on their vision for the waterfront and summarized the results of this process in a Charette Report.

The task of the Zoning Advisory Team was, therefore, to consider all previously adopted documents, and focus on their implementation, by updating the Zoning Code and Zoning Map. Specifically, the purpose and need of the Zoning Code Update is to:

- Align the Zoning Code and Zoning Map with the City's previously adopted plans, studies and reports, including the *Future Land Use Plan*;
- Recognize the existing urban pattern of development (in terms of mix of uses, lot sizes, and setbacks) as the template for continued and future development within the City;
- Streamline the land use application and review process; and
- Encourage economic development and focus this development in previously identified areas of the City.

## 2. EXISTING CONDITIONS

### 2.1. PLANNING BACKGROUND

The City of Newburgh has prepared numerous planning documents and studies to guide growth and development City-wide including:

- Plan-It Newburgh Sustainable Master Plan (2008)
- Future Land Use Plan (2011)
- Pace Streamlining Newburgh's Land Use Process Final Recommendations (2012)
- Local Waterfront Revitalization Program (LWRP) (2008 Draft, Current Draft)
- Newburgh Waterfront Charette (2007)
- Liberty-Grand Street Heritage Corridor (2007)
- Liberty Street Corridor Commercial Implementation Strategy, Newburgh 2020 (2009)

Many of these planning documents and studies have been adopted but the planning strategies and recommendations within these studies have yet to be implemented. Further, the existing Zoning Code has been an impediment to the implementation of the planning strategies recommended within these documents and studies. As described in more detail below, the proposed Zoning Code Update is consistent with and advances the goals of the City's existing planning documents.

In addition, several regional planning studies and reports helped shape the proposed Zoning Code Update, including:

- Newburgh Area Transportation and Land Use Study (2012)
- Orange County Design Manual (Adopted by Orange County, 2011)

### 2.2. EXISTING LAND USE PATTERNS AND ZONING

The City contains a broad mix of residential, commercial, industrial, institutional, and open space uses (**Figure 1**). Most of the lower density residential uses are focused north of Broadway, while the eastern portion of the City tends to have more dense residential uses. The Broadway corridor, which serves as the City's commercial spine, includes a variety of retail, service, restaurant and other commercial uses and many mixed-use parcels. The same is true along much of Liberty and Grand Street. Much of the waterfront is currently vacant or underutilized, as are several large lots between the waterfront and the end of Broadway. **Figure 2** shows the existing Zoning Map for the City of Newburgh.

### 2.3. POPULATION TRENDS

According to the U.S. Census, Newburgh's population peaked at 31,956 in 1950. (**Table 1**) Over the next 30 years, the City's population decreased by more than 28 percent to a low of 22,863 in 1980. Since then, Newburgh's population has increased by roughly 6,000 persons, (26 percent), to 28,866 according to the 2010 Census. The current level of Newburgh's population is approximately 10 percent lower than its 1950 peak.

**Table 1  
City of Newburgh Population**

<b>Year</b>	<b>Population</b>	<b>Change from Previous</b>
2010	28,866	2.1%
2000	28,259	6.8%
1990	26,454	15.7%
1980	22,863	-12.8%
1970	26,219	-15.4%
1960	30,979	-3.1%
1950	31,956	0.2%
1940	31,883	1.9%
1930	31,275	3.1%
1920	30,336	9.1%
1910	27,805	11.4%
1900	24,949	

**Sources:** US Census

### 3. DESCRIPTION OF THE PROPOSED ACTION

The Proposed Action would update and bring the City's Zoning Code in line with the City's adopted Future Land Use Plan and various other planning and policy documents and studies. The Proposed Action for purposes of environmental review comprises the following actions being considered by the City Council of the City of Newburgh, acting as Lead Agency under SEQRA:

- 1) Adoption of the Proposed Zoning Amendments - Revisions to Chapter 300 (including the Schedule of Bulk, Area, and Parking Regulations and Schedule of Uses, and a Form-Based Code Component)
- 2) Adoption of City's Zoning Map

#### 3.1. PROPOSED ZONING AMENDMENTS

The Proposed Action is a rewrite of the existing City of Newburgh Zoning Code (Chapter 300) into a hybrid land-use based (Euclidean) and Form-Based ordinance incorporating innovative zoning techniques designed to encourage mixed-use development, redevelopment, and adaptive reuse in appropriate locations. As part of the Proposed Action, numerous amendments and revisions to the Zoning Code are proposed, including changes to the Zoning Map. The proposed Zoning Code Amendments are intended to implement the recommendations in the City of Newburgh Future Land Use Plan, adopted by the City Council in 2011. The primary objectives of the proposed Zoning Amendments are to: clarify and streamline the approvals process so that it is predictable, efficient and fair; protect the City's open space, groundwater and surface water resources; provide an array of housing choices; and provide use, bulk and area requirements that reflect the City's current urban development pattern.

The proposed Zoning Code Amendments would: support the goals and objectives presented in the City's planning documents and studies; significantly reduce the volume of development applications that currently require variances by implementing use, bulk and area requirements that are consistent

with the City's existing development pattern; streamline the planning and zoning application process by creating an administrative approval for applications that meet as-of-right zoning criteria; and create a vibrant 24-hour community by allowing a mix of residential and commercial uses along the Broadway corridor and several other key neighborhoods, where this type of development would be appropriate.

These proposed changes would benefit the City of Newburgh, by protecting the City's key natural resources and community character, supporting the economic viability of the City and meeting the goals and objectives of the City's land use policies. Making the Code more consistent with existing development patterns and streamlining the application process would save property owners and the City significant time and expense by reducing the need for variances and cutting staff time spent reviewing applications. It is anticipated that this would create a business-friendly environment and encourage investment in Newburgh by facilitating the development process. The proposed zoning would be consistent with best planning practices by encouraging infill in the downtown area, promoting good urban design, and prioritizing and supporting pedestrian activity.

This summary highlights some of the key points and sections of the proposed Zoning Code Amendments.

### **3.2. ZONING DISTRICTS**

The Proposed Zoning Code Amendment includes eleven (11) land use districts (four of which are form-based districts) and four (4) overlay districts. These districts are shown in the proposed Zoning Map (see **Figure 3**) and summarized below. The proposed land use and overlay districts, and map revisions reflect the City's desire to protect its community character by guiding residential and commercial development to appropriate locations throughout the City, while supporting the City's goal to promote economic development.

#### *3.2.1. LAND USE DISTRICTS*

*Planned Office District (PO).* The purpose of the PO is to provide for thoughtful well-designed office park type development projects, including medical office; research and development; and higher density office parks to promote and encourage high-quality employment opportunities for City of Newburgh residents and economic development for the region as a whole. Design standards and requirements for this district are intended to make it compatible with the surrounding residential areas, including buffers from the adjacent areas. Residential development is not permitted as-of-right in this district.

*Commercial District (CD).* The purpose of the CD is to provide for a range of commercial uses within focused areas that are already developed primarily with similar uses. As-of-right uses within the CD include: health and wellness, activity facilities and amusement centers; billiard parlors; commercial offices and service commercial uses. Residential development is not permitted as-of-right in this district. The location of and regulations for the Commercial District are consistent with those recommended in the adopted Future Land Use Plan.

*Conservation Development District (CDD).* The purpose of the Conservation Development district (CDD) is to encourage conservation of environmental resources in exchange for flexibility in bulk and area requirements and the potential for granting more intensive development if conservation goals are achieved. The primary

conservation goals of the CDD are to: preserve and enhance open space, scenic views and environmentally sensitive features; protect steep slopes by preserving vegetative cover to minimize the impacts of erosion and sedimentation; provide opportunities for on-site storm water management and groundwater recharge; encourage flexibility in the design of residential land uses that may not be permitted under traditional zoning regulations; promote a range of housing types; create on site recreation opportunities, and promote integration with neighboring land uses through trails and waterfront access points. Generally, density and dimensional standards in the CDD shall be approved by the City Planning Board based on the physical characteristics of the site; however, the number of dwelling units allowed in a CDD would be equal to the gross area of the CDD site, less environmental resources, divided by 3,000 square feet. The City Planning Board may grant a 20 percent density bonus if the proposed development substantially advances the environmental protection goals of the district. Development in the CDD also requires that 50 percent of the net land area of the parcel be preserved as open space by a permanent conservation easement or deed restriction. The location of and regulations for the CDD are consistent with those recommended in the adopted Future Land Use Plan.

*Industrial District (IND).* The purpose of this district is to allow industrial and related uses where they are currently located, and to attract development in specific areas that are well buffered from adjacent uses. Uses permitted by right in the IND include gas and automobile service stations and car washes, dry cleaners and commercial laundry facilities, cottage industries, boat repair and other lower intensity industrial type uses. Residential development is not permitted as-of-right in the district. The location of and regulations for the IND are consistent with those recommended in the adopted Future Land Use Plan and follow the recommendations of the FLUP to rezone smaller existing industrial properties not in areas that are not presently zoned as industrial, to mixed use designation.

*Residential – Low Density (R-1).* The purpose of this district is to promote and preserve lower density residential development and associated institutional and recreational uses that are consistent with the existing development patterns in the City of Newburgh. Uses permitted by right in the R-1 District include: one and two family detached dwellings on 2,500 square foot lots for new construction and three and four family dwellings on 5,000 square foot lots within existing buildings. The location, proposed density and uses allowed in the R-1 District are consistent with those recommended in the adopted Future Land Use Plan.

*Residential – Medium Density (or Mixed Use, MUI; R-2).* The purpose of this district is to promote medium density residential development including townhouses, row houses, live/work, small multi-family units and loft buildings. Commercial uses include professional and business offices, personal service; retail use, art and antique gallery, museum, theater, and restaurants on 2,500 square foot lots and associated institutional and recreational uses that would be consistent with residential uses and the existing development pattern in the City. The location, proposed density and uses allowed in the R-2 District are consistent with those recommended in the adopted Future Land Use Plan.

*Residential – High Density (or Mixed Use 2, MU2; R-3).* The purpose of this district is to provide areas for more intensive residential development including all residential and commercial uses permitted in the MUI area. New construction may be up to 6 stories or 65 ft. in height with no more than 40-

50 residential units per acre and a maximum building coverage of 40-50% FAR. The proposed density and uses allowed in the R-3 District are consistent with those recommended in the adopted Future Land Use Plan.

*3.1.1. FORM-BASED DISTRICTS*

In addition to the use-based districts defined above, the Proposed Zoning Code Amendment includes a provision for four form-based districts: 1) Broadway Corridor (BC); 2) Downtown Neighborhood (DN); 3) Planned Waterfront District (PWD) and 4) Waterfront Gateway (WG). Application of the form-based districts facilitates the implementation of a community plan by regulating the form and mass of buildings in relation to one another, and the scale of streets and blocks. The regulations and standards developed for the form-based districts are presented both in words and diagrams, which are keyed to a plan that designates the appropriate form and scale (and therefore, character) of development, rather than only through distinctions in land use types. The guidelines for the four proposed form-based districts regulate the use, bulk, area, and design of new construction to promote walkable and vibrant mixed-use neighborhoods. The regulations for the form-based districts supplement those regulations found in the rest of Chapter 300 and provide specific details on the form of development that is encouraged and allowed in these key areas. Specifically, the form-based districts would:

- Focus on the importance of building types and the relationship of one building to another;
- Allow flexibility and variety with respect to uses within buildings and within a zoning district;
- Help ensure new development is compatible with the existing urban fabric of downtown Newburgh;
- Provide guidelines for the redevelopment of the waterfront;
- Provide clarity to developers about what is desired and allowed; and
- Streamline the application and approval process for projects meeting the requirements of the Form-Based code by minimizing the need for Planning Board approval (except in the PWD, where Planning Board review and approval would still be required).

A description of the four proposed form-based districts is provided below.

*Broadway Corridor (BC).* The BC district generally encompasses lots along Broadway from West Street to Grand Street. The purpose of the form-based BC district is to encourage the existing shop-front/Main Street form that currently characterizes this key commercial corridor. To foster a more vibrant pedestrian oriented environment, the code allows ground-floor retail uses with residential or additional commercial space on the upper floors. Residential buildings (without any commercial component) are allowed as-of-right, but they must follow the design guidelines for the BC district.

*Downtown Neighborhood (DN).* The DN district generally encompasses the neighborhoods to the north and south of Broadway mostly along Liberty and Grand Streets. The DN district includes the Liberty/Grand Street Heritage Corridor. This area is in the historic overlay and is subject to the Architectural Review Board guidelines and review. The Lower Broadway Area is a destination point for shopping, employment, government activity and health and human resources services. Commercial development, government offices, services and professional uses, cultural

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and entertainment establishments, restaurants, hotels and appropriate transportation facilities are included. .

*Planned Waterfront District (PWD).* The PWD includes the area between Water Street and the Hudson River, which is the historic heart of Newburgh and has been, and is expected to be, the catalyst for the revitalization of the City. The goal of the PWD is to encourage a mix of residential, commercial, cultural, recreational, water-dependent and water-enhanced uses to revitalize the waterfront. Structures within the PWD must not prevent or obstruct protected Hudson River waterfront viewshed corridors, must be oriented to reflect the importance of the River and should encourage a vibrant pedestrian oriented environment. Storefront, rowhouse, and civic building types are encouraged in the PWD. Development in the PWD requires provision of public access to the waterfront, an open space set-aside Site Plan Approval from the Planning Board. While the adopted Future Land Use Plan did not specifically define a form-based code for this area, the uses and the requirements in the PWD are consistent with those recommended in the adopted Plan.

*Waterfront Gateway (WG).* The WG district includes areas to the north and south of Broadway between Grand and Water Streets and abuts the three other form-based districts (BC, PWD and DN). The district offers development parcels with dramatic Hudson views and is suitable for pre-eminent or key featured buildings. The goal for the form-based WG district is to encourage pedestrian activity and maximize new higher density residential and commercial development. To achieve this goal, various building types are encouraged including mid- and high-rise buildings with ground floor shop-fronts along Broadway, civic buildings, and higher density mixed-use and commercial north and south of Broadway.

### 3.1.2. OVERLAY DISTRICTS

An overlay district is designed to add additional restrictions or opportunities for land that lies within its boundaries. It is called an “overlay” because it is typically mapped on top of an “underlying” zoning district. The regulations in the “underlying” district remain in place except to the extent that the overlay district provisions provide supplemental regulations (use or dimensional parameters) to the underlying zoning district. The overlay districts do not prohibit development, but rather require a more careful review process.

*Waterbody Protection Overlay (WPO).* The WPO is established to promote the ecological health, biodiversity and natural habitats of and provide special protection to the City’s creeks, stream corridors and waterbodies. The purpose of the WPO is to regulate land uses within or adjacent to a stream corridor or waterbody to protect water quality, biodiversity, scenic resources and reduce the risk of damage from flooding. The entire Quassaick Creek Watershed, which originates in Ulster County, and drains the northeastern portion of Orange County, flows through the City of Newburgh. It is therefore imperative to the protection of public health, safety, and welfare to appropriately manage development adjacent to this critical resource. The WPO includes and regulates all lands within 100 feet of the top of the bank on each side of the following waterbodies: Quassaick Creek; Gidneytown Creek; Harrison

Pond; Strook's Pond east of Harrison Pond and west of Gidneytown Creek; Crystal Lake; Muchattoes Lake; Unnamed Ponds (2 Ponds) southwest of Crystal Lake; the Unnamed Stream that flows into Miller's Pond and out of Crystal Lake and is tributary to the Quassaick Creek; and joins the Quassaick Creek at Little Britain Road east of Cerone Place; and that portion of the Hudson River that is not within the PWD zoning district. Where there is no clearly defined bank, the district boundary shall be measured from the mean high-water line of the waterbody. All parcels having any part within the WPO shall be subject to Site Plan review and approval and may not be exempted from that requirement.

*Neighborhood Commercial Overlay (NC).* The purpose of the NC district is to provide areas within residential neighborhoods for local scale commercial development. The NC overlay recognizes the existing development pattern along the westernmost portion of Broadway and allows multiple uses within buildings and within lots in order to promote market-driven uses and redevelopment within targeted areas of the City, as identified in the Future Land Use Plan. The type of commercial uses encouraged within the NC include retail and service establishments, which cater to frequently recurring needs of nearby residents. Uses permitted by right in the NC overlay district include: retail stores, restaurants, personal services, professional offices, animal care facilities, child care facilities, adult day care facilities and technical schools. Bulk and area requirements for the uses permitted by right in the NC overlay district are the same as for the underlying zoning district.

*East End Historic District and Colonial Terraces Design District Overlay.* The purpose of these overlay districts is to provide additional regulatory protection, protection and additional oversight of individual buildings and sites that have recognized historic and design significance within the City's two established historic and design districts. Activities within the East End Historic District and the Colonial Terraces Design District are reviewed by the Architectural Review Commission with guidance from the "*East End Historic District Guidelines*" duly adopted by the City Council by Ordinance No. 2-2008, dated February 25, 2008 and the "*Colonial Terraces Design Guidelines*" duly adopted by the City Council by Ordinance No. 3-2005, dated June 20, 2005.

### **3.2. OTHER PROVISIONS**

As previously noted, the Proposed Action includes a complete revision of Chapter 300 of the City of Newburgh Code to incorporate recommendations presented in the adopted Future Land Use Plan, better accommodate the existing development pattern, and streamline the review and approvals process. In furtherance of those goals, Articles have been reordered and revised, including Administrative Procedures, Supplementary Regulations, Off-Street Parking and Loading, Non-Conforming Uses and Structures, Site Plan Application and Approval, Zoning Board of Appeals and Enforcement, Severability. Generally, revisions to the aforementioned Articles include provision of clear timelines and requirements for Application materials, review by various boards, and regulations for enforcement of the requirements. Off-Street Parking and Loading requirements have been amended to reflect to the requirements and needs of the urban development pattern.

### 3.3. REVISIONS TO ZONING MAP

The second component of the Proposed Action is the adoption by the Lead Agency of the City of Newburgh Zoning Map. The Zoning Map was revised to reflect the land use changes recommended in the adopted Future Land Use Plan, the proposed overlay districts and the form-based districts. The proposed Zoning Map changes:

- Codify the land use recommendations in the adopted Future Land Use Plan;
- Consolidate redundant or ‘surplus’ districts;
- Map the boundaries for the overlay, and the form-based districts; and
- Incorporate changes to encourage investment and the revitalization of Newburgh.

The proposed amended zoning map is included as **Figure 3**.

## 4. POTENTIAL ENVIRONMENTAL IMPACTS OF THE PROPOSED ACTION

This section addresses the environmental categories identified in Part 2 of this FEAF where the impacts of the Proposed Action necessitate additional explanation.

### 4.1. CONSISTENCY WITH PLANNING DOCUMENTS

#### 4.1.1. *PLAN-IT NEWBURGH SUSTAINABLE MASTER PLAN (2008)*

The City Council of the City of Newburgh adopted a Sustainable Master Plan in December 2008, entitled “*Plan-It Newburgh*”. Goals, targets and strategies in the Plan outline how the City of Newburgh will accommodate growth and development until the target date 2040. The process for creating the Plan began in 2005 with a stakeholder group and a series of workshops, public forums and meetings that invited residents to contribute their ideas. The following seven key areas of interest formed the framework for sustainability: social well-being, governance, housing, natural environment, economic development, transportation, and municipal services. The primary Plan objective is to create a higher quality of life in the City of Newburgh for both present and future generations. A key strategy to achieve this objective involved targeting vacant and underutilized portions of the City to avoid displacement and encourage the rejuvenation of the City’s downtown. This strategy is seen as a critical step towards revitalizing the City and supporting Newburgh’s commitment to becoming a thriving, walkable, and attractive community.

The Proposed Zoning Code Update encourages economic development in Newburgh by promoting infill and targeting vacant lots. Development is encouraged through implementation of flexible zoning that allows for a wider variety of uses and a streamlined process for development review, as described above. The Form-Based Districts, developed for four downtown areas, promote mixed-use development in key economic centers of the City such as the Broadway Corridor, Liberty Street, and the Waterfront. The Form-Based regulations allow more uses as-of-right as well as through the regulation of building form within those districts. The ‘Shopfront’ and ‘Midrise’ building types are the predominant building types allowed downtown. Their very form promotes a vertical mix of uses such as ground-floor retail coupled with upper floor residential, service or office, providing for compact development,

pedestrian and bicycle friendly environments, and an overall stronger neighborhood character.

The Proposed Zoning Code Update also encourages appropriate home occupations within the downtown and residential districts, further reducing distances between housing and the workplace. Neighborhood-scale economic development is promoted through the creation of the Neighborhood Commercial Overlay District. This district allows limited commercial uses such as retail, restaurant, personal services and professional offices in otherwise residential portions of the City to promote redevelopment and walkable neighborhoods.

Design standards for downtown buildings focus on the building-type, architectural features, signage, building materials and landscaping and would create more visually-appealing and consistent streets within the Form-Based Districts. In addition, guidelines for the pedestrian realm, including the area between the lot line and the curb line, are included to standardize and enhance the pedestrian experience. In the Planned Waterfront District, lots that have Hudson River frontage are required to include a publicly-accessible Waterfront Walkway. The Waterfront Walkway will expand walking and recreation opportunities for the public, recognizing the central role the waterfront plays in the revitalization of Newburgh. Light pollution will be minimized through lighting standards in the Form-Based Districts.

As noted in *Plan-It Newburgh*, environmental protection is integral to responsible development. The Waterbody Protection Overlay District (WPO), included in the Proposed Zoning Code Update, would be established to regulate land uses within or adjacent to a stream corridor. As described above, the WPO would help protect water quality, biodiversity, scenic resources and reduce the risk of damage from flooding. To further protect natural resources and promote open-space creation, the Planned Waterfront District would require new development on large parcels to set aside, and maintain, 10 percent of their site as publicly-accessible open-space.

By promoting a walkable, mixed-use, high quality community, the Proposed Action would help the City reach the goals and strategies enumerated in the *Plan-It Newburgh* Sustainable Master Plan.

#### 4.1.2. *FUTURE LAND USE PLAN (2011)*

The 2008 Sustainable Master Plan “*Plan-It Newburgh*” addressed land use planning policies but did not specifically recommend future zoning changes to implement those policies. Therefore, in September 2011, the City of Newburgh commissioned a Land Use Committee to create a *Future Land Use Master Plan*. The *Future Land Use Plan* (FLUP) was prepared as an addendum to and to provide support for the goals enumerated in “*Plan-It Newburgh*”. The goal of the FLUP was to geographically illustrate general future land uses based on the policies stated in “*Plan-It Newburgh*” and to provide a framework for implementing the zoning changes required to carry out those policies. While the FLUP maintains many of the City’s existing land uses, it recognizes that there are existing areas where land use designations are either obsolete or do not promote the highest and best use for an area. In these areas, the FLUP proposes a new land use designation. The highest and best use for each area is based on policy recommendations from “*Plan-It Newburgh*”. The FLUP includes a Future Land Use Map, which illustrates the general location and intensity of future land uses

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and provides a roadmap for undertaking future zoning actions in the City of Newburgh. The Proposed Zoning Code Update that is the subject of this Part 3 FEAF, closely follows the roadmap established by the FLUP.

The FLUP identified a need to shift away from the current focus on single-use zoning along commercial corridors. To address that need, the Proposed Action includes four mixed-use districts in the City's downtown, as well as the Neighborhood Commercial Overlay District. In the downtown mixed-use districts, various controls would help regulate density while continuing to allow for future growth. The introduction of additional mixed-use district zoning recognizes the reality of Newburgh's urban center and its existing land uses. Although the FLUP suggests regulating building size and density through Floor Area Ratio controls, the new zoning accomplishes the goals of such controls in other ways. The Zoning Advisory Team proposed to regulate density through other measures, including lot coverage, height, and setback requirements. In addition, the prescription of detailed Form-Based Districts provides standards that would regulate density, while focusing more attention on the observable form of new development.

In accordance with the recommendations in the FLUP, the Proposed Action highlights the waterfront as one of Newburgh's most unique assets and as a key for the City's overall revitalization. The proposed Planned Waterfront District would allow a wider range of uses, improve public waterfront access and public amenities, and require a waterfront walkway all of which will help revitalize the vacant and underutilized parcels in the area. The FLUP also designated areas of the City suitable for conservation development. The proposed Conservation Development District (CDD) addresses this recommendation by mapping three areas, including the area specified in the FLUP. The CDD encourages the conservation of environmental resources in exchange for flexibility in bulk and area requirements for new development. This district will allow innovative residential development while protecting environmentally sensitive areas. Finally, the proposed Zoning Code update simplifies the existing zoning text by combining the three commercial districts into one, the two planned office districts into one, and the two industrial districts into one.

The FLUP also recommended various administrative changes, which have been incorporated into the Zoning Code Update. For example, the FLUP recommended aggregating some of the uses in the zoning code into broader categories. Such organizational clarifications help simplify the zoning map and help ensure that the proposed zoning is consistent with the FLUP.

#### *4.1.3. PACE STREAMLINING NEWBURGH'S LAND USE PROCESS FINAL RECOMMENDATIONS(2012)*

The Pace Land Use Law Center was commissioned by the City of Newburgh to issue recommendations for streamlining the City of Newburgh's current land use application processes to remove obstacles to redevelopment and better open the City for business. One of their recommendations was to update the zoning code concluding that the City's current zoning code is outdated and often requires variances or rezoning to facilitate individual development projects. In addition, New York State cannot legally approve Newburgh's 2008 update to the Local Waterfront

Revitalization Program until the City adopts strategies to implement the program, such as new zoning.

The *Streamlining Report* also makes recommendations regarding the East End Historic District regulations, including more specifically defining what would constitute a “material change”, or “visibility from a public street”, and therefore not requiring a Certificate of Appropriateness (COA) review. The Proposed Action incorporated this recommendation. The *Streamlining Report* also recommended that a consent agenda be established to speed the workflow of the Architectural Review Commission (ARC) and reduce the burden on applicants. Under the Proposed Action, the ARC may now consider and approve multiple applications with a single motion based on a determination from the Building Inspector. Finally, the Proposed Action provides a streamlined COA process for demolition applications within the historic districts. The ARC may now evaluate new considerations when reviewing COA applications for demolition. Therefore, demolition applications do not have to always apply for hardship. These changes are expected to help decrease regulatory hurdles and thus promote the City’s redevelopment, as recommended by the *Streamlining Report*.

4.1.4. *LOCAL WATERFRONT REVITALIZATION PLAN (2008 DRAFT, CURRENT DRAFT)*

The Newburgh *Local Waterfront Revitalization Plan* (LWRP) was adopted in 1992. In 2001, an update to the plan was adopted to address redevelopment initiatives along the waterfront. Similarly, in 2007 the City determined it was appropriate to update its LWRP as well as prepare a Harbor Management Plan to address pending interest in redevelopment of the waterfront. Objectives of the 2008 Draft LWRP include: preserving open space and increasing public access to the waterfront; linking the waterfront to the historic district, Washington’s Headquarters and the Broadway commercial area; and addressing parking issues on the waterfront by planning for and integrating intermodal and multi-modal transportation links to the waterfront.

The LWRP represents major steps by the City of Newburgh to establish a specific plan and program for the waterfront area. It promotes the preservation of valuable coastal resources, the expansion of water-related and water-enhanced uses and the improvement of underutilized and deteriorated sites.

The Proposed Action regulates many aspects of the physical environment that would help preserve Newburgh’s coastal resources while expanding their use, including:

- The Waterfront Gateway District was created to better connect the Downtown area with the Waterfront.
- The streetscape design standards would create the physical connection needed between Lower Broadway and the Waterfront area.
- All new construction in the Planned Waterfront District would be required to obtain Site Plan Approval from the Planning Board, which would further regulate new development and ensure its success and compatibility with the LWRP.
- All lots having the Hudson River as their boundary would be required to provide public access to the river’s edge in the form of a Waterfront Walkway. This walkway would connect private development along the water and City residents

and visitors. Public access to the waterfront would create more opportunities for waterfront recreational activities and would increase pedestrian utilization of the area.

- Scenic Viewshed Protection regulations included in the Proposed Action would help protect the views that are central to the City's character.
- The Proposed Action also includes design standards that require new development to complement existing topography by avoiding the use of large retaining walls and other features that prevent a building from interacting with the pedestrian realm.

#### 4.1.5. *NEWBURGH WATERFRONT CHARETTE (2007)*

In 2007, a weeklong public planning process (charette) for 30 underdeveloped acres of downtown Newburgh was held. Andres Duany, an urban planning pioneer, led a team of experts assembled by developer Leyland Alliance through a series of public forums to discuss what should be built on the sites. The charette resulted in public consensus of a detailed illustrative master plan for the area. The plan called for connecting the waterfront with the downtown to create a livelier, mixed-use environment that features a variety of housing types, commercial and civic structures, parks and recreational spaces, and opportunities to better accommodate pedestrian and bicycle traffic.

The Proposed Action promotes mixed-use districts within the city to encourage economic development. More specifically, the Planned Waterfront District (PWD), established with the goal of revitalizing the waterfront, addresses the goals and design ideals presented in the *2007 Waterfront Charette Master Plan*. The Proposed Action allows for a broad mix of uses along the waterfront, including housing, commercial, cultural and open space. The Shopfront building type defined in the PWD Form-Based District was developed to provide a pedestrian oriented experience with retail or office uses on the ground-floor and upper floors typically designed for residential, hospitality and employment uses. Both the Shopfront and Midrise building types, which are common structural defining characteristics of an urban downtown, have maximum building heights of six stories within the PWD. Public access to the Hudson River is promoted through the provision of a Waterfront Area and Waterfront Walkway open to the public with all lots bordering the Hudson River. Streetscape standards along commercial and mixed-use streets help enhance street life by permitting outdoor dining areas, public art, benches and pocket parks. In addition, signage requirements were developed to improve the visual environment, thereby enlivening the resident and visitor experience. All of these regulatory provisions included in the Proposed Action help create the community character envisioned for the Waterfront by the charette.

#### 4.1.6. *LIBERTY-GRAND STREET HERITAGE CORRIDOR (2007)*

A public visioning process and workshop was conducted in 2006 to help provide an understanding of what participating members envisioned as appropriate for the future of Newburgh's Liberty-Grand Street Corridor. The goal of the process was to provide guidance for future planning actions and establish design standards with images that could be directly incorporated into any future planning recommendations. As part of the process, a guidance document was prepared entitled *A Shared Vision for the*

*Future: Liberty-Grand Street Heritage Corridor Visioning Results and Recommendations.* This vision was consolidated into guidance focused on street type options, the pedestrian realm, corridor signage, parks and open space, and off-street parking alternatives.

The Liberty-Grand Corridor is included within the proposed Downtown Neighborhood Form-Based District. The Downtown Neighborhood District allows various building types, including the Shopfront, Midrise, Rowhouse and Civic form, which can be found along Liberty and Grand Streets. The building forms promote mixed-use and higher density commercial and residential structures that would reflect the historic development patterns of the area and help highlight the cultural assets within the corridor. The proposed streetscape requirements along secondary commercial and mixed-use corridors would further enhance activity in the public realm to accommodate pedestrian activity and allow for more street trees and amenities such as benches and outdoor café seating. The *Liberty-Grand Street Heritage Corridor Vision* also highlights the importance of developing design standards for commercial signage. To accomplish this, the Form-Base Code provides the guidelines necessary for more appropriate signage that improves the experience of place. Band, blade, shingle and awning signs would better identify, direct, and guide local pedestrians and visitors. Although the new zoning does not specify regulations regarding mixed-use parking facilities, it does prohibit off-street parking in front of a principal building, which will help decrease the exposure of parking facilities and create more attractive, pedestrian oriented spaces. Finally, the various design standards outlined in the Form-Based Code would preserve the local character of the historic corridor, by regulating architectural building elements and features, and building materials. The Liberty-Grand Corridor is proposed to be included in the Historic Overlay District, which would protect, enhance and perpetuate the historic and community character qualities of this heritage corridor.

4.1.7. *LIBERTY STREET CORRIDOR COMMERCIAL IMPLEMENTATION STRATEGY, NEWBURGH 2020 (2009)*

Newburgh 2020, an advisory group comprised of key community stakeholders, was formed to work with the City of Newburgh, the planning firm of Urban Design Associates (UDA), and commercial consulting firm Live Work Learn Play to lead commercial revitalization efforts in downtown Newburgh. The group's mission was to create a vision for neighborhood development, life and commerce on Newburgh's historic main street. In 2009, Newburgh 2020 developed a *Commercial Implementation Strategy* (CIS) report to guide the commercial revitalization of Downtown Newburgh. The report focuses on a detailed strategic plan for the Liberty Street Corridor as Phase 1 of the Downtown commercial revitalization.

The Proposed Action facilitates the commercial neighborhood revitalization that is at the heart of the CIS Plan. The Form-Based Code developed for the Downtown Neighborhood district includes the majority of Liberty Street. This proposed zoning district promotes a variety of uses along Liberty Street, including: multi-family dwellings above ground-floor commercial and retail, apartment buildings, personal services, restaurants, cottage- (or light-) industry and hotels, providing a wider variety of commercial experiences and more flexibility for developers. Home occupations and professional offices are also encouraged, which would increase the number of urban

professionals working and living in the neighborhood. By allowing more uses as-of-right in the Downtown Neighborhood, the regulatory process is simplified and streamlined, which is important to attracting more businesses to the neighborhood. The Shopfront building type, which is the predominant form in this District, has a high degree of transparency on the first floor and architectural design standards that together will help add visual interest to the physical environment. The maximum height of both the Shopfront and Midrise buildings is proposed to be six stories, promoting a stronger customer base along the Liberty Corridor. A 10 foot front setback is only allowed in Shopfront buildings if used in a manner that enhances street life such as through pocket parks or plazas, outdoor dining areas, and public art. These proposed small-scale street improvements, coupled with the signage and design standards, contribute to a healthier environment for businesses and pedestrians. These changes to the physical environment would have positive impacts on the quality of life in downtown Newburgh and contribute to the revitalization of the Liberty Street Corridor envisioned in the *Commercial Implementation Strategy*.

#### 4.1.8. *NEWBURGH AREA TRANSPORTATION AND LAND USE STUDY (2012)*

The *Newburgh Area Transportation and Land Use Study* was conducted between 2008 and 2011 by the Orange County Planning Department on behalf of the Orange County Transportation Council. The study area included the City of Newburgh and the four nearby Towns of Newburgh, New Windsor, Montgomery and Cornwall and the Villages of Walden, Montgomery, Maybrook and Cornwall-on-Hudson. The goal of the study was to identify priorities for creating integrated solutions for transportation and land use within the northeastern portion of Orange County by enhancing mobility and preserving quality of life and the environment.

The Proposed Action encourages transit-oriented, pedestrian-friendly development by recognizing existing patterns of development and allowing for a greater number of mixed-use districts and buildings. The districts and regulations in the Zoning Code Update are consistent with the many recommendations of the *Newburgh Area Transportation and Land Use Study* that emphasize transportation improvements coordinated with land use patterns. The proposed design, streetscape and signage standards in the Form Based Districts connect neighborhoods through a network of well-designed sidewalks. Some of the land use recommendations outlined by the *Study* are more specifically addressed in the Broadway Corridor District. The Proposed Action addresses these recommendations by promoting a concentration of activity in this commercial corridor and providing the opportunity for a more pedestrian friendly streetscape.

#### 4.1.9. *ORANGE COUNTY DESIGN MANUAL (2011)*

The *Orange County Design Manual* was published by the Orange County Planning Department, the Regional Plan Association and the Lincoln Institute of Land Policy with support from the Orange County Water Authority. The *Manual* explores smart growth and the design aspects behind it, and provides tools and strategies to help local communities implement the designs. . The *Manual* provides best-practices that help answer the where, what and how of community growth and presents designs based on the smart-growth objectives of protecting and enhancing the environment, maximizing

and managing connectivity, and creating pedestrian oriented, mixed-use neighborhoods.

One of the best-practices included in the *Manual* is protection of scenic resources. The Proposed Action provides for the protection of scenic resources in several ways. In the Planned Waterfront District (PWD), construction is prohibited within the street right-of-way so that existing view corridors of the River are maintained. In addition, development within the PWD and Waterfront Gateway District are subject to enhanced visual protection standards. These standards require that proposed development be evaluated for their potential to impact the scenic views that are most important to the City. Finally, other proposed setback, height, and streetscape regulations would ensure that scenic views from key public points in the City would be preserved even as development and density increase over time.

The proposed Waterfront Walkway would secure physical public access to the Hudson River and provide the necessary linkages and continuity of access to this resource. In addition, design standards that help minimize topographical alteration during site construction would preserve the natural character of the City and allow for better views of the River. Furthermore, the Conservation Development District (CDD) and the Waterbody Protection Overlay District (WPO) are proposed to encourage conservation of environmental resources in exchange for flexibility in bulk and area requirements, and to promote responsible development along the City's waterbodies. As such, development is organized to preserve Newburgh's natural systems.

A second key aspect to smart development identified in the *Design Manual* is the need to maximize connectivity, and provide links between various elements of the built environment. The Form-Based Code included in the Proposed Action directly addresses this recommendation. Specifically, the proposed design standards, which include regulations regarding architectural features, building materials and signage, and streetscape standards, create a high quality and consistent pedestrian environment, promote pedestrian activity and help maintain the role of streets as civic and social spaces that connect Newburgh's many neighborhoods.

The Proposed Action moves away from single use development by encouraging mixed-use districts throughout the City, thereby addressing community design consistent with the *Orange County Design Manual*. The Form-Based Districts, which regulate the downtown and waterfront areas, allow flexibility and variety with respect to uses within buildings and within the district. This flexibility simplifies the City's approval process and encourages pedestrian oriented commercial areas and mixed-use neighborhoods where residents are within walking distance of housing, work, and community services. Additionally, by creating an amenity zone that allows for benches, café seating, bike racks, landscaping and public art, the proposed streetscape standards would create a more lively space for pedestrian activity and community interaction, and create the type of "main street" environments that the *Design Manual* promotes.

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## 4.2. CONSISTENCY WITH LAND USE AND COMMUNITY CHARACTER

This section identifies potential changes to land use and community character as a result of adopting the Proposed Action.

### 4.2.1. LAND USE

The current Zoning Code has primarily allowed for single-use development within a given parcel, limiting flexibility for landowners. The Proposed Action, following the recommendations of the *Future Land Use Plan*, expands the areas in which mixed-use buildings are allowed. Specifically, the proposed Zoning Code Update creates mixed-use districts in the downtown and waterfront areas, as well as the Neighborhood Commercial (NC) overlay district, which would allow limited commercial uses in select portions of otherwise residential zoning districts. In addition to being in conformance with Newburgh's adopted planning documents, the NC-overlay district is consistent with both the existing land use patterns within the City, and the desired intention of the City to allow more neighborhood commercial uses. This overlay district would allow small businesses in a mixed-use environment. By amending the allowed land use in these areas, the proposed would promote local neighborhood economic development and provide residents with access to local amenities within walking distance from their homes

A new zone is proposed for the waterfront area, north of the wastewater treatment plant. Currently, this area is home to several commercial and retail uses. Under the Proposed Action, this area would be within the Planned Waterfront District, allowing wide variety of uses including residential, commercial, office, and retail. This change was recommended by the *Future Land Use Plan* and has been a goal for the City for the past several years.

Three areas (the area in and around Snake Hill, which is primarily City-owned, the former "Christmas Tree plant" and the vacant residential parcels to the north, and the area to the south and east of the Hospice Facility) have been zoned Conservation Development (CDD). As described above, this proposed district would allow residential uses, subject to the preservation of important environmental features. Of the three proposed CDD sites, only the "Christmas Tree plant" is currently developed. The site contains a large industrial building, which is currently only partially occupied. Per proposed CDD regulations, future use of these parcels would be restricted to residential use, must set aside 50 percent of the site as open space, and must protect each site's unique and valuable environmental features.

With the exception of the changes noted above, the Proposed Action would not change the current land use, or currently allowed land uses, for the majority of the City, which are zoned for predominantly residential uses. As described above, the major change with regard to the residential districts is a 'right-sizing' of the minimum lot size and other 'bulk' regulations. In reality, this change in minimum lot-size would not affect the overwhelming majority of the City, which is already developed and subdivided. Rather, the proposed zoning would make the vast majority of the City's parcels 'conforming' lots with regards to the zoning requirements, which would help streamline the review process for any future land use applications. Because the proposed revisions to lot and area requirements for residential parcels would only

bring current zoning code regulations in compliance with the existing developed environment, it is not anticipated that an increase in density would occur. In addition, development applications within the PWD, CDD, DND and WD that meet certain other regulatory thresholds would be required to provide a site specific SEQRA analysis, which would evaluate the impact of those proposals on a case by case basis.

**4.2.2. COMMUNITY CHARACTER**

The Proposed Action is expected to create a more visually appealing, unified, mixed-use downtown and waterfront, which would improve the overall community character of the City. The regulations and standards developed for the Form-Based Districts build on the existing form within the City. Included in the proposed Code are design standards that regulate architectural features, building materials, and street signage, all aimed to preserve and enhance the architectural character of the City. These guidelines also regulate the specific building types allowed in each district such as the Shopfront that has a high percentage of glazing on the first floor and a prominent entrance to promote pedestrian oriented retail. These standards would help ensure a cohesive development pattern for Newburgh.

The Historic and Architectural Design Overlay districts would continue to protect and enhance the historic and architectural elements key to Newburgh's identity. Similarly, maintaining natural and environmental resources is essential to the quality of life and attractiveness of the City. The Proposed Action includes provisions designed to preserve these features, such as the Waterbody Protection Overlay District, Conservation Development District and the Hudson River Waterfront Public Access standards. These provisions are expected to improve the community character of the City and help ensure that it develops into a walkable and vibrant downtown and waterfront.

**4.3. AESTHETIC RESOURCES AND VISUAL IMPACTS**

Newburgh's unique location overlooking the Hudson River creates memorable aesthetic and visual resources essential to the City's identity. The current zoning regulates scenic public views in the View Preservation Overlay District by subjecting all development that may impact a defined view plane to review and approval by the Planning Board. However, portions of these regulations are either redundant or omit some of the City's essential scenic views. They are also onerous in their application and review.

The Zoning Advisory Team reviewed the existing regulated views and helped determine which views were most vital to Newburgh and essential to protect. The Proposed Action includes regulations protecting those views that are more efficient and do not hinder but rather enhance development.

Under the proposed zoning, all applications in the Waterfront Gateway, Planned Waterfront District, and portions of the Downtown Neighborhood Districts would be required to provide additional viewshed analyses during Site Plan Approval. The purpose and intent of this regulation is to protect and enhance the City's scenic viewshed, comprised of natural, aesthetic and cultural resources formed by the landscape and geologic features of the City. The views identified as providing significant benefits to the City of Newburgh include those from the following locations: Montgomery and South Streets, Washington's Headquarters, Broadway and Colden Street, the Newburgh Free Library, First and Montgomery Streets, Bay

View Terrace. The proposed zoning code specifically defines the locations and unique features of these important views to better highlight their character and the elements most essential for preservation.

The Visual Impact Analysis prepared by the applicant would be required to include photographic simulations of the proposed structure within the context of the site to best determine how the structure would affect the scenic viewshed. The City Planning Board would evaluate the impacts and grant Site Plan approval only if they determine that the proposed activity would not significantly impair scenic character; would be compatible with its surroundings; would minimize the removal of native vegetation; and would locate or cluster buildings in a manner that minimizes their visibility from public spaces. These standards and procedures are comparable to the current zoning's regulations that require that the applicant submit a Visual Environmental Assessment form during Site Plan review. The current zoning also outlines the visual analysis procedures that the Architectural Review Commission, Planning Board and Conservation Advisory Council should follow in rendering a visual site plan approval. Similar procedures are outlined in the Visual Impact Analysis Methodology section in the proposed zoning, which would provide a clear regulatory mechanism for reviewing development impacts during site plan review.

In addition, aesthetic resources would be further protected under the Form-Based Code. Applicable in the downtown and waterfront districts, the Form-Based Code redefines visual access and protects scenic viewsheds. Construction within the right-of-way of various west-east running streets would be prohibited under the proposed Zoning Code Update specifically to protect these view corridors. Other mechanisms have been proposed to protect views that are not specifically listed in the Code but are nonetheless significant to the City. These protections include height limitations of six stories in the Planned Waterfront, compared to the eight stories allowed in the Broadway Corridor, and massing regulations. Each building type defined in the Form-Based Code and allowed in the districts has supplementary standards regarding massing. For example, for the Shopfront and Midrise building types, the maximum length of a building wall along a street would be 200 feet, and buildings must have a break in façade at least every 50 feet met through the use of architectural features or changes in building material or finish. In the PWD specifically, an individual building may occupy no more than 100 feet of the dimension of the lot measured parallel to Front Street. These regulations would protect view corridors to and from the Hudson River and would reduce the scale of buildings in the downtown and waterfront.

Furthermore, setback requirements are proposed in the PWD, which would allow a sixth story, only if it is set back from the front façade by at least 15 feet. This provision, coupled with design standards for building materials, would help decrease the dominance of multi-story structures and safeguard views of the City from the Hudson River.

#### **4.4. HISTORIC AND CULTURAL RESOURCES**

The Proposed Action maintains both the East End Historic District and the Colonial Terraces Architectural Design Overlay District with the same boundaries as the City's current zoning. The purpose of these districts are to designate, protect and enhance the landmarks, historic districts and architectural districts, which represent distinctive elements of the City of Newburgh's historic architectural and cultural heritage; foster civic pride in the accomplishment of the past; protect and enhance the City of Newburgh's attractiveness to visitors, thereby supporting and stimulating the local and regional economy; and ensure the

harmonious, orderly and efficient growth and development of the City of Newburgh. There is no change in the design guidelines or in the boundary of the District. Based on the Zoning Advisory Team’s guidance, the review process under the proposed zoning is very similar to the current process. The Architectural Review Commission (ARC) is in place to act as a review board to prevent construction, reconstruction, alteration or demolition that would be out of harmony with the historic and architectural character of the District. Changes to the regulations are limited, and serve only to optimize the process.

First, the Pace University Streamlining report outlined above, proposed revisions to the procedures of the Architectural Review Commission, under an initiative independent of the Zoning Code Update. The Proposed Action incorporated these recommendations into the proposed Zoning Code Update. These revisions include: developing a specific list of activities that would not be considered a material change or visible from a public street. Such activities include, for example: repair, replacement and installation of electrical, plumbing, heating and ventilation systems, provided that such work does not affect the exterior of the structure; repair or replacement of awnings when work is done in-kind to match existing materials and form; or repair or replacement of water, gas, storm or sewer lines. These activities would not be subject to Certificate of Appropriateness (COA) review and would minimize confusion for the applicant, and improve the efficiency of the ARC in processing COAs.

Second, the Pace University Streamlining report proposed that the ARC revise their procedures to create a consent agenda to speed the workflow of the ARC and reduce the burden on applicants. The consent agenda would allow the ARC to consider and approve multiple applications with a single motion. This will be based on a determination from the Building Inspector, after consideration of the nature and extent of the alteration or demolition being proposed, the degree to which the application is in conformance with the appropriate Design Guidelines, and the written “Consent Agenda Guidance”, approved by the ARC regarding paint colors, materials and items that are generally suitable for specific purposes within the district. Furthermore, applicants with items pending on the Consent Agenda will not need to attend the ARC meeting at which their application is being considered.

Finally, the Pace University Streamlining report proposed a simplified COA process for demolition applications within the Historic Overlay District. Under the current zoning, applicants looking to demolish a building in the Historic Overlay District must apply for a COA and if denied by the ARC, they must apply for relief on grounds of hardship. Under the Proposed Action, the ARC could evaluate the following considerations when reviewing COA applications for demolition: whether the building or structure is dangerous to health, safety or life; the extent, significance, and expense of repairs needed to maintain the structure in good repair; the historic value of the structure of the property; the contribution of the structure or property to community character, or an existing, locally-designated historic or architectural district; and the existence and extent of hardship criteria. As a result, applicants for demolition will not always have to apply for hardship but instead may receive a COA directly under the Special Demolition Considerations.

The proposed Zoning Code Update incorporates these policies and procedures and serves only to streamline the review process and minimize impediments to development.

**4.5. NOISE, LIGHT, ODOR**

The Proposed Action would not directly result in an increase in noise, odors or outdoor

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lighting. Nonetheless, under the proposed zoning, new construction is likely to occur, resulting in indirect impacts to levels of noise, light and odor. However, such new development would not change the existing urban and built character and condition of the City, but would instead be similar to the construction allowed under the current zoning. Construction activities that may affect noise, light, and odor levels would be conducted in full compliance with the City Code, including the “Noise” ordinance in Chapter 212 of the City Code. As a result, no significant adverse noise, light or odor impacts are expected under the Proposed Action. In addition, development applications within the PWD, WG, CDD, and those which meet certain thresholds would be required to conduct a SEQRA review to analyze the site specific impacts of their developments. Any noise, light or odor impacts that would occur as a result of these development projects would be analyzed on a case by case basis.

#### **4.6. SURFACE WATERS AND FLOODING**

The Proposed Action establishes a Waterbody Protection Overlay (WPO) District to provide special protection to the City’s waterbodies, creek, and stream corridor. The entire Quassaick Creek Watershed, which originates in Ulster County and drains the northeastern portion of Orange County, flows through the City of Newburgh and drains in the Hudson River. The boundaries of the WPO include all land lying within 100 feet of the top of the bank on each side of nine of the City’s waterbodies: Quassaick Creek, Gidneytown Creek, Harrison Pond, the Unnamed Pond east of Harrison Pond and west of Gidneytown Creek, Crystal Lake, Muchattoes Lake, the two unnamed ponds southwest of Crystal Lake, the unnamed stream that flows into and out of Crystal Lake, and the portion of the Hudson River that is not within the PWD zoning District.

The purpose of this WPO is to regulate land uses within or adjacent to a stream corridor or waterbody to protect water quality, biodiversity, scenic resources and reduce the risk of damage from flooding. As such, no principal structure shall be located within 100 feet of a creek, stream or waterbody, and no accessory structure 200 square feet or greater shall be located within 50 feet of a watercourse. These setback requirements apply to parcels that have any part within the WPO.

In addition, the proposed Zoning Code Update requires Site Plan Approval for all activities within the WPO. The City Planning Board may only grant approval if they determine that the proposed activity would not result in erosion or pollution from surface or subsurface runoff and includes appropriate measures to minimize stormwater quantity and velocity, increase stormwater quality, promote inflow and infiltration, protect stream and lake/pond banks from erosion, improve the water quality of the City’s waterways, and increase public awareness of these critical resources.

The WPO District would have a positive impact on the City by providing additional and more efficient protection of the City’s waterbodies. This additional layer of protection would directly improve the ecological services provided by these aquatic resources. Limiting all development within 50 feet of a watercourse would help maintain and restore riparian buffer vegetation and minimize stream channel constraints thereby having direct repercussions on public welfare by reducing the risk of damage from flooding.

The Conservation Development District (CDD) is established in the proposed zoning to encourage conservation of environmental resources in exchange for flexibility in bulk and area requirements. Environmental resources are defined as areas of steep slopes, wetlands, waterbodies, floodplains, ridgelines, scenic viewsheds and other ecologically sensitive areas

and features. Under the requirements of the proposed CDD, applications for development within the CDD must set aside 50 percent of the site as permanent (via conservation easement or other mechanism) open space to protect the site's environmental resources. As a result, by increasing the amount of open space in the City and better protecting sensitive environmental features, the CDD would be expected to improve the quality and quantity of water resources and mitigate flooding.

**4.7. POTENTIAL IMPACTS FROM AN INCREASE IN POPULATION OR COMMERCIAL/INDUSTRIAL DEVELOPMENT**

The Proposed Action is an update to the Zoning Code and Zoning Map. As a policy document, the Proposed Zoning Code Update would not have any specific physical impacts on the environment. Rather, it sets the stage for potential land use changes within the City, as described above. Development projects requiring a discretionary action by the City's review boards, (i.e., Site Plan approval, a variance, a Certificate of Appropriateness) would still require a site-specific environmental review that would analyze site-specific environmental impacts, including those to traffic and transportation, air, noise, surface and groundwater resources, and waste water treatment. Nevertheless, it is appropriate to analyze the potential environmental impacts that development under the proposed zoning may have at a generic level.

In the sections below, a generic review of the potential environmental impacts associated with the proposed changes to the zoning code are presented. For this review, it is important to keep in mind the change in Newburgh's population over time. As noted above, the City of Newburgh's population in 2010 was approximately 10 percent lower than its peak of 31,956 around 1950. Between 2000 and 2010, the City's population grew approximately 2 percent. If the City's population continues to grow at that rate, by 2030, it would just reach 30,000 residents. Recognizing that population growth is a function of market forces, as well as allowable density of development, it is reasonable to conclude that even with the adoption of the Proposed Action, Newburgh's population is unlikely to reach its 1950 peak in the next decade or two. Therefore, it is also likely that the infrastructure that served the City's peak population, much of which is still in place today, would be adequate to serve the City's population over the next several years. Long range planning to repair, replace and expand the City's sewage and stormwater systems has begun; it is well-recognized that concurrent with future development funding for, and plans to implement improvements will be required and must be executed.

The Proposed Action would, however, increase the residential development potential of a few areas within the City in two ways. First, the Proposed Action would allow residential uses in locations within the City that currently do not have residential uses and are not currently zoned to allow residential uses. These areas include the Planned Waterfront District, the Conservation Development District, the southwest portion of the Broadway Corridor district, and the southeast portion of the Downtown Neighborhood District. Second, the Proposed Action would increase the residential density allowed in the Waterfront Gateway and Broadway Corridor. Lots in these two districts that are currently vacant or substantially underutilized would be likely to experience more residential development if the Proposed Action is adopted than under the current zoning, because residential uses are not currently allowed as-of-right. Existing buildings in these districts, however, are not likely to be replaced with new buildings as a result of the Proposed Action. Therefore, the Proposed Action is not likely to cause an increase in residential density within portions of these districts that are already developed. In addition, applications for development within these districts

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would be required to undertake site-specific environmental review, which would analyze potential growth inducing aspects on a cumulative basis. Analyzing the potential growth impacts on a case by case basis provides a substantially more reliable conclusion because the data is collected and presented concurrent with the existing baseline conditions of the City at the time the proposal is presented, eliminating speculative decision-making.

Also notable is the fact that under the Proposed Action, the residential zoning districts are proposed to have smaller minimum lot sizes than under the current zoning. This reduced minimum lot size would not appreciably increase the theoretical number of lots that could be created within those districts, because the overwhelming majority of those districts are already built out and subdivided. Rather, the decreased minimum lot size was designed to match the existing building stock and lot sizes and make the majority of the City into 'conforming' lots. As a result, the change in minimum lot size would not be expected to result in any appreciable increase in population density.

#### 4.7.1. *COMMUNITY SERVICES*

As stated above, the adoption of the Proposed Action would not allow more residential development in the majority of the City. The proposed Zoning Code Update would increase the amount of residential density allowed in the downtown area, which may result in an increase in demand for provision of police, fire, and/or EMS services. Potential increases in staffing required by new development are expected to be offset by increases in property and other taxes and fees payable to the City. In addition, development applications within the proposed downtown zoning districts would be required to prepare a site-specific analysis of the impacts of the development on the ability of the emergency service providers to accommodate increased demand. Site-specific impacts of proposed development projects on emergency vehicle access, ingress and egress would be addressed during site plan review of a specific development proposal.

The City of Newburgh is served by the Newburgh Enlarged City School District. In the 2012-2013 school year the district served 11,028 students<sup>1</sup>, a decrease of 15 percent from a peak of 12,716 students in 2003-2004. Any increase in residential population resulting indirectly from the Proposed Action would not be expected to cause enrollment in the school district to reach its 2003-2004 peak (1,700 students). Therefore, the Proposed Action would not be expected to cause an adverse impact to the operation of the school district.

#### 4.7.2. *TRANSPORTATION*

The primary transportation impact of the Proposed Action would be increased trips into and out of the Planned Waterfront District and Waterfront Gateway District. All development within these districts, including a comprehensive waterfront redevelopment similar to the previous Leyland proposal, would require a site-specific environmental review. This review would analyze the impacts to specific intersections and specific roadways from a specific development. Because the development program for any future action within these districts could vary widely (residential, commercial, hotel, office, institutional), it would not be instructive to analyze a single 'best guess' scenario, nor is it practical to analyze the impacts of dozens of scenarios.

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<sup>1</sup> New York State Department of Education. <http://www.p12.nysed.gov/irs/statistics/enroll-n-staff/home.html>

Rather, reviewing the impacts of specific projects within the former heart of the City at the time that they are proposed is the best way to understand and mitigate potential transportation impacts.

It should also be noted that the City and County have been actively studying the feasibility of transforming Broadway and installing enhanced transit service within the corridor. The implementation of such a project would profoundly alter the potential impacts of future development in downtown Newburgh, through the possibility of reducing the number of automobile trips that would be generated by any new development.

Finally, as noted in the *Future Land Use Plan EAF*, the City “currently has a significant amount of off-street parking,” much of it downtown. Amendments to the off-street parking requirements were proposed for the above reason, and two other reasons. First, it is physically infeasible for many parcels to accommodate the amount of on-site off-street parking that is required in the current zoning code. Many of the City’s existing lots, especially in the downtown residential areas, are not large enough to accommodate the currently required off-street parking as well as a building. This simple fact is a major impediment to the redevelopment of these areas. Second, the proposed off-street parking requirements are more appropriate for dense, walkable, urban areas than are the current standards. The proposed standards are based on best practices from other similarly sized and situated cities in the Hudson Valley. The Zoning Advisory Team agreed that while off-street parking could be an issue in a revitalized and reinvigorated downtown Newburgh, requiring excessive off-street parking on the same lots as development was counter-productive to the goals of neighborhood revitalization.

#### 4.7.3. WATER SUPPLY

According to the EAF prepared for the *Future Land Use Plan*, the City’s water filtration plant has the ability to treat approximately 9 million gallons of water per day (MGD). In 2012, the average daily demand was 4.6 MGD, and the highest single peak day was 6.7 MGD<sup>1</sup>. In addition, the City has an emergency connection to the NYC Catskill Aqueduct if needed. As the Proposed Action would not cause the City’s demand for water to more than double, no impacts to the supply of domestic water are anticipated from the proposed zoning. Further, per the *Future Land Use Plan EAF*, the areas of the City that are proposed for increased residential density (waterfront, Broadway Corridor) have adequate water pressure to serve future growth.

#### 4.7.4. SANITARY SEWER SERVICE

The City of Newburgh discharges its sanitary sewage to the Newburgh Wastewater Treatment Plant (WWTP), which also serves the Town of Newburgh. The plant has a capacity of 13.5 MGD and in 2012 had an average daily flow of 6.3 MGD.<sup>2</sup> According to the *Future Land Use Plan EAF*, approximately 1.6 MGD are generated by the Town of Newburgh. In addition, a portion of the available flow at the WWTP,

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<sup>1</sup> 2012 City of Newburgh Water Quality Report

<sup>2</sup> 2012 City of Newburgh Wastewater Treatment Plant Update

approximately 3.8 MGD in total, is reserved for the Town of Newburgh. Therefore, the City could discharge approximately twice as much sanitary waste to the WWTP than it currently does on a dry-weather day. As the Proposed Action does not contemplate development resulting in a doubling of sewage discharge, it is unlikely to affect the ability of the WWTP to treat Newburgh's sanitary sewage.

However, according to the *Future Land Use Plan EAF*, there are currently capacity constraints on the City's north interceptor sewer line that limit the amount of additional flows it is capable of handling, especially in a wet weather, or storm, event. This interceptor line serves much of the Waterfront Gateway and Planned Waterfront District. This is a current issue for the City of Newburgh and not an impact that would result from the adoption of the Proposed Action. Substantial development in the Waterfront Gateway and Planned Waterfront District would be subject to the resolution of the north interceptor capacity issue. This issue would be addressed during site plan and environmental review for proposed projects in these districts.

## 5. CUMULATIVE IMPACTS

The State Environmental Quality Review Act (SEQRA) requires that the cumulative impacts of one or several actions be considered together. The Proposed Action contains a number of revisions to land development regulations that, when taken together, would provide a greater protection of community character and natural resources than currently exists. The potential effect on the environment from these amendments would not result in impacts when considered independently or cumulatively. The cumulative impact of the amendments is to bring land use regulation into accord with Newburgh's current planning documents and studies as well as development practice given the conditions within the City of Newburgh. Given the mandate to protect the community character and environmental quality of the City of Newburgh, the City's approach to zoning and environmental regulation is justified and in keeping with the objectives of the City's Land Use Plan and other local and regional planning principles.

## 6. CONCLUSION

The Proposed Action would implement the recommendations of the *Future Land Use Plan* and the other municipally-approved planning documents through the adoption of a new Zoning Ordinance and Map. As such, it is consistent with the City's desired planning goals and land use patterns. The Proposed Action would not result in significant adverse environmental impacts. It would increase the protection of the City's natural resources, including its steep slopes, floodplains, streams, and lakes. It would require public access to the waterfront in any proposed development, and would protect the scenic views that make the City so unique. The adoption of the Proposed Action would mark a turning point for the City of Newburgh by articulating a clear, feasible, and beneficial path for future development within the City.

