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STATE OF NEW YORK : COUNTY OF ORANGE  
TOWN OF NEWBURGH PLANNING BOARD

----- X  
In the Matter of

LANDS OF HAGARTY  
(2007-44)  
Corner of Athboy and Old Post Road  
Section 8; Block 1; Lot 51.21  
AR Zone

----- X  
CONCEPTUAL SKETCH PLAN - LOT LINE CHANGE

Date: December 20, 2007  
Time: 7:00 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

- BOARD MEMBERS: JOHN P. EWASUTYN, Chairman
- FRANK S. GALLI
- KENNETH MENNERICH
- JOSEPH E. PROFACI
- ALSO PRESENT: DINA HAINES
- MICHAEL H. DONNELLY, ESQ.
- BRYANT COCKS
- PATRICK HINES
- KAREN ARENT
- MARK SARGENT

APPLICANT'S REPRESENTATIVE: KENNETH LYTLE  
----- X  
MICHELLE L. CONERO  
10 Westview Drive  
Wallkill, New York 12589  
(845)895-3018

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CHAIRMAN EWASUTYN: Good evening, ladies and gentlemen. I would like to welcome you to the Town of Newburgh Planning Board meeting of the 20th of December.

At this time I'll call the meeting to order with a roll call vote starting with Frank Galli.

MR. GALLI: Present.

MR. MENNERICH: Present.

MR. PROFACI: Here.

CHAIRMAN EWASUTYN: Myself present.

The Planning Board has special consultants that provide input and advice to the Planning Board in reaching various SEQRA determinations. I would like them to introduce themselves.

MR. DONNELLY: Michael Donnelly, Planning Board Attorney.

MR. HINES: Pat Hines with McGoey, Hauser & Edsall, Consulting Engineers.

MR. COCKS: Bryant Cocks, Garling Associates, Planning Consultant.

MS. ARENT: Karen Arent, Landscape Architectural Consultant.

LANDS OF HAGARTY

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MR. SARGENT: Mark Sargent, Creighton, Manning Engineering, Traffic Engineer.

CHAIRMAN EWASUTYN: Thank you. At this time I'd like to turn the meeting over to Frank Galli.

MR. GALLI: Please stand for the Pledge of Allegiance to the flag.

(Pledge of Allegiance.)

MR. GALLI: Please shut off all cell phones.

CHAIRMAN EWASUTYN: Our first item of business this evening is the lands of Hagarty. It's a conceptual sketch plan for a lot line change located on the corner of Athboy and Old Post Road. It's zoned AR and it's being represented by Ken Lytle.

MR. LYTTLE: Good evening. What the client is proposing is a property exchange of approximately 14,000 square feet from lot number 2 to the adjoining owner, lands of Berm, on lot number 1.

We've shown the existing septic and wells.

It meets all the zoning requirements.

LANDS OF HAGARTY

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If the Board has any comments.

CHAIRMAN EWASUTYN: Bryant Cocks,  
Planning Consultant?

MR. COCKS: Both of these lots are  
going to meet the Zoning Ordinance. They are  
just making it a rectangular shape. We have no  
problem with this.

CHAIRMAN EWASUTYN: Pat Hines?

MR. HINES: We reviewed the septic and  
well locations. Similar to Bryant's comment, it  
makes a better lot geometry. It's a transfer of  
14,830 square feet from one lot to the other.

We have no outstanding comments.

CHAIRMAN EWASUTYN: Frank Galli?

MR. GALLI: No.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: No questions.

MR. PROFACI: Nothing.

CHAIRMAN EWASUTYN: Okay. I'll move  
for a motion to grant conceptual site plan  
approval and declare a negative declaration for  
the lands of Hagarty for a lot line change.

MR. GALLI: So moved.

MR. PROFACI: Second.

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CHAIRMAN EWASUTYN: I have a motion by Frank Galli. I have a second by Joe Profaci. Any discussion of the motion?

(No response.)

CHAIRMAN EWASUTYN: I'll move for a roll call vote starting with Frank Galli.

MR. GALLI: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: And myself. So carried.

At this point I'll turn to Mike Donnelly, Planning Board Attorney, for conditions of approval.

MR. DONNELLY: The standard conditions you have in your lot line resolutions are the requirement of a map note, which Ken may already have, that from the best available knowledge there are no buried utilities within or adjacent to the lot line change that will cause encroachment to create violations of the State Sanitary Health Code. The other requirements are that a map be sent to the Real Property Tax Service and that it include metes and bounds,

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that we be copied on it and that the applicant copy the Planning Board on the deed conveying the lands to be exchanged and to provide us recording information upon return of the deed.

CHAIRMAN EWASUTYN: Okay. Having heard the conditions of approval, I would move for that motion.

MR. GALLI: So moved.

MR. MENNERICH: Second.

CHAIRMAN EWASUTYN: I have a motion by Frank Galli. I have a second by Ken Mennerich. Any discussion of the motion?

(No response.)

CHAIRMAN EWASUTYN: I'll move for a roll call vote starting with Frank Galli.

MR. GALLI: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: Myself yes. So carried.

MR. LYTLE: Great. Thank you.

CHAIRMAN EWASUTYN: Happy holiday to you.

(Time noted: 7:05 p.m.)

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C E R T I F I C A T I O N

I, Michelle Conero, a Shorthand Reporter and Notary Public within and for the State of New York, do hereby certify that I recorded stenographically the proceedings herein at the time and place noted in the heading hereof, and that the foregoing is an accurate and complete transcript of same to the best of my knowledge and belief.

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DATED: January 2, 2008

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STATE OF NEW YORK : COUNTY OF ORANGE  
TOWN OF NEWBURGH PLANNING BOARD

----- X  
In the Matter of

EXETER BUILDING CORP.  
(2002-26)  
South side of Route 17K  
Section 89; Block 1; Lot 1.1  
R-3 Zone

----- X  
RESIDENTIAL SITE PLAN

Date: December 20, 2007  
Time: 7:05 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman  
FRANK S. GALLI  
KENNETH MENNERICH  
JOSEPH E. PROFACI  
ALSO PRESENT: DINA HAINES  
MICHAEL H. DONNELLY, ESQ.  
BRYANT COCKS  
PATRICK HINES  
KAREN ARENT  
MARK SARGENT

APPLICANT'S REPRESENTATIVE: DAVID HIGGINS  
----- X  
MICHELLE L. CONERO  
10 Westview Drive  
Wallkill, New York 12589  
(845)895-3018



EXETER BUILDING CORP.

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CHAIRMAN EWASUTYN: Let the record show that the next item of business after the lands of Hagarty is Newburgh Retail Developers. It's scheduled this evening for a site plan phasing plan. It's being represented by Kevin Down. The applicant at this time isn't here so we'll take the next item and that's Exeter Building Corp. It's a residential site plan located on the south side of Route 17K 700 +/- near Drury Lane. It's in an R-3 Zone.

Is Dave Higgins here?

MR. HIGGINS: Yes, I am.

CHAIRMAN EWASUTYN: Thank you.

MR. HIGGINS: Good evening. My name is David Higgins with Lanc & Tully Engineering. With me tonight is Mr. Bill Fried, applicant for the Exeter project; and also Mr. Rick Golden, the attorney for Mr. Fried. Mr. Lopez I guess is not here yet, the planner on the project. He may be coming in shortly.

What we submitted is a site plan for a 136-unit town home development located on New York State Route 17K basically opposite Coldenham School. The project has been before the Board

1  
2 for some time. We received a negative  
3 declaration and a preliminary site plan approval.  
4 It's my understanding that it's before the Board  
5 tonight for consideration of site plan approval.

6 CHAIRMAN EWASUTYN: Okay. Do you want  
7 to walk us through the site plan from your last  
8 maps to your revised maps?

9 MR. HIGGINS: The changes that we made  
10 to the plans generally had to do with in some  
11 areas we had some patios and decks on buildings.  
12 Basically it was determined with the consultants  
13 that decks are not permitted within the building  
14 setback. Where we had issues of those structures  
15 extending into the setback, those have been  
16 modified to be patios. We no longer have any  
17 decks within the setback. In some cases we've --  
18 on the plans I think the Board has it specified  
19 patios, and where it's not specified that it  
20 would be considered a deck.

21 We had made some changes I know on  
22 landscaping to satisfy some of the concerns that  
23 Karen Arent had with regard to landscaping. I  
24 understand some of those are yet to be resolved.  
25 We have met with Karen to talk about what changes

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would be made. I believe we're on the same page with regard to what changes would be made to the plans.

CHAIRMAN EWASUTYN: Okay. Site issues as it relates to drainage.

MR. HINES: We reviewed the project with regard to the engineering details. We previously signed off on the stormwater management plans as they were developed over time. There's several detention ponds on the site, some sand filters, a fire retention area that have been incorporated into the plan.

We reviewed the water and sewer provisions with the applicant's representative. We had several meetings with Jim Osborne and the water department. Those issues have been resolved.

We're still awaiting confirmation from the Army Corp of Engineers regarding the jurisdictional determination and the need for a permit. It's my belief that the work here is covered under Nationwide 39 and no individual permit will be required.

The sewer issues with regard to

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improvements along 17K have been revised so this is considered only a single lateral hookup to the Town system. I believe that the City of Newburgh sign off has been received for acceptance of the flow.

So with that, our engineering and technical issues have been resolved on the project.

CHAIRMAN EWASUTYN: Okay. Any questions from the Board Members from what we heard from our consultant, Pat Hines?

MR. GALLI: No.

MR. MENNERICH: No.

MR. PROFACI: No, I don't.

CHAIRMAN EWASUTYN: Bryant Cocks, Planning Consultant.

MR. COCKS: Yes. As Dave mentioned, one of the issues surrounding the site was the issue of decks and patios. They have what looks like some mislabeled on the last site plan that I have. Karen Arent said that she had a different version of the landscape plan where it's going to be all patios now, so I think that issue has been resolved.

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MS. ARENT: Within setbacks.

MR. COCKS: Within setbacks. Some of them weren't labeled within the setback line.

There was another issue regarding sidewalks on the interior of the site, mainly where some of the driveway cuts were. The applicant has fixed those and taken away the sidewalks where they were too choppy considering there would be driveway cuts breaking them up and they really wouldn't function well.

The only other issue is surrounding the architectural approval, the applicant submitted black and white drawings. When they do come back we will need colors.

CHAIRMAN EWASUTYN: I know we had received comments from Ken Wersted in reference to sidewalks. Mark Sargent here is representing Ken who is at another meeting.

Mark, you work with Creighton, Manning Engineering also.

MR. SARGENT: Right. I believe it's the same comments that Bryant just mentioned about the sidewalks. The last set of plans that we had looked at did not show the changes. We

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understand now from Bryant and Karen that has been taken care of.

One thing we just talked about is the item labeled emergency access or emergency connection to the adjacent Drury Heights project. We believe or it's our understanding there's also supposed to be a pedestrian access, not just an emergency access. It should be labeled that way.

MR. HIGGINS: Okay.

MR. SARGENT: We know you're working on some outstanding design issues with DOT related to the driveway. One of their items was related to maintenance of the sidewalk in the right-of-way. We believe you have that taken care of through the homeowners association.

We recognize there are some outstanding transportation highway work permit issues that you're working on.

MR. HIGGINS: Yes. Basically DOT has signed off on the location and essentially the geometry of the entrance and had indicated in a letter some additional work was going to be required for the permit to be issued. The location is acceptable to DOT. There's some

EXETER BUILDING CORP.

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1  
2 other work -- there's a traffic pole -- a traffic  
3 signal that has to be replaced and a traffic  
4 signal. Some work has to go into that. We're  
5 working with Phil Grealy from John Collins  
6 Engineers. Prior to obtaining a permit from the  
7 State we would have to address all of those items  
8 to DOT's satisfaction.

9 CHAIRMAN EWASUTYN: Comments from Board  
10 Members to this point. Frank Galli?

11 MR. GALLI: No.

12 CHAIRMAN EWASUTYN: Ken Mennerich?

13 MR. MENNERICH: No questions.

14 CHAIRMAN EWASUTYN: Joe Profaci?

15 MR. PROFACI: No, John.

16 CHAIRMAN EWASUTYN: Mr. Higgins, --  
17 excuse me. Mr. Lopez, Mr. Higgins said he was  
18 expecting you shortly.

19 Would this be the right time for Mr.  
20 Lopez to make his presentation? I think we're  
21 discussing landscaping also as it relates to this  
22 project, lighting as it relates to this project  
23 and some discussion on the recreational uses and  
24 areas located for that.

25 MR. LOPEZ: We've been through quite a

1  
2 few changes on the landscape plan with input from  
3 your consultants and responding to some slight  
4 changes in the site plan as well. Generally  
5 speaking, the areas in solid medium colored green  
6 around the site are forested areas that are  
7 anticipated to remain on the site, like off to  
8 the west surrounding the perimeter of the south  
9 leg and on the east side of the property, and  
10 there's some other smaller areas. We've planted  
11 quite heavily and I think in accordance with your  
12 buffer setback regulations. The perimeter of the  
13 property where its been open.

14 We walked the perimeter of the site on  
15 at least one occasion -- actually two occasions  
16 with your landscape consultant to take a look at  
17 where we might have some openings in what  
18 appeared to be wooded areas but where the woods  
19 might be thin or small. We've supplemented those  
20 with green material, largely on the border  
21 between the site and Colden Park where we have  
22 some existing -- obviously an existing,  
23 completely developed community.

24 Around the interior of the site we've  
25 -- did you speak about sidewalks?



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MR. HIGGINS: No. Actually, one of the comments they had had to do with the relocation of the sidewalks to conform with Karen's comments about basically removing the breaks.

MR. LOPEZ: Right. I think you're familiar from previous plans, and certainly from this drawing as well, that we have sidewalks around each of the areas, the three separate areas of the site, the loop on the northwest side of the site into the east side of the site and down to the end of the lake going south.

It was mentioned that there was an intention to connect here through Town-owned property to the adjacent development. If that adjacent development happens and if the Town concurs that that connection would be allowed to be, and if it is, then that connection would occur in that direction.

We obviously have a lot of street trees and a lot of plantings around the buildings. We also have a typical landscape plan for individual units which shows foundation plantings and other ornamental plantings commonly used.

We do have as well -- this came off --

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2 I believe your Board has seen these drawings. We  
3 have samples of what the architectural appearance  
4 of the buildings will be. Essentially we're  
5 looking at two-story elevations in the front.  
6 There was some discussion about having a lower  
7 level with basements down under. Dave's office  
8 worked out the grading so that we don't need that  
9 third elevation in the front. For portions of  
10 the site where the road is relatively level  
11 across the front of the building we'll have an  
12 elevation that looks similar to this. In other  
13 portions of the site where the road is ascending  
14 or descending we'll obviously have a stepped  
15 elevation. We don't think that we will need to  
16 step it more than once in the center of the  
17 building. The rear of the buildings being either  
18 patios or decks, we anticipate that the ascendancy  
19 up or down from the floors that open out onto the  
20 decks or come down to the patios will be anywhere  
21 from a couple of feet to four or five feet.  
22 We'll accommodate that with a staircase out the  
23 rear of the unit. In some instances there may be  
24 some access from a basement at a lower level. I  
25 think that we've pretty much decided almost all

1  
2 of these are going to be from the first floor, so  
3 the rear of the building won't have a third floor  
4 elevation typically.

5 The clubhouse will be a similar style.  
6 It will be two stories on the lower elevation  
7 that you can see facing the pool and a single  
8 story facing the road in the front.

9 The balance of these drawings are  
10 related to other things that you've seen in the  
11 past. This is a photo with the site plan  
12 superimposed. You can see a relationship to the  
13 community.

14 Any questions?

15 MR. GALLI: Are any of the buildings  
16 going to be -- are you going to see three stories  
17 from the road because of the grading?

18 MR. LOPEZ: That portion of the plan  
19 that would be potentially visible -- we'll put up  
20 the site plan -- from 17K --

21 MR. GALLI: The question I have is if  
22 it's going to show three stories what's the  
23 bottom part going to look like? You're showing  
24 us the first and second floor.

25 MR. LOPEZ: I wanted to -- I didn't

1  
2 want to answer that from the hip because I wanted  
3 to address the different portions of the site.  
4 This portion, as I'm sure you're aware, is a  
5 relatively lower level area. Here we anticipate  
6 a relatively straightforward two stories front  
7 and back. This is the side view. These  
8 buildings which are up on the hill will also  
9 likely be two stories. There's no reason to have  
10 a third story in the back. The only potential  
11 area we might have a third story would be in some  
12 of these buildings down here where the land falls  
13 off behind the buildings. In those situations  
14 the rear of the building, as I had indicated  
15 earlier, would look similar to this. We  
16 anticipate that the portion of the foundation  
17 that would be exposed we would either treat by  
18 continuing the siding down over the exterior of  
19 that or it would be parged or faced with a  
20 masonry material. It would not be left as the  
21 mortared cement block look is what I'm getting  
22 at.

23 MR. GALLI: When you say parged, that  
24 looks like mortar cement block anyway.

25 MR. LOPEZ: But it would be finished

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off in a way that would be complimentary to the architecture of that overall development.

MR. GALLI: Okay.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: Could you show us where the playground areas are and the tot lot?

MR. LOPEZ: Sure. There are actually four recreational areas, of course the pool and the clubhouse being one. Here on the southeast corner of the westerly loop is a picnic area. On the west side of the northerly end of the south leg is a tot lot area. There's an additional recreation area here which we anticipate to be a picnic area as well, picnic and bench area, outdoor, probably a couple barbecue pits and that kind of thing.

MR. MENNERICH: Have you determined what's going to be in each of these areas, sort of a materials type thing?

MR. LOPEZ: We spec'd out a sample piece of play equipment from a play catalog which I have here this evening if you would like to see. We had laid out a semi-circular park bench and picnic area here. We have not laid out this

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area here yet but it would be similar to the first.

CHAIRMAN EWASUTYN: Can you show us what you brought this evening?

MR. LOPEZ: Sure. This is a Big Toy catalog tear sheet. We're looking at something along the lines of this which roughly occupies 40 square foot or a 40 diameter circumference area. I guess 37 by 35. These come in a variety of models. I'm sure you're aware you can add a swing area or a climbing area or whatever. They're modularly put together.

MR. GALLI: You're only going to have one of them on the site?

MR. LOPEZ: Yes. One on the south leg.

MR. GALLI: For the whole site?

MR. LOPEZ: Yes. We're not sure what we are going to be anticipating in terms of younger children. The initial concept was that the marketing and the positioning of the units would likely attract empty nesters and not as many children. We were thinking about setting aside some funds for future construction of recreational areas when it became more apparent

1  
2 who was buying. At the recommendation of your  
3 consultant we spec'd out a piece of play  
4 equipment and if the demographics don't justify  
5 that as the development is built out then we will  
6 come back and obviously take a look at whether  
7 that needs to be revised.

8 This third area -- if it turns out  
9 there are more tots, this third area that hasn't  
10 been laid out yet would be a tot lot. At some  
11 point in time as we get a critical mass of people  
12 on the site with families and get a better idea  
13 of what's needed they'll be developed.

14 MR. GALLI: They'll never make a  
15 decision.

16 MR. LOPEZ: A decision has been made  
17 for purposes of site plan. If there's a need to  
18 change we'll be back.

19 CHAIRMAN EWASUTYN: Anything else, Ken?

20 MR. MENNERICH: On the street lights,  
21 have you picked out a --

22 MR. LOPEZ: We discussed using a corner  
23 style, similar to the Central Park style, those  
24 glass globes, those -- the best way to describe  
25 them is they are a clouded glass globe that have

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2 a refractor in the top so although it's glass on  
3 the outside and looks like it's glass, it is  
4 glass without any obstruction on the inside. The  
5 bulb actually sits up inside of the  
6 semi-hemispherical structure. It's mirrored on  
7 the inside and that bounces the light down and  
8 out so you don't get the spillage in an upper  
9 direction. They can be controlled as well with  
10 controls so that the back of the unit doesn't  
11 throw light off site. What we were looking at  
12 doing is using several of those in areas of the  
13 roadway where we don't have buildings, in areas  
14 around proposed parking lots, so that those areas  
15 would have one or two fixtures. We weren't  
16 planning on using fixtures throughout the site  
17 because most of the front doors we're  
18 anticipating will have two carriage lights on  
19 either side of the door which will provide  
20 lighting for those units.

21 CHAIRMAN EWASUTYN: Joe Profaci?

22 MR. PROFACI: Given that we're not  
23 doing architectural review tonight, I'm going to  
24 reserve my comments.

25 I just want to say that where that



1  
2 third level will be visible, I think we're going  
3 to have to work on something other than parking.  
4 It's not going to cut it.  
5 MR. LOPEZ: We're completely open.  
6 MR. PROFACI: Thank you.  
7 CHAIRMAN EWASUTYN: Would our  
8 consultants like to add anything at this time  
9 before we begin discussing phasing of the  
10 project?  
11 MR. HINES: No.  
12 CHAIRMAN EWASUTYN: Bryant Cocks?  
13 MR. COCKS: No.  
14 CHAIRMAN EWASUTYN: Karen Arent?  
15 MS. ARENT: I think he went over  
16 everything.  
17 CHAIRMAN EWASUTYN: Do you want to walk  
18 us through your concept for phasing of the  
19 project?  
20 MR. HIGGINS: Basically the way this is  
21 set up is we have phase I consisting of building  
22 unit numbers 1 through 15. So it's this loop in  
23 here. Also what's a requirement dictated on the  
24 plan is the clubhouse and pool area be built, I  
25 think it's before the certificate of occupancy is

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issued, I think it's on the last building in that phase I believe.

MR. DONNELLY: The twenty-fifth unit of the whole project I think is how it's worded.

MR. HIGGINS: What's currently shown as phase I would be this loop in here, the entrance road and the clubhouse. Phase II then basically would take the road up across here and put in the emergency access lane, build out these units and then this unit here. Then the third phase would constitute extending the road out to the south down the south leg and then build out units, it looks like 24 through 34 I think the number is.

MR. HINES: Phases II and III can go either way, they're not defined as having to occur in that order. I think that's important.

MR. HIGGINS: That's what we had talked about at the work session that we had. Phase II and III could go either.

CHAIRMAN EWASUTYN: Frank Galli, comments?

MR. GALLI: No additional.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: Just a question on your

1  
2 green space to the west there. Is there anything  
3 planned for that as far as walking paths or  
4 anything?  
5 MR. LOPEZ: Is that the wetland area?  
6 MR. MENNERICH: Some of it is.  
7 MR. HIGGINS: This area here? No, we  
8 did not have plans to utilize this area.  
9 MR. HINES: That's pretty steep through  
10 there, Ken.  
11 MR. MENNERICH: Thanks.  
12 MR. LOPEZ: There are some wetlands  
13 but, as Pat mentioned, there are some pretty  
14 steep slopes in that area.  
15 CHAIRMAN EWASUTYN: Joe Profaci?  
16 MR. PROFACI: Nothing.  
17 CHAIRMAN EWASUTYN: Pat Hines?  
18 MR. HINES: We discussed the phasing at  
19 the last workshop. The phases are independent of  
20 each other. We've tied in to the resolution the  
21 recreation proceeds not by phases but by unit  
22 count so the necessary recreation will be built  
23 as the project gets built out. The phasing works  
24 on the site because of the road layout and  
25 geometry.

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CHAIRMAN EWASUTYN: Bryant Cocks,  
Planning Consultant?

MR. COCKS: Nothing further.

CHAIRMAN EWASUTYN: Karen Arent,  
Landscape Architect?

MS. ARENT: The only thing we need is a  
phasing plan because there was not one in the set  
of documents. We're going to need to have your  
thoughts put on paper.

MR. HIGGINS: Something other than just  
indicating which units go with each phase?

MS. ARENT: Wouldn't you say that we  
need a plan?

MR. HINES: There should be a defined  
boundary line for each of the phases. That is  
just for the code enforcement department with  
what is supposed to be where and when.

CHAIRMAN EWASUTYN: Mark Sargent?

MR. SARGENT: No comment.

CHAIRMAN EWASUTYN: I'll turn to the  
Board Members at this time for additional  
information they would like to have from the  
applicant. If you could bring forward your  
questions.

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MR. GALLI: Nothing additional.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: Nothing additional.

CHAIRMAN EWASUTYN: Joe Profaci?

MR. PROFACI: Nothing.

CHAIRMAN EWASUTYN: At this time I would like to turn to Mike Donnelly, Planning Board Attorney.

MR. DONNELLY: I had provided you with a copy of the preliminary resolution that has been amended as if it is a final resolution, and we had gone over that at work session. The applicant has been given a copy of that draft. We've made some changes and additions to it and I can review those now.

First, on page 2 I'll need the updated plan set information, and that can be provided to me after this evening.

On the specific conditions beginning on page 4, the first is the requirement that the amendments to the plans and additions that Karen spoke of and that are outlined in her memo of December 13th will need to be provided, and the site plan will not be signed until Karen has

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provided the Planning Board with a letter to that effect.

In addition, Mark Sargent mentioned that he wanted to see some markings regarding pedestrian access to Drury Heights, and I think we should condition the approval on a sign-off letter from his office as well.

Next we mentioned the need for a phasing plan, and the approval will be conditioned on the submission of a phasing plan. I assume it's probably best if Pat Hines review that. We're aware of what the phases are but that should be added to the plan probably as a separate sheet.

MR. HINES: We were just mentioning over here the sidewalk along 17K, that's part of the phase I improvements I believe.

MR. HIGGINS: Yes.

MR. DONNELLY: What had been listed as condition number 2 in the preliminary resolution was the adjustment of the buffer areas to correspond to the law that had been enacted by the Town since the application was first made, and that condition can now be removed because

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that buffering has in fact been provided in compliance with that law.

We talked earlier about the need for a lighting plan which has not yet been submitted, and a condition of the approval will be that a lighting plan be submitted. The resolution should recite that the fixtures should be not more than 16 feet high consistent with the Town's design guidelines and consistent with the architecture that is to be approved as part of the final ARB.

Condition number 3 at the bottom of page 4 references the DOT approval that has been granted in concept, but the requirement that a highway work permit be obtained and the requirement that if anything is changed as a result of that work permit in terms of the site plan elements, that the applicant will need to return to the Planning Board.

Number 4, Pat Hines mentioned earlier that this will be subject to a jurisdictional determination, a wetlands Nationwide number 39 permit, and that would mean that the applicant couldn't move forward until the notice of intent

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to begin activities was given and either the permit was ruled upon or 45 days had past.

We've removed the requirement of Orange County Health Department approval because that has been obtained.

The preliminary resolution had referenced the need for a DEC sewer main extension permit. We have determined that that permit is not necessary as Pat mentioned earlier, so that condition will be removed.

Number 5 relates to Town Board approvals for sewer and water districts that did not exist at the time of preliminary approval. They have now both been granted by the Town Board but they contain certain conditions and requirements, and those conditions and requirements are incorporated into the resolution.

The landscape plan that was listed on page 6 has now been submitted but the lighting plan has not. I would change this language to lighting. I mentioned that already.

The roadway names will need to be approved by the Town Board, and the plans will



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not be signed until that approval is obtained.

Condition number 8 related to the homeowners association or condominium association bylaws that need to be referred and reviewed by the town attorney, and we added language that requires that those bylaws include provisions regarding condominium governance, common area regulation, and we've added including a provision for sidewalk maintenance because that's a particular concern.

Number 9 relates to the requirement that the applicant petition the Town Board to allow enforcement of Vehicle and Traffic Law violations on this private property.

The final plans, in 10, will require to distinguish between patios and decks, and I believe that condition has now been satisfied.

MS. ARENT: It still has to be reviewed.

MR. DONNELLY: We'll leave it in there. It's in your memo, though.

MS. ARENT: It might have been in Bryant's.

MR. DONNELLY: Let me then move it up

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to say Bryant has to sign off on it.

Condition number 11 related to the stipulation that had been entered into between the applicant and the Town, and I believe that stipulation has run its course and has been complied with and reference to it in the resolution is no longer required.

We spoke a bit about ARB during the work session. We had occasion in that discussion to look at Section 185-59, Subdivision D of the Code. While the Planning Board has had a practice of allowing ARB approvals to be deferred at the time of site plan approval, they've always required that some form of conceptual ARB be reviewed in the early stages in terms of visual analysis. So that we don't lose that thread, the resolution is going to include a provision that the final ARB submission will need to be consistent with the renderings that were just on the board and reviewed at this evening's meeting, and we'll take a set of those and date them and put them in the file.

Furthermore, consistent with 185-59 D, so that we don't lose track of this, no building

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permit will be issued until ARB approval is in fact finalized.

The conditions of the street scape and recreational space plan referenced the phasing plan which will need to be submitted, but the language requires in essence that phase I be just that, phase I, and must be started and completed before phases II and III. Although the applicant can construct all three phases at once, it just can not do phase I as part of the initial construction.

In terms of the recreational space, the community center, and we had omitted but I now return to the language the pool and the picnic area shown as part of phase I shall be completed before issuance of the twenty-fifth certificate of occupancy for a residential unit anywhere within the project in any phase.

Next, the picnic area, and I believe I'm correctly describing this but someone will correct me if I'm wrong, shown as part of phase II shall be completed before issuance of the thirteenth certificate of occupancy for a residential unit within that phase.

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Finally, the tot lot area that's shown as part of phase III shall be completed before issuance of the eighteenth certificate of occupancy for a residential unit within that phase. The intent of this of course is to make sure that the amenities that are provided are provided at a time according to the schedule that is meaningful in recognition of people already living there.

The next provision related to architectural review, and we're amending that language, as I indicated earlier, to require that it be submitted before the building permit and that it be consistent with the renderings submitted.

The remaining conditions relate to required securities, that they be posted as a condition of the approval under the various provisions of the Ordinance.

There is a condition at the bottom of page 11 which is a standard condition relating to outdoor fixtures that prohibits the construction of any outdoor fixture, amenity or wall that is not shown as part of the approved plans.

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Condition number 20 relates to the requirement of the payment of fees in lieu of parklands for this multi-family project. I mentioned to the Planning Board during the work session that Mr. Golden, the applicant's attorney, had asked whether the Planning Board would be able to either waive or recommend a waiver to the Town Board on a partial basis given the fact that recreational space is indeed provided within the plan. What we discussed was the fact that the Town's recreational space plan, as I understand it, as part of its current master plan identifies the need for recreational space as more formalized space for athletic activities like soccer and baseball and the amenities you're providing here do not meet those Town needs, although they obviously address needs and provide an amenity for those who live there. The Planning Board will stand by the findings that are listed here but the language does not prohibit the Town Board from adjusting the amount of the fee in any fashion that you and the Town reach agreement on.

Of course the general conditions

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relating to what needs to be submitted and the timeliness of those submissions.

I believe those conditions correctly track the preliminary approval and indeed reflect our earlier discussions.

CHAIRMAN EWASUTYN: Comments from Board Members. Frank Galli?

MR. GALLI: No.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: No questions.

CHAIRMAN EWASUTYN: Joe Profaci?

MR. PROFACI: No.

CHAIRMAN EWASUTYN: Comments from consultants. Pat Hines?

MR. HINES: The only one I picked up here is under the stormwater it references public improvements and the word public should be removed.

MR. DONNELLY: What number is that, or what page?

MR. HINES: Page 9, your new section 15. I can just hand it to you.

MR. DONNELLY: Because they're not public. Thank you.

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MR. HINES: That's all I have.

CHAIRMAN EWASUTYN: Bryant Cocks,  
Planning Consultant?

MR. COCKS: I have nothing further.

CHAIRMAN EWASUTYN: Karen Arent,  
Landscape Architect?

MS. ARENT: Nothing additional.

CHAIRMAN EWASUTYN: Mark Sargent,  
Traffic Consultant?

MR. SARGENT: No comments.

CHAIRMAN EWASUTYN: Mike Donnelly,  
Attorney for the Planning Board, the action then  
before the Board this evening is?

MR. DONNELLY: You completed SEQRA, you  
granted preliminary approval. The resolution is  
for conditional final approval.

CHAIRMAN EWASUTYN: Having walked  
through and discussed the resolution for  
conditional final approval, having asked Board  
Members for any additional comments, also  
extending the same to our consultants, having one  
comment from Pat Hines our Drainage Consultant,  
at this time I would move for a motion to grant  
conditional final approval for the residential

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site plan for Exeter Building Corp.

MR. GALLI: So moved.

MR. PROFACI: Second.

CHAIRMAN EWASUTYN: I have a motion by Frank Galli. I have a second by Joe Profaci. Any discussion of the motion?

(No response.)

CHAIRMAN EWASUTYN: I'll move for a roll call vote starting with Frank Galli.

MR. GALLI: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: Myself yes. So carried.

Thank you.

MR. GOLDEN: Thank you very much.

(Time noted: 7:40 p.m.)



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C E R T I F I C A T I O N

I, Michelle Conero, a Shorthand Reporter and Notary Public within and for the State of New York, do hereby certify that I recorded stenographically the proceedings herein at the time and place noted in the heading hereof, and that the foregoing is an accurate and complete transcript of same to the best of my knowledge and belief.

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DATED: January 2, 2008

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STATE OF NEW YORK : COUNTY OF ORANGE  
TOWN OF NEWBURGH PLANNING BOARD

- - - - - X

In the Matter of

THE MARKET PLACE AT NEWBURGH  
(2004-54) (2007-35)

Route 300

Section 60; Block 3; Lots 41.3, 41.4, 48, 49.1, 49.22 & 49.21

Section 71; Block 4; Lots 7, 9, 10, 11, 12, 13 & 14

Section 71; Block 5; Lots 15 & 16

Section 97; Block 5; Lots 13.3 & 20.3

IB Zone

- - - - - X

SITE PLAN, ARB, FOUR-LOT SUBDIVISION &  
LOT LINE CHANGES

Date: December 20, 2007

Time: 7:40 p.m.

Place: Town of Newburgh

Town Hall

1496 Route 300

Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman  
FRANK S. GALLI  
KENNETH MENNERICH  
JOSEPH E. PROFACI

ALSO PRESENT: DINA HAINES  
MICHAEL H. DONNELLY, ESQ.  
BRYANT COCKS  
PATRICK HINES  
KAREN ARENT  
MARK SARGENT

APPLICANT'S REPRESENTATIVE: ROBERT WILDER

- - - - - X

MICHELLE L. CONERO

10 Westview Drive

Wallkill, New York 12589

(845)895-3018

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CHAIRMAN EWASUTYN: I'm going to go back on the agenda to Newburgh Retail Developers/Palmerone Farms, the site plan and phasing plan located on Route 300 and 17K in an IB Zone. Is Kevin Down here?

MR. CUBBERLY: My name is Kevin Cubberly with Developers Realty. Kevin Down should be here within the next half hour. If you could move us further down the agenda we would appreciate it. Thank you.

CHAIRMAN EWASUTYN: For the record, do you have a business card for the Stenographer?

MR. CUBBERLY: Yes (handing).

CHAIRMAN EWASUTYN: Thank you.

The next item on the agenda is The Market Place at Newburgh. It's a site plan, ARB, four-lot subdivision and lot line changes. It's located on Route 300 and it's zoned IB. It's being represented by Robert Wilder.

Mr. Wilder, what we'd like to do is we would like to take the order in which Ms. Post presented in her letter. We'll start then with item number 1, the referral of the subdivision application to the Zoning Board of Appeals. If

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you would walk us through the requested  
variances.

MR. WILDER: My name is Robert Wilder  
with Wilder, Balter Partners. With regard to the  
subdivision, I'm going to let Mark Grats from DTS  
Engineering walk you through the subdivision  
request.

MR. GRATS: As Bob stated, my name is  
Mark Grats from DTS, planners, engineers and  
landscape architectural firm. What we have  
before the Board tonight is a four-lot  
subdivision primarily to carve out one parent  
parcel which will cover approximately 104.8  
acres, a separate lot for what's shown on your  
site plans as building A of 7.28 acres, and  
that's proposed lot 2. Proposed lot 3 would be  
what's shown on your site plans as building E and  
it's an area of 16.11 acres. The last lot is the  
merging of about four I believe private  
residential parcels that were purchased, and it's  
going to be set up to create one new residential  
lot within the existing residential zone back in  
the Wintergreen area.

Variances that are required largely

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2 relate in some instances to setbacks. Typically  
3 within the IB Zone there's a requirement for  
4 50-foot front yard setbacks, 60-foot rear yard  
5 setbacks and 50-foot -- one 50-foot side yard  
6 setback as well. We have a situation wherein  
7 proposed lot 2, being the two big boxes,  
8 buildings A and B literally abut each other under  
9 the current plan. There would be a zero side  
10 yard for that lot. That is one of the variances  
11 that we would be requesting. The combined side  
12 yard width also would be less than the required  
13 50-foot combination as the building is closer to  
14 what we call entry road B-1 as shown on your site  
15 plan drawings.

16 MR. WILDER: Mark, I just wanted to say  
17 to the extent the public is here, and they are  
18 probably not as familiar as the Board is with  
19 this, this is an almost 800,000 square foot  
20 regional shopping facility. We came before the  
21 Board and have been before the Board for the last  
22 three-and-a-half years. Overall this development  
23 has no -- is requesting no variances at all. So  
24 I want the public to understand, as I know the  
25 consultants do and I believe the Board does, that

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2 the reason that we require variances is because  
3 two of the major purchasers or the major tenants,  
4 occupants of The Market Place have -- it's a  
5 requirement for their involvement in this  
6 development that they actually own their parcel.  
7 In order to do that, legally you have to  
8 subdivide it out. The fact that the subdivision  
9 ordinances, not only in the Town of Newburgh but  
10 all subdivision ordinances really don't  
11 contemplate taking a development such as The  
12 Market Place and subdividing it out. So I just  
13 want the public to know that the reason we are  
14 requesting all those variances is really that  
15 we're -- just the nature of dividing up parcels  
16 on a property that really almost doesn't want to  
17 be divided from a business and operations point  
18 of view requires this.

19 MR. GRATS: Right.

20 MR. HINES: It's not unique to you.  
21 The Town had experience with this before. The  
22 Stop & Shop and the Target mall have gone through  
23 a similar process.

24 MR. GRATS: I think the other key point  
25 to emphasize here is when the site plan was

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originally reviewed we still meet all the perimeter setbacks under Code for the IB Zone. There has been no change to that. All these variances are now coming up as we start to define these internal property lines.

Just jumping back to lot 1. Maybe we'll walk our way through. There are three variances that are required on lot 1 and they all basically relate again to the side yard setbacks. Relating to buildings L-6 and L-7 here, we're currently showing 42 to 46 feet from the side yard setback to building A which under the Code should be up to 50 feet.

We're also showing a -- moving on to lot 2, we have actually five variances that are requested on this lot, one or two of them relating to side yard again. Once again, for lot 2 you have the zero setback between buildings A and B. The combined total of the side yards should be 100 feet, so we fall short there as well because of the side yard limitations on both sides of the building.

We have a lot building coverage and a lot surface coverage variance that are required

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as we're basically exceeding the zoning under those areas. That's primarily a function because as we've tailored the new lot to meet just the surrounds of the existing building we're short on some of the coverage items. Obviously the site as a whole we're well within the zoning boundaries.

That pretty much wraps up the variances that we're requesting, a total of eight variances.

MR. DONNELLY: I think the Planning Board Members have all those listed on this page.

MR. GRATS: Yes. They're designated on the tables that were passed out as shaded in gray.

CHAIRMAN EWASUTYN: Bryant Cocks, Planning Consultant, would you like to add to this?

MR. COCKS: Well, along with the variances that they requested is a residential lot, which is lot 4. They showed the building envelop. It would meet all the setbacks. They just need to show a house location on the final subdivision plans.



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CHAIRMAN EWASUTYN: Pat Hines, Drainage  
Consultant?

MR. HINES: They have addressed our  
previous comments. This map meets the  
requirements with the information that's on it.

CHAIRMAN EWASUTYN: Karen Arent?

MS. ARENT: I have no comment.

CHAIRMAN EWASUTYN: Mark Sargent?

MR. SARGENT: I have a question. We  
don't have any comments related to the setbacks  
and the subdivision but I do have a number of  
site plan comments. Maybe those aren't germane  
here.

CHAIRMAN EWASUTYN: I think we'll  
address those comments -- if the Board is in  
agreement, I think we'll cover that in item  
number 4, the letter presented by Deborah Post  
which covers issues relating to building  
architecture, building landscaping, site signage.  
I think we'll cover those issues under that  
umbrella if that's all right with you.

MR. SARGENT: Yup.

CHAIRMAN EWASUTYN: Is that okay with  
the Board?

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MR. GALLI: Yes.

CHAIRMAN EWASUTYN: Mike Donnelly,  
Planning Board Attorney, is that fine?

MR. DONNELLY: Sure.

CHAIRMAN EWASUTYN: What I'm going to  
motion for now is -- as I said earlier, we have a  
letter that we received as part of the submittal  
dated December 7, 2007 by Robert Balter Partners  
and that letter was prepared by Deborah Post who  
is the vice president of that corporation. The  
number one item was, again I'm repeating myself,  
but referral of the subdivision application to  
the Zoning Board of Appeals. Having discussed  
that in the last few minutes and having had a  
presentation of that, I'm going to move for a  
motion that we refer this to the Zoning Board of  
Appeals for a variance. As it relates to lot  
number 1 for building B, the rear yard  
requirement is -- excuse me, we were talking  
about the side yard requirement for building B is  
50 foot, the applicant is proposing a zero side  
yard requirement. For building L-6 50 foot is  
required, the applicant is proposing a 46-foot  
setback. For building number L-7 he's proposing

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a 42-foot setback and again the 50 foot is required. Also within that same referral for proposed lot number 2, the rear yard setback is required of 60 feet, he's proposing 50.

MR. DONNELLY: 52 I think.

CHAIRMAN EWASUTYN: 52. Correct. I stand corrected. A 52 foot. One side yard requirement of 50 foot is required, he's proposing a zero-foot setback. For both side yards 100 foot is requested -- required, he's proposing a 7 foot setback. For lot building coverage, 33 percent is allowed, he's proposing a 32 percent coverage. For a lot surface coverage 80 percent is allowed and he's proposing a 90 foot -- 90 percent coverage.

Having heard those I would move for the Board to refer this to the Zoning Board of Appeals.

MR. PROFACI: So moved.

CHAIRMAN EWASUTYN: I have a motion by Joe Profaci.

MR. MENNERICH: Second.

CHAIRMAN EWASUTYN: Second by Ken Mennerich. Any discussion of the motion?

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MR. MENNERICH: Yes. I notice there's several lot lines that have to be removed. Have we -- we haven't acted on those yet.

MR. DONNELLY: No. You're not acting on the subdivision now. You're referring the subdivision components that require variances to the Zoning Board. You will have to consider the subdivision after those variances are obtained, if in fact they are obtained. The last part of the subdivision is the reconfiguration of the residential lots. That does not require variances but will ultimately require your approval.

MR. MENNERICH: But the ZBA would understand that these lot lines are going to be removed in determining their consideration on these variances?

MR. DONNELLY: I think that has to do with the residential lots if I understand it correctly. I don't know that they would be concerned with --

MR. MENNERICH: No. There's some in the main areas.

MR. GRATS: There are a couple

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interior.

MR. DONNELLY: The existing tax map parcels. There is a requirement, I think it may be in the preliminary resolution, that they be consolidated for the purpose of treating this as a single site. I can pass that along with the referral letter if that will straighten things out.

MR. MENNERICH: Okay.

CHAIRMAN EWASUTYN: I have a motion by Joe Profaci. I have a second by Ken Mennerich with discussion. Any further discussion?

(No response.)

CHAIRMAN EWASUTYN: I'll move for a roll call vote starting with Frank Galli.

MR. GALLI: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: And myself yes. So carried.

Number two on the same letter is a referral of the signage plan to the Zoning Board of Appeals for review and approval of required variances. At this time if you would walk us

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through that.

MR. DONNELLY: While they're putting the map up let me just put in context why you're doing it this way. The issue came up recently with another project, and that is when is the best time to refer to the Zoning Board a sign proposal that doesn't meet the area requirements of the Ordinance. In projects like this, given your ARB authority and the design guidelines, you have consistently required that a cohesive sign plan for the shopping center be provided so that there's an appropriate treatment and scale giving due allowance for the requirements of national chains. If, as we had done once before, we were to refer to the Zoning Board the request for the size of the signs without having looked at the cohesive sign plan, the scale and the treatment, then it's misleading to the Zoning Board and to the applicant. We thought it would be a better practice here, and will continue to recommend it in the future, that prior to that referral for the variances for signs that we first reach the point at which we can recommend the cohesive sign plan to you as a Board so that the plan that

1  
2 you're sending to the Zoning Board is in fact one  
3 that meets your requirements of scale and  
4 treatment.

5           The plan that is before you and for  
6 which the referral is being sought is a plan that  
7 is being recommended to you by your consultants,  
8 and I think it's important that if you do refer  
9 this to the Zoning Board that we note that in the  
10 referral. I think it might be helpful if we  
11 actually ask Karen to give some kind of a memo  
12 that explains to them the approach and the  
13 advantages, if I'm not putting too much on her  
14 plate, so that that board can better understand  
15 exactly how we got to where we are.

16           CHAIRMAN EWASUTYN: I believe that's a  
17 reasonable request. Frank Galli?

18           MR. GALLI: Yes.

19           CHAIRMAN EWASUTYN: Ken Mennerich?

20           MR. MENNERICH: Yes.

21           CHAIRMAN EWASUTYN: Joe Profaci?

22           MR. PROFACI: Yes.

23           MR. WILDER: I think before we start,  
24 again the Board and especially the consultants  
25 have been involved in this so much that they

1  
2 really have a good understanding. I want to make  
3 sure the public understands because the word  
4 variance, why are they even entertaining  
5 variances, and especially sign variances. When  
6 we hear the amount of variances that we're  
7 requesting, I just want to make sure that the  
8 public is fully aware of what's happened in the  
9 past and what we're trying to -- what we're  
10 requesting.

11 The sign variance -- some of this is  
12 argument, but the sign variance in the Town of  
13 Newburgh has not been changed for many years and  
14 most developers, commercial space, come in and  
15 ask for sign variances because the amount of  
16 signage you're permitted under the Ordinance is  
17 significantly less than anything that is typical.  
18 The Town Board, for a variety of reasons I guess,  
19 has just not made the change to their Ordinance.

20 So the Ordinance -- the variances that  
21 we're requesting tonight I think we've been going  
22 over with the consultants and they're consistent  
23 with other communities, and actually other  
24 developments in the Town of Newburgh.

25 So with that as a sort of back drop;



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John, are you going to make this presentation? I think the Board has in front of them copies of all this hopefully because it's not easy for the public actually to see it either. Let me turn it over to John Bainlardi.

MR. BAINLARDI: This particular drawing is designated as SW-3 in your package. This is showing the overall site plan with a blowup in the lower left-hand corner of the main entrance to the project at Route 300, and it also has laid out the proposed monument signs, pylon signage and directional signage as well as a proposed directory for the project.

What we're proposing in the way of pylon signage is one pylon sign at the Route 300 entrance which would provide identification of the various major retailers in the center, primarily the tenants who would be occupying the buildings in the back and rear of the property as you get into the project. The height of this particular sign is 28 feet by approximately 20 feet wide. The panels themselves are about 14 feet wide by a total height of 19 feet. We've designed the signs to compliment each other.

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In addition, the pylon sign which is proposed out at Route 300 would be a double-sided sign and would be perpendicular to the roadway so that drivers coming along from either direction would be able to view it easily and identify which tenants are in the center.

In addition to the pylon sign we're proposing a monument sign at the Route 300 entrance which would identify The Market Place of Newburgh center. It will be a shopping center identification placard.

We're also proposing at the two other entrances similar signs on a little smaller scale, monument signs to identify the shopping center at both the Route 300 -- the Route 52 entrance at the roundabout as well as Route 52 at Fifth Avenue.

Within the center itself, as you come along the access drives there are directional site signs which are proposed in the middle here on the right-hand side of the drawing. We're proposing twelve of those signs primarily at the intersections so that as shoppers are coming in and they want to know where the tenants are

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located, the stores they're trying to identify. There will be directional placards so whatever the particular tenant is, retail A is this way, retail B is straight ahead, so on and so forth.

Then the lifestyle center we will have a -- we're proposing four directories. These are pedestrian oriented directories located at key points within the lifestyle center so that for the pedestrian who is out and about and walking through the center they can identify where the different stores are located more readily.

Under the Ordinance we're permitted one -- I believe it's one free-standing sign.

MS. ARENT: Yes.

MR. BAINLARDI: So we're going to require a variance because we're requesting nineteen free-standing signs and -- I'm sorry, it's actually twenty. We'll require a variance for nineteen. Obviously at the entrances it's necessary to have some sort of identification for the public to be able to identify both the shopping center, and particularly at the Route 300 entrance to be able to identify the individual tenants since they won't be readily

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visible from Route 300.

With respect to building signage -- actually I'm going to stop here first and ask if you have any questions regarding the free-standing signs that are proposed?

CHAIRMAN EWASUTYN: Any comments from Board Members. Frank Galli?

MR. GALLI: What size are the free-standing signs, the small placard type that you see?

MR. BAINLARDI: These are -- the directional signs?

MR. GALLI: Right.

MR. BAINLARDI: The directional signs are on a stone base and they are a total height of 7 feet. It's 7 foot 1 inch from the top of the corners down to the base to the ground.

MR. GALLI: Okay.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: No questions.

CHAIRMAN EWASUTYN: Joe Profaci?

MR. PROFACI: No, thank you.

CHAIRMAN EWASUTYN: Comments from Board Members -- Consultants. Karen Arent?

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2 MS. ARENT: I just wrote in my memo  
3 that the project -- these type of signs that the  
4 guidelines -- your Town of Newburgh design  
5 guidelines specifically discourage the use of the  
6 marquee type sign which is that sign that lists  
7 all the tenants in the plaza. The reason that  
8 they are requesting the variance is because none  
9 of these tenants are visible to the public, so  
10 this gives the public a way to know where they  
11 are located so they're not searching for these  
12 tenants. We purposely asked the applicant to  
13 design the plaza in such a way that these big box  
14 buildings aren't immediately visible from the  
15 main roads and the nicer architectural pedestrian  
16 scaled buildings are located more -- closer and  
17 within view of the roads. I just want to make  
18 you aware that that is not, you know, in  
19 accordance with the guidelines but I think  
20 there's a very good reason for their request.

21 MR. BAINLARDI: If I could add, with  
22 respect -- specifically with respect to the pylon  
23 signage, I believe the Ordinance allows for a  
24 sign 35 or 40 feet but we've reduced the sign  
25 down to a total height of 28 feet. I think it's

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a reasonably proportioned sign.

CHAIRMAN EWASUTYN: Bryant Cocks, Planning Consultant, would you like to add anything to this?

MR. COCKS: Yes. The twenty free-standing signs they are going to need a variance for. Also this is going to be included in the total signage calculation for the whole site, then there's going to be -- square footage, yes. They are going to take out a percentage for each different sign and then also percentages for each separate building. They came to a work session and we discussed this and gave out a percentage for each of the big box buildings and for each of the buildings inside the lifestyle center. We're going to try to proportion it out throughout the whole site but it is included in the total square footage.

CHAIRMAN EWASUTYN: And by proportioning it out to the entire site, that would be keeping in harmony with the new guidelines?

MR. COCKS: Yes. We're going to keep smaller signs on the big boxes than they

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originally requested and also try to -- minimize the signs on site but also let each business be able to be seen.

MR. DONNELLY: Part of the approach is to be able to have a consistent sense of scale so that signs are sized to the building in a consistent fashion and there would be a cohesive approach to the signs in the lifestyle center. Quite a bit of time was spent in using both examples and arithmetic to calculate how that works. I think that what is shown is pretty well defined and I think it's something that your consultants recommend to you.

CHAIRMAN EWASUTYN: Frank Galli, any questions?

MR. GALLI: No additional.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: No questions.

CHAIRMAN EWASUTYN: Joe Profaci?

MR. PROFACI: No.

CHAIRMAN EWASUTYN: Mr. Bainlardi, please.

MR. DONNELLY: Did we take action on the subdivision?

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CHAIRMAN EWASUTYN: Yes, sir. There was a motion by --

MR. DONNELLY: I just wanted to make sure. You need to do that on this when you're concluded here.

CHAIRMAN EWASUTYN: There was a motion by Joe Profaci. There was a second by Ken Mennerich. We had discussion by Ken Mennerich and then we had a roll call vote.

MR. DONNELLY: I'll include the tables when I send them the referral letter rather than recite each one.

MR. BAINLARDI: I believe that in Deborah's list we have the building signage being dealt with in the ARB review. Do you want me to defer talking --

MS. POST: We need a variance for that.

MR. WILDER: We should probably do it now.

MR. DONNELLY: I'm trying to remember. There are variances required.

MR. WILDER: Yes.

MR. BAINLARDI: Maybe the thing to do is in the package we have a signage schedule



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which has the signage area calculations.

CHAIRMAN EWASUTYN: Right.

MR. BAINLARDI: I can take you through.

CHAIRMAN EWASUTYN: Let's take that as the overall action.

MR. BAINLARDI: What we're asking for on the exterior roadways is that we be granted a one-half square foot per linear foot of road frontage. We have a total proposed road frontage of 6,609 linear feet. One half square foot per linear foot would give us a total square footage on that section of 3,304 square feet.

In the village center we're proposing one square foot per linear foot of facade. When we add up all of the facades within the lifestyle component we get a total of 5,222 square feet.

Then in the major retailers we went building by building and we did not include the rear of any of these buildings in the calculations. We kept the calculations to those facades which faced the parking area, a public area or a roadway, internal roadway. At building A we ended up with a total facade of 636 linear feet, building B of 671 square feet here,

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2 building C utilizing the two facades at  
3 717 square feet, building D adjacent to it also  
4 using two facades we have 598 square feet,  
5 building E which is this building here, we  
6 utilized the three facades and did not include  
7 the rear which faces the hillside in the back,  
8 and that gave us a total of 1,105 square feet for  
9 that building. Then building 2 here we utilized  
10 three facades and excluded the rear facade, and  
11 that gave us a total of 528 square feet. We  
12 added everything up and we have total allowable  
13 signage of 12,781 square feet. Permitted under  
14 the Code there's 3,304 square feet. So the  
15 difference is what we would be asking for the  
16 variance.

17 We do have elevations of some of the  
18 larger buildings that can illustrate how the  
19 signage would actually play out. These are front  
20 -- the front facades of three of the boxes. Down  
21 below is Costco, which is building E on your site  
22 plan. At the top is Best Buy, which is building  
23 2. Building A here in the middle is J.C. Penney.

24 I think you can see that the proportion  
25 of the signs to the overall square footage of the

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2 facades of each of these buildings is  
3 proportioned and not overwhelming. We did work  
4 with the tenants, Best Buy for instance. Their  
5 prototypical plan would require a sign on the  
6 front of the building closer to 400 square feet.  
7 They reduced it to 236 square feet. We also have  
8 some side elevations for Best Buy. Again, on  
9 their -- for the prototypical signage for Best  
10 Buy they typically want signage on all four  
11 elevations. We indicated to them that it was not  
12 something that the Board would like to see on the  
13 rear of the building. The two sides of the  
14 building face parking lots and/or internal access  
15 roads. Again they reduced those signs down by  
16 about 30 percent.

17 The Costco building is here. They are  
18 proposing signage at their main entrance which is  
19 a smaller sign. Here on the building on this  
20 elevation here is this Costco Wholesale signage.  
21 They have a liquor sales pod here which there's  
22 some small indication of signage to indicate that  
23 that's what that section of the building is.  
24 They have a similar sign to what's on this facade  
25 here on this side of the building. On this

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elevation as well they have the tire center, and similar to what they did with the liquor sales in black bold lettering they have small signage to identify that portion.

Finally the Penneys building which has really three facades. On the rear there's no proposed signage as we've indicated. They do have two entrances, one which will face the lifestyle center and is at the end of the village main street. They have their typical J.C. Penney signage in block lettering.

CHAIRMAN EWASUTYN: Karen Arent, Landscape Architect?

MS. ARENT: I think that their proposal creates a nice way to divide the signs and the square footage of signage for each tenant. It also allows flexibility for the store owners. It also has guidelines that encourage reasonable size and materials that are nice materials for the people to work with. What's nice to see is that it also encourages flexibility for that tenant, especially in the lifestyle center there's like all these different architectural elements and there's different places that signs

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can be put. So it's a nice -- I believe a nice way to plan for the -- a nice plan on how to use the signage within the site.

I do have a couple of comments regarding their tables. For example, on the illuminated sign table there's a reference to internally illuminated channel letters which the guidelines specifically discourage. The Planning Board has not allowed the internally illuminated signs any more, so that would have to be revised. They also reference neon tube illumination, and that would be something else that would have to be taken off of your table.

The only other comment I have is that on The Market Place -- I mean the lifestyle center there's a whole page in the drawing set that describes signage and how it's divvied up and all the guidelines. I think that you should prepare a similar sheet for the big box retails. Instead of having that one page that you have, put it on a sheet that's included with the set of documents so there's no confusion. That little page can be lost. Incorporate the big box guidelines with your lifestyle center guidelines

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because there's nothing in the set of architectural documents that has the guidelines for the big box retail and I don't think anybody would think to look at a page somewhere in the whole -- you know, in the whole -- all the information that we have. I think it should be part of the set of documents.

MR. SILVERMAN: If I might ask a question. I'm Saul Silverman, I'm the Architect for The Market Place. Internally illuminated letters, was the intent of the design guidelines that they were going to disallow or not allow I assume box type signs?

MS. ARENT: Also internally illuminated channel letters is specifically referenced.

MR. SILVERMAN: So individual letters like you would see on any major retailer?

MS. ARENT: That's what the guidelines say. That's why I thought you were coming up with the halo lighting.

MR. SILVERMAN: That is one of the types of lighting we're using. Obviously there will be the halo lighting.

MS. ARENT: The guidelines specifically

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say no internally illuminated channel letters on the signs.

MR. SILVERMAN: So a tenant that has a color letter as its format, a red letter for argument sake, Target, Target would not be allowed?

MS. ARENT: Not any more.

MR. SILVERMAN: Not any more. Okay. The Target store over in the old Ames building?

MS. ARENT: Right. These guidelines were adopted this year.

MR. SILVERMAN: Afterwards?

MS. ARENT: Right.

CHAIRMAN EWASUTYN: Mr. Bainlardi, have you come to a point in time where you can summarize your presentation as far as the referrals that are necessary for the ZBA?

MR. BAINLARDI: Yes. With respect to the overall signage schedule and required variance, allowable signage under the Code is 3,304 square feet. We're asking for a total allowable signage package of 12,781 square feet allocated as previously indicated and laid out in our signage schedule.

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With respect to the free-standing signs, we're asking for a total of twenty free-standing signs and one pylon sign. The twenty individual free-standing signs would consist of one pylon sign at the main Route 300 entrance, four village center directories, twelve directional site signs, one monument sign at Route 300 to identify the shopping center, and then two monument signs at the Route 52/Fifth Avenue and Route 52/Meadow Avenue entrances. Again that would be a total of twenty free-standing signs.

CHAIRMAN EWASUTYN: Thank you. Mike Donnelly, Attorney to the Planning Board, would you like to --

MR. DONNELLY: Again I think it's ready for the referral. I would incorporate that chart into the letter and I would make specific reference with the assistance of Karen's follow-up memo for the methodology that was utilized so that they can readily understand what is being sent to them and why.

CHAIRMAN EWASUTYN: Okay.

MR. DONNELLY: I think it's ready for



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referral.

CHAIRMAN EWASUTYN: So in simple terms, I would be moving for a motion to refer this to the Zoning Board of Appeals for a signage variance. What is allowed under the current site plan is 3,304 square feet. What is being proposed is 12,781 square feet. What is allowable as far as free-standing signs is one. What the applicant is proposing is twenty. Is that the language?

MR. DONNELLY: Yes.

CHAIRMAN EWASUTYN: Okay. Then I would move for a motion to refer this to the Zoning Board of Appeals.

MR. GALLI: So moved.

MR. MENNERICH: Second.

CHAIRMAN EWASUTYN: I have a motion by Frank Galli. I have a second by Ken Mennerich. Any discussion of the motion?

MR. MENNERICH: When this gets referred to the ZBA will they also be getting these documents here?

MS. ARENT: They should be.

MR. DONNELLY: I think they should. I

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don't know -- obviously the applicant is going to provide much of that. I think it would be helpful if again Karen could put together a memo explaining it and include those things if that's helpful.

CHAIRMAN EWASUTYN: Is that what you would like to see, Ken?

MR. MENNERICH: Yes, I would. And certainly they would have to make the changes that Karen already discussed before.

MS. ARENT: That's to the guidelines. It has nothing to do with the variances.

MR. MENNERICH: Okay.

MS. ARENT: If they include the chart they'll have to make the changes to the chart. Yes.

CHAIRMAN EWASUTYN: So you'll be presenting as complete a package as possible for the Zoning Board of Appeals.

MR. BAINLARDI: Yes.

CHAIRMAN EWASUTYN: I have a motion by Frank Galli. I have a second by Ken Mennerich. I had discussion by Ken Mennerich. Any additional discussion by the Board Members?

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(No response.)

CHAIRMAN EWASUTYN: I'll move for a roll call vote starting with Frank Galli.

MR. GALLI: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: And myself yes. So carried.

Item number three is a referral to the Newburgh Town Board for approval of bond amounts with recommendations from the Planning Board.

Karen, I know in reviewing your recent letter you had revised the cost estimate on certified material.

MS. ARENT: I haven't received it yet.

MR. DONNELLY: So then the bond that would be mentioned, item number B on this --

MS. ARENT: They would have to revise that.

CHAIRMAN EWASUTYN: Pat, as far as the review of the site restoration bond --

MR. HINES: We set that amount at the work session. That is in case the site is disturbed and the project for some reason doesn't

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move forward. We've been using a number consistent with the DEC mining regulations of \$4,000 per acre to reestablish vegetation on the site.

I would also note that pursuant to the last project, Section 157-10 B requires bonding of the stormwater management improvements, and that's a number they'll have to work out with Jim Osborne. That should be added as a referral. That discussion came up at our previous work session with Jim Osborne during the water main reviews.

MR. DONNELLY: I think there are a number of other bond items. I think the ones that are listed as being referred now are ones that are not as pegged to the actual cost of infrastructure and are less likely to be subject to changes over time. I think the idea was to refer this small number of them for the Planning Board's -- for the Town Board's, you know, opinion, establishment of the amount. This is not all of the bonding that would be required.

CHAIRMAN EWASUTYN: Mike, how then do we refer item number B? The amount from Karen

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Arent right now may not reflect the true amount for a referral.

MR. DONNELLY: Then I would say it's premature if you're not ready to make the recommendation.

MS. POST: We do have -- Karen was very specific about the items that she wanted us to change. They were basically line items per unit items. We have no problem with those changes. It's just a matter of plugging them in. We would be willing to just flat out accept what Karen has suggested. We just didn't do the calculation. Subject to Karen just approving that we did the numbers correctly, if that would be okay with the Board that's how we'd like to proceed.

CHAIRMAN EWASUTYN: Would that be satisfactory to the Board. Frank Galli?

MR. GALLI: Yes.

MR. MENNERICH: Yes.

MR. PROFACI: Yes.

MR. DONNELLY: Two caveats. One is we'll send them along. The Town Board doesn't usually look at bonding until post approval, but I think it might be helpful for them to look at

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2 it here now. Obviously anything they do will be  
3 subject to eventual modification depending on how  
4 much time goes by between the time they look at  
5 these numbers and the time they're ultimately  
6 posted. We certainly don't have a problem with  
7 the concept. If the Board is inclined, I'll  
8 write a letter that refers it.  
9 CHAIRMAN EWASUTYN: Okay. Is the Board  
10 in agreement with that?  
11 MR. GALLI: Yes.  
12 MR. MENNERICH: Mm'hm'.  
13 MR. PROFACI: Yes.  
14 CHAIRMAN EWASUTYN: Then I'll move for  
15 a motion to refer the bonding amounts for site  
16 restoration, the landscape bond subject to Karen  
17 Arent's review and final approval of the dollar  
18 amount, the well restoration bond to the Town  
19 Board for their review and consideration and  
20 possible approval.  
21 MR. MENNERICH: So moved.  
22 MR. PROFACI: Second.  
23 CHAIRMAN EWASUTYN: I have a motion by  
24 Ken Mennerich. I have a second by Joe Profaci.  
25 Any discussion of the motion?

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(No response.)

CHAIRMAN EWASUTYN: I'll move for a roll call vote starting with Frank Galli.

MR. GALLI: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: Myself yes. So carried.

Item number 4, that being the last item --

MS. ARENT: John, can I ask a question about the bonding? They've requested phased bonding. I wrote in my memo that the Town, if they consider phasing, consider requesting that any plant material on the landscaping that dies in one phase should be replaced before a building permit is issued for the next phase, and it would all be spelled clearly out in an inspection memo. I was wondering if I could send that along to the Town Board saying how the phasing -- that we would recommend the phasing provided that we have these caveats.

MR. DONNELLY: There are some benefits to the Town, and that might be part of the quick

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pro quo that might enable the applicant to do the landscaping on a phased basis. I think that's worthy of consideration.

CHAIRMAN EWASUTYN: Frank Galli, is that reasonable?

MR. GALLI: Yes.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: Yes.

CHAIRMAN EWASUTYN: Joe Profaci?

MR. PROFACI: Yes.

CHAIRMAN EWASUTYN: You'll prepare an outline to the Town Board in reference to considering phasing.

The final item for discussion this evening is the ARB review, and that kind of covers a few items. It covers the street scape for the landscape center, it covers building signage, site signage, site landscaping, building landscaping and building architecture.

I'll listen to your presentation, Mr. Silverman.

MR. SILVERMAN: Saul Silverman. First I'd like to thank the Board for its contributions and the contributions of the consultants in



1  
2 deriving this entire center. What we have before  
3 the Board of course is a multi-faceted retail  
4 center. For the purpose of this Board we'll  
5 leave it just to cover the site plan. I think  
6 the consultants have seen it. I think what we  
7 tried to do most of all was create a sense of  
8 place which we felt that the Town wanted, the  
9 region needed and the developers as well as the  
10 retail tenants that are coming in.

11 We did advise, as Karen mentioned,  
12 softening the entire entrance to have a special  
13 center or a special street scape that would  
14 involve smaller tenants, a village style with a  
15 village center component. That would be the  
16 feature or our jewel. Together with that are the  
17 multi-faceted retailers that we have that are set  
18 in their own section and with the parking lots  
19 that they do require.

20 What we've tried to do -- we've shown  
21 you these drawings last time. This is a better  
22 visualization of the first drawing. They have  
23 shown looking from Route 300 to give you a better  
24 feel of what the materials might be. The board  
25 that we presented last time, and we have back

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2 with us now, gives you the features of the  
3 different materials listed. They are hardy  
4 planks, they are stone veneers that are utilized  
5 throughout to enhance primarily. We've gone with  
6 a traditional design for the village center  
7 because in accordance with not only the Board's  
8 wishes we feel it's right for the area.  
9       When we came to the idea of the major  
10 retailers or the big box tenants that were in the  
11 area, we tried very hard to come up with a  
12 solution that would unite the general feeling of  
13 the big boxes. Utilizing the prototypes of the  
14 different major retailers we tried to incorporate  
15 it through palette, through texture, through  
16 materials and through general ideology, something  
17 that would be harmonious with the center but  
18 solve the retailers' needs. We think that we do  
19 have in many respects two different segments of  
20 this multi-faceted facility. We tried uniting it  
21 with landscaping throughout, and the landscaping  
22 is rather extensive for a project of this type,  
23 and we've done it with a signage characteristic  
24 we've shown before which is basically a  
25 relationship so you always know you're in The

1  
2 Market Place at Newburgh, either if you're a  
3 pedestrian or you're driving in a car. The  
4 signage is very important, especially on the site  
5 to move traffic around because it is a regional  
6 center. It's not a local center where the same  
7 people come every single day and know exactly  
8 where everything is. There must be  
9 identification and there must be movement.

10 As far as the street scapes are  
11 concerned, we presented plans for both the major  
12 retailers on a landscaping and a theory basis.  
13 What we're using is a landscaping of tiers,  
14 softening the building in its attraction or an  
15 attachment to the ground and utilizing the same  
16 type of design for all of the facilities that are  
17 in the big boxes, all right. We have separate  
18 landscaping plans for the signage that is at the  
19 entrance way and it also does -- I'm looking for  
20 that board. Also a series of tiering to welcome  
21 the community. A miniaturization of this will  
22 appear in each of the other entrances. At 52 and  
23 the highway entrance will be a miniaturization of  
24 this. We like to use a great deal of annual  
25 flowers. Deborah is in charge of annual flowers.

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This is the general design format that we do.

We also did some street scape designs for, as requested, our feature area which is the village and the village green. That shows off very well in this photograph and this rendering. There's a meandering walk for privacy and a little bit of isolation for the shopper to seek a little bit of comfort and a little bit of quiet and sit with a baby stroller and have a sandwich. That's in the heart of this center. The objective of this is to create a village. It's a village like a small downtown that will be represented by all different types of architecture, all traditional and geared for the pedestrian, not the automobile.

I heard an interesting term the other day. Because all these centers are designed very similarly, they have some parking on the streets and then they have larger lots on the outside. This parking, believe it or not, is called teaser parking because the idea is to tease you and have you drive through the village. Maybe you'll be lucky enough to find a spot on the street, otherwise you will drift into it. The shopper

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2 has that notion and that idea as they go. We've  
3 tried to create entities within that are  
4 comfortable for the shopper to come to and stay  
5 there for quite awhile. If somebody is shopping  
6 at a Costco store they will do both and they will  
7 move their car. They definitely will do that,  
8 they will move their car because of the distance.  
9 There's a different type of shopper that comes to  
10 load on their goods and at the same time will go  
11 into the village, and that's where they will seek  
12 the sandwich for lunch and sit with their  
13 children and enjoy the outdoors.

14 Each of the sidewalk areas -- I'm  
15 looking for the sidewalk chart. This is a  
16 typical sidewalk that's in a store section. I  
17 think this one happened to be section B or  
18 section A and it was building L-4 and L-5 on the  
19 site plan. We have promised and we've gone to  
20 great detail with Karen that this is the format  
21 for design and will be used on every single one  
22 of the sidewalks. It will be a combination of  
23 concrete and decorative pavers and it will be  
24 done to allow for seating areas protected by low  
25 stonewalls, lighting throughout so that there's a

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2 comfort zone, and that is pedestrian lighting, 14  
3 to 16 feet. Much the same as the guidelines  
4 require. That's what we're utilizing through  
5 this.

6 We're using a series of tree grates to  
7 allow for exposure of the stores and at the same  
8 time privacy to the street. So this, as I said,  
9 is typical, all right, of all of the centers. As  
10 we develop the plans for each and every building,  
11 individual building, whether it's L-7, we will be  
12 doing those plans to coordinate with it. This is  
13 the concept that we will hold to for all of the  
14 submissions.

15 We worked on signage for the center.  
16 The signage in the center, the big box we've  
17 talked about, the major retailers, but the  
18 individuality of signage in the village centers  
19 themselves is very, very important. What we're  
20 trying to do is build a character so we will stay  
21 within a square footage requirement but we have  
22 to be able to give the tenant the flexibility,  
23 i.e. Starbucks, i.e. a specialty store, all  
24 right, that has different types of signage. We  
25 will control all of the signage. No tenant's

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2 sign will be submitted -- it will be submitted to  
3 the developer before it even goes in for a sign  
4 permit. The Town will have the assurance that  
5 the developer understands the cohesiveness of the  
6 design and has to implement it that way. Signage  
7 is very, very important. We see it, whether it's  
8 in New Hope, Pennsylvania or Mystic Seaport, the  
9 carved wooden signs. Items like that. We've  
10 listed types of signs that we like, sandblasted  
11 or carved wooden signs, gold leaf signs, etched,  
12 beveled or sandblasted glass. Those are the  
13 types of signs that we solicit the tenants to  
14 provide. Some will be on brackets so as you walk  
15 down the street it becomes a street scape.  
16 Others will be on the facades of the buildings.  
17 They'll be in script, they'll be in block  
18 letters. The variety is very, very important  
19 that we can expound upon.

20 Other items that we're requested to  
21 look at, building landscaping for the lifestyle  
22 center, the power center. I think we covered  
23 that. The building architecture we elaborated on  
24 for the Board the last time. The general  
25 elevations of a typical section including the

1  
2 handling of the rear of the stores. The object  
3 is to design a center that looks like it's there  
4 and is everywhere so that it's all part and  
5 parcel of a package, it's not just a front facade  
6 and the rest is left to chance. We recognize and  
7 understand that this center, especially these  
8 buildings, are seen from every angle by the  
9 pedestrian and by the motorist. The developer is  
10 agreeing to design the facade of everything as if  
11 there is not necessarily a front.

12 I thank the Board. I would be more  
13 than happy to answer any questions and give out  
14 any other information.

15 CHAIRMAN EWASUTYN: Does the Board have  
16 any questions on the presentation that Mr.  
17 Silverman has just provided us with? Frank  
18 Galli?

19 MR. GALLI: Not at this time.

20 CHAIRMAN EWASUTYN: Ken Mennerich?

21 MR. MENNERICH: I guess I'm just  
22 curious, on the big box stores I had the  
23 impression that you were going to use internally  
24 lighted lettering. Do you have ideas on how you  
25 would do that differently?



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MR. SILVERMAN: As I understand now the relationship of the requirements, Costco for one uses illumination on the building to illuminate their sign. I guess we will try to do the same thing whether or not -- correct me if I'm wrong, a carved wooden letter with a light on it is acceptable but an internally illuminated letter, channel letter is not acceptable?

MS. ARENT: Right. Correct.

MR. SILVERMAN: That's the way we would address it. We'll address it with exterior lighting as we're doing with the site signs. We're basically going to be putting floods in the beds to illuminate them.

MR. MENNERICH: Thank you.

CHAIRMAN EWASUTYN: Joe Profaci?

MR. PROFACI: Nothing now, John.

CHAIRMAN EWASUTYN: Karen, let's begin to discuss what the Board, with your recommendations, can give a conceptual approval to as far as ARB.

MS. ARENT: I think that conceptual approval can be granted certainly for the lifestyle center. They've shown, in my opinion,

1  
2 a very well designed street scape plan with the  
3 boulevard that we asked for and a plaza space.  
4 They have a very aesthetically pleasing facade  
5 developed and a street scape plan. They're  
6 planning to carry that throughout the plaza.  
7 They're asking for conceptual approval of the  
8 design -- of that particular design because they  
9 can't go and design all of the facades right now  
10 being they don't have a tenant yet.

11 The only thing I ask for them to do is  
12 to put a label on the drawing that says that all  
13 the mechanical units will be screened. We don't  
14 know where any of those are going right now.  
15 That's an important consideration in a project  
16 like this.

17 Then wherever rooftop units are  
18 visible, the units will be screened  
19 architecturally. If the units are only  
20 marginally visible they can be screened by the  
21 parapet of the building so they blend with the  
22 architecture. Ground mounted units will be  
23 screened with fences and landscaping. If they'd  
24 put some kind of note on the plan like that, I  
25 think that will be acceptable.

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MR. SILVERMAN: May I interrupt for a second? There's a note on SW-1 which says, "All HVAC equipment will be screened from view at the village center as well as all big box retail."

MS. ARENT: Then you did that. I missed that note.

I didn't really see the elevations for the Costco building. I just saw them now. I didn't really make sure that everything was labeled. I just see the backs of those buildings yet. As long as they're consistent with the front. The Costco building I didn't see the back of, or the J.C -- I think it was J.C.Penneys. Best Buy I saw. That was included in the set of documents.

There are a couple other minor details but I think that they are ready for conceptual approval for actually the three big boxes. I just would want to have a chance to double check all the drawings and make sure that they are consistent with the front facades.

CHAIRMAN EWASUTYN: Bryant, do you have anything to add to that?

MR. COCKS: On the conceptual and

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architecturals I have nothing further.

CHAIRMAN EWASUTYN: Mark Sargent, I haven't forgotten you.

Comments from Board Members. Frank Galli?

MR. GALLI: I think they did a nice job coming forward with the conceptual part of it.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: I'm good.

CHAIRMAN EWASUTYN: Joe Profaci?

MR. PROFACI: I'm good.

CHAIRMAN EWASUTYN: Mike, the language for granting conceptual approval for the lifestyle center, the Costco building, J.C. Penney and Best Buy subject to any final reviews and sign off from Karen Arent, would you care to extend that please?

MR. DONNELLY: I don't think you need any formal resolution. As you know, it isn't really a formal component of your process. However, for us as consultants to begin to review the more detailed plans it's helpful to know what concept will satisfy you, and of course for the applicant when they have to go line up tenants

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2 they need to know what restrictions and what does  
3 work and what doesn't work. I think it's a good  
4 idea. I don't think we need a resolution. I  
5 think the approval will be just as you put it  
6 John, a conceptual approval of the ARB for the  
7 lifestyle and for the big box area subject to  
8 Karen's sign off on those plans. I think it  
9 should have the formality of a vote but I don't  
10 think it needs a specific resolution to be filed.

11 CHAIRMAN EWASUTYN: Thank you. Then I  
12 would move for a motion for conceptual approval  
13 for the lifestyle center, the Costco, J.C. Penney  
14 and Best Buy subject to a final letter from Karen  
15 Arent that that all is satisfactory.

16 MR. PROFACI: So moved.

17 MR. MENNERICH: Second.

18 CHAIRMAN EWASUTYN: I have a motion by  
19 Joe Profaci. I have a second by Ken Mennerich.  
20 Any discussion of the motion?

21 (No response.)

22 CHAIRMAN EWASUTYN: I'll move for a  
23 roll call vote starting with Frank Galli.

24 MR. GALLI: Aye.

25 MR. MENNERICH: Aye.

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MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: Myself. So carried.

Karen, item number A on this is street scape for the lifestyle center and power center. They are asking for final approval of the design concept. What's your recommendation?

MS. ARENT: Final approval of the design concept is fine. The only concern that I would have is that I have a chance to -- this is a Board decision. There has not been an actual landscape plan with species identified on it or anything like that. I would want to have a chance to review that before building permit time. I guess that would be on the site plan.

There are some details that I listed in my memo that have not been submitted yet but they could be submitted after they receive approval.

MR. DONNELLY: Maybe I'm not remembering exactly. I don't know exactly what we mean by final as distinct from concept because it isn't site plan and it isn't final ARB. I thought you just needed an endorsement that this was satisfactory to the Board. What's the

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distinction you're asking for?

MS. POST: We had discussed at the --

MR. DONNELLY: I'm trying to remember.

MS. POST: -- that there were certain items that had been brought to a level where they were really done, and so we wanted to get basically the ARB seal of approval on certain things. For example, the landscaping plan for the entire site, for example, gets an ARB approval or that just comes along with the final site plan approval.

MR. DONNELLY: My memory of what you had is you had specific landscaping for certain areas like the perimeter and what not that was worked out. Of course if there's phasing, that has to be done in most cases initially. You then had concept landscaping for the buildings where you had spacing, mix of species, locations on the site plan dedicated to those things, and I thought you just wanted to get from the Board an indication that from a street scape, and from a landscaping, and from a signage and design point of view that this is a direction that ultimately you're going to be knocking on the door for your

1  
2 final ARB and final site plan approval, that this  
3 concept that you're working toward is one that  
4 you know will pass muster. I don't know exactly  
5 what final concept or final ARB might mean for an  
6 individual component but I don't disagree that  
7 you need to have that policy direction from the  
8 Board. I think you have that. I know I was at  
9 the meeting and I should remember exactly what we  
10 talked about but it's a little fuzzy.

11 MR. BAINLARDI: Could I ask this  
12 question? Let's take for instance the Costco  
13 building. If we've obtained conceptual ARB  
14 approval and then we get to the point where we  
15 get final site plan approval, would final ARB  
16 approval be a condition of that site plan  
17 approval?

18 MR. DONNELLY: There is one site here,  
19 and the first of the perhaps myriad of site plan  
20 approvals, or at least several site plan  
21 approvals will be a site plan for the entire  
22 site. I thought we discussed at the consultants'  
23 meeting that it is conceivable that when you ask  
24 for that conditional final site plan approval  
25 some of the buildings may not yet be fully



1  
2 finalized. As to those you would have already  
3 received some type of conceptual approval. You  
4 would then, as you finalize the tenants and the  
5 actual final design, come for what I would call  
6 an amended site plan approval. It still remains  
7 one site as those buildings come in but there  
8 would not be a case where you got a site plan  
9 approval for one piece or one tenant before the  
10 entire site plan was approved. In other words, I  
11 think there's going to be a single site plan  
12 approval followed in all likelihood by a series  
13 of amendments as tenants are finalized, but in  
14 the meantime you wanted to see a concept for  
15 landscaping for the parking islands, for public  
16 amenities within the walking areas, for the  
17 street scape, for the signs. I think that that's  
18 the direction we're going.

19 CHAIRMAN EWASUTYN: If I understand  
20 correctly, the bonding for the individual box  
21 stores would be separate onto itself also. So in  
22 following the thought concept that we're having  
23 now, I agree with Mike Donnelly, I think what  
24 we'll be doing is really giving a conceptual  
25 approval of the street scape and moving in that

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direction.

MR. GRATS: I think probably the easiest distinction to make is all plants shown on SP-4, which is included in the engineering drawings, and all the plants shown on the landscape series 1 through 7 cover all the plantings that have been discussed at some length. I think we pretty much agreed on names and locations of those as distinct and separate from the original plantings around the big box stores, between the box and the sidewalk and around some of the stores in the lifestyle center.

MR. DONNELLY: Those you've given a sample but not an exact --

MR. GRATS: Right. If we could break out that example. I think this plan, I'm relatively confident, I see Karen nodding, is at a point where we might consider final approval. We always did consider and agree that as those buildings, the actual footprints and siding and treatment and all are finalized, that that conceptual approval, those plants associated with the buildings would be the part that would fall

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into the conceptual.

MR. DONNELLY: I would say it's certainly more specific and more definite but there can not be a site plan approval until you've obtained the various other agency approvals. I think it's good for the public, it's good for you and it's easier for the Board that as we become more and more certain as you develop this plan that you periodically visit the Board and get some idea as to whether you're going in the right direction. The first site plan approval is when you're eligible for site plan approval. I agree that some of it is at a higher level of development and certainty but I don't know that anything is ready for any type of final approval, be it site plan or ARB. I think we're talking about the same thing but the semantics, I don't know that anything is ready for any kind of finality.

CHAIRMAN EWASUTYN: What I would like to do then is for semantics and going back and forth, at this point let's -- I'm going to move for a motion for a conceptual approval of the street scape.

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2 Karen, would you agree with that?  
3 MS. ARENT: Yes, absolutely.  
4 CHAIRMAN EWASUTYN: Bryant Cocks?  
5 MR. COCKS: Yes.  
6 MR. PROFACI: So moved.  
7 MR. MENNERICH: Second.  
8 CHAIRMAN EWASUTYN: I have a motion by  
9 Joe Profaci. I have a second by Ken Mennerich.  
10 Any discussion of the motion?  
11 (No response.)  
12 CHAIRMAN EWASUTYN: I'll move for a  
13 roll call vote starting with Frank Galli.  
14 MR. GALLI: Aye.  
15 MR. MENNERICH: Aye.  
16 MR. PROFACI: Aye.  
17 CHAIRMAN EWASUTYN: Myself. So  
18 carried.  
19 Building signage, we've pretty much  
20 discussed that. We're making the necessary  
21 referrals to the Zoning Board of Appeals for the  
22 variance.  
23 Site signage, I think we pretty much  
24 covered that.  
25 Site landscaping, do you want to just

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go for a conceptual approval of the --

MR. DONNELLY: I think it's conceptual at two levels. There is illustrative samples for landscaping for the buildings that are not yet definite. Yet the landscaping plan for items like the perimeter and the buffer areas, what's to be put along 300, how it's to be preserved during construction, those things are I guess final with a small F in the sense that they are well developed and definite but they're not ready for final action. I think they're all ready for conceptual type review by you at those two levels, one being illustrative, one being well developed, if that's a helpful distinction.

MS. ARENT: And I think that the landscape plan is ready for approval but it's hard to -- we never --

MR. DONNELLY: You can't give anything approval.

MS. ARENT: We don't separate it out ever but it is developed to such a detail that if they had all their outside agency approvals it would be acceptable because they wrote on every single building that the facade landscaping would

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be approved during architectural review. So that's how we were going to handle the --

MR. DONNELLY: I think we're all on the same wave length. My resistance is to calling it final when it's not really final.

MS. ARENT: We never really do that.

CHAIRMAN EWASUTYN: Having heard from Counsel, then I would move for a motion that we grant conceptual approval for the site landscaping.

MR. GALLI: So moved.

MR. MENNERICH: Second.

CHAIRMAN EWASUTYN: I have a motion by Frank Galli. I have a second by Ken Mennerich. Any discussion of the motion?

(No response.)

CHAIRMAN EWASUTYN: I'll move for a roll call vote starting with Frank Galli.

MR. GALLI: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: Myself yes. So carried.

I think that covers all the items

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except for item number 5 and comments from Mark Sargent.

I'm looking for a general consensus from the Planning Board on site lighting.

Karen, I know in part of your review you said they were willing to work with the guideline standards as far as lighting but there may be a need for the big box stores to have light fixtures of approximately 35 foot in height.

MS. ARENT: Yes.

CHAIRMAN EWASUTYN: Bryant Cocks, if you could join together on that. This is just a consensus.

MS. ARENT: They were showing the smaller scale lighting around the pedestrian areas and larger 35 foot tall lights within the big box parking areas.

Along the boulevard you're showing 25-foot high poles.

MR. SILVERMAN: Yes.

MS. ARENT: So they are scaled down along the boulevard. They didn't want to use the pedestrian scale poles on the boulevard because

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2 there would be too many of them they felt, so  
3 they showed 25 foot poles along the boulevard and  
4 the lifestyle center parking areas but 35 foot  
5 high poles for the big box retailers just because  
6 it was a lot less lighting, a lot less light  
7 poles. I felt that was kind of in scale with the  
8 buildings because the buildings are big. I  
9 thought that would be better than having a lot of  
10 poles in the parking lot. That's my opinion.

11 CHAIRMAN EWASUTYN: Bryant Cocks,  
12 Planning Consultant?

13 MR. COCKS: I received the letter today  
14 from the lighting company. It was forwarded to  
15 me by John Bainlardi. They indicated to me if  
16 you drop from 35 foot to 25 foot poles in the big  
17 box parking lot it would be 40 percent more  
18 poles. So it would basically be, you know, a  
19 pole I think every 40 feet now instead of every  
20 60 feet. It would be a significant increase. I  
21 mean in those big parking lots by the big box  
22 lights I think that would be fine. As Karen  
23 indicated, the 25 foot lights are going to go in  
24 the lifestyle center parking lot. Those are kind  
25 of right up in the front of the site, too. The



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pedestrian lights, there would just be an excessive amount of them in the parking lots. So I agree also.

We also have to phase the lighting plan to go along with the phased landscaping plan.

Other than that, just the lighting symbols on the lighting plan, they just came up really small and they were kind of blurry. It was hard to tell what the symbols were for the 35, 25, 20 foot poles. If you guys could just try to make that a little more clear.

MR. BAINLARDI: We're asking and the lighting consultant is changing the scale of the plans. There will be more sheets but they'll be more easily readable.

MR. COCKS: Okay.

CHAIRMAN EWASUTYN: I'm looking for a consensus from the Planning Board in reference to the applicant is proposing 35 foot light posts for the big box stores and 20 foot height light posts for the lifestyle center. Is the Planning Board in favor of that?

MR. GALLI: Yes.

CHAIRMAN EWASUTYN: Ken Mennerich?

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MR. MENNERICH: Just one question on the meandering type of sidewalk. There would be the 20 foot high poles there, too?

MS. ARENT: That's 16.

MR. MENNERICH: Fine. That's fine.

CHAIRMAN EWASUTYN: Joe Profaci?

MR. PROFACI: Yes. With that change it's fine.

CHAIRMAN EWASUTYN: Then we have a consensus among the Planning Board that the proposed light posts for the big box stores of 35 feet, the lifestyle center 25 feet and the pedestrian areas of 16 feet is satisfactory to the Planning Board.

At this point I would like to turn to Mark Sargent from Creighton, Manning who had some questions as far as the site plan.

Mark Sargent.

MR. SARGENT: Okay. I have a letter here dated December 5th written by my colleague, Ken Wersted, a review letter with some site plan comments. I'm not sure if you received it or not but I'll hand deliver it to you tonight. It is in response to a set of plans dated November 9th.

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He recognized that you issued another set of plans after that and you may have addressed some of these comments. I'll just run through them quickly and then if they've already been addressed don't worry about them.

Apparently there was a concern about the number of ADA parking spaces. Specifically at certain buildings we believe there's a shortage.

There are some comments about specific signing and striping. These are not the kind of signs you're talking about, it's traffic control signs. The placement of a few of those signs. Speed limit signs and striping, adding a few notes, adding some stop bars. There were things of that nature which are red lined on here. I won't go through every one because there are a number of them.

There were apparently some raised crosswalks and raised intersections on the plans. We had some thoughts about removing some of those and actually incorporating them into other areas. These should be coordinated with the drainage.

There's a comment here about the total

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parking count. The site plan was off in certain areas.

There are some bus pull-offs that are shown on the plans and we raised the question about is that appropriate. It doesn't look like there are any amenities next to the bus pull-offs, benches and things like that. It would be better just to have a regular curbside bus stop, more sidewalk area with amenities because the sidewalks appear to be narrow in the area of the bus pull-offs.

We wanted a note added to sheet SP-1.1 to make reference to the signal plan, the signal plan on SP-8.

We had some cueing concerns about the major intersection in the middle of the site and we were looking for some cueing analysis there.

Picking up on Bryant's comment about not being able to read some of the sign symbols, we were looking for a legend in the set of plans.

There are some areas on site where it seems like intersection sight distance will be obscured by some of the walls and things. I know there are some walls that will be placed within

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the site but it's going to make it difficult to see if they are too far up, so that needs to be checked.

There's one particular intersection and it is at an askew angle, it is entry road F to building E, the Costco building. You had mentioned how these tenants had specific parking requirements. We would like to talk to you about a possible realignment in there, look at the layout of that intersection a little bit. Let's see here. We were looking for two exit lanes on road A onto the main aisle. There's a single lane now.

There's a couple other references here. Label some existing contour lines which are red lined on here.

We had also reviewed the noise barrier walls. There's reference to a noise barrier but it needs to be spec'd out as an STS-32 heavy wall noise barrier.

Apparently we are looking for some standard traffic signal detail -- details, excuse me. The plans don't include all the details and we need to see those.

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Finally, we are suggesting that there be some mechanism that would allow the Town to come in and work with you in the event that there is a sight distance or traffic control issue on the site, to work with you to resolve it, to fix the sight distance issue or something like that after the site is up and running.

What I would like to do if you don't have this is give you this letter along with the red line comments for you.

CHAIRMAN EWASUTYN: Okay.

MR. GRATS: Just to sum up real quickly, we do have the December 5th letter. We had a consultants' workshop meeting on November 27th. A lot of those comments that Mark just basically went through in the letter are actually addressed in the December 6th set of plans that you have.

There was a question relating to plans and additional mark-ups that Ken was going to forward to us. They got lost in the mail and just ended up getting returned to Ken only a couple days ago, so I'm picking them up tonight which would cover the last ten to fifteen percent

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of the comments. The majority of those were addressed in the December 6th set of plans that you have.

CHAIRMAN EWASUTYN: Why don't you make your submittal tonight and make sure it's been hand delivered and it hasn't been lost. I trust he revised the plans the way he said but all together we'll complete this one more time.

MR. SARGENT: Good.

CHAIRMAN EWASUTYN: Brief summary, update. Outside agencies is part of your list. Do you want to bring us along on that? Is there anything to comment on? Do you have any outside agency approvals at this time?

MR. WILDER: Well --

CHAIRMAN EWASUTYN: Yes or no? I mean it's as simple as that.

MR. WILDER: No.

CHAIRMAN EWASUTYN: Thank you. I wish you all a happy holiday. Good seeing you.

(Time noted: 9:08 p.m.)

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C E R T I F I C A T I O N

I, Michelle Conero, a Shorthand Reporter and Notary Public within and for the State of New York, do hereby certify that I recorded stenographically the proceedings herein at the time and place noted in the heading hereof, and that the foregoing is an accurate and complete transcript of same to the best of my knowledge and belief.

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DATED: January 2, 2008



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STATE OF NEW YORK : COUNTY OF ORANGE  
TOWN OF NEWBURGH PLANNING BOARD

----- X

In the Matter of

NEWBURGH RETAIL DEVELOPERS/PALMERONE FARMS  
(2005-33)  
Route 300 & Route 17K  
Section 97; Block 2; Lot 34  
IB Zone

----- X

SITE PLAN & PHASING PLAN

Date: December 20, 2007  
Time: 9:08 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman  
FRANK S. GALLI  
KENNETH MENNERICH  
JOSEPH E. PROFACI

ALSO PRESENT: DINA HAINES  
MICHAEL H. DONNELLY, ESQ.  
BRYANT COCKS  
PATRICK HINES  
KAREN ARENT  
MARK SARGENT

APPLICANT'S REPRESENTATIVE: KEVIN DOWN

----- X

MICHELLE L. CONERO  
10 Westview Drive  
Wallkill, New York 12589  
(845)895-3018

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CHAIRMAN EWASUTYN: Going back on the agenda one more time, is Kevin Down here this evening? Going back to the second item on the agenda, Newburgh Retail Developers/Palmerone Farms. It's here tonight to discuss a site plan, a phasing plan and what will then be an amended site plan located on Route 300 and 17K in an IB Zone. It's being represented by Kevin Down.

Mr. Down, would you give your presentation.

MR. DOWN: Yes. My name is Kevin Down, River -- excuse me, Newburgh Retail Developers, L.L.C. I'm also joined by Kevin Cubberly, our construction manager.

On November 19th I had submitted to the Board and then provided copies to the consultants with the phasing plan. I followed that up with a letter which had a narrative as far as the phasing of construction for the site. There's been a slight change as far as an increase or a kind of an acceleration of work that's going to be done. The green area is all under construction right now. All of the underground, which includes the conduit, the sewer, the water,

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2 is complete. The Chili's is under construction.  
3 Construction is scheduled to be completed in  
4 March of 2008 with an opening thereafter. We  
5 currently have binder down on the property and  
6 the binder will be striped in the spring before  
7 they open. The wearing course, which is the  
8 final top coat, would be placed in one complete  
9 application in late spring.

10 All of the site lighting, pylon signage  
11 will be fully operational when the Chili's is  
12 open.

13 Seventy percent of the landscaping has  
14 already been installed. The portions that have  
15 not been installed yet are in this area where the  
16 pylon is going to be installed. Also down here  
17 where the rock wall will be installed. It didn't  
18 make sense to put that landscaping in until those  
19 items are complete, which will be in the spring.  
20 There were also a couple of plantings that were  
21 not currently available due to the time of year,  
22 so those will be available in the spring and then  
23 placed.

24 Obviously to get Chili's open in March  
25 of '08 we would be looking for a CO. Bonds are

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in place. There may be a requirement for some other type of bonding for any perimeter landscape around Chili's just because of the time of year.

The red area is the Starbucks. That pad has been delivered to Starbucks but they have elected to start construction in March of '08. We would expect them to be operational in the summer.

The yellow area is Longhorn. This is the one area that is different from my letter. We had originally thought that they were going to start construction in the spring. They actually have now decided to start construction in January. The reason there was a little bit of a hold up with Longhorn, if you follow the trade publications Longhorn was purchased by Darden Restaurants and they had to -- essentially had a quiet period to figure out if they were going to move forward with the project. Fortunately for us they said love the site, want to get going, and have decided to start, as I mentioned, in January. We would expect them to be open and operational by May.

The blue area in the back, which is the

1  
2 rear retail building, we also contemplate  
3 starting construction on that building in January  
4 with completion in May. The entire structure  
5 will be finished with two tenants who would open  
6 in May, Panaro Bread, which is on the end cap  
7 closest to 17K. Next to that would be Verizon.  
8 The balance of the space has not yet been leased  
9 but the building will be finished, the tenants  
10 would come in and do their interior fit up.  
11 Passersby from the outside would not see anything  
12 different than the glassed-in building.

13 The signal work will start in January  
14 and will be fully operational in May.

15 MR. DONNELLY: Are you then abandoning  
16 the need to phase? It sounds like you're back to  
17 building the whole thing again.

18 MR. HINES: They want the CO for  
19 Chili's.

20 MR. DOWN: You get into semantics with  
21 phasing. Phasing to me is for larger projects.  
22 When I had discussions with staff that we were  
23 not going to essentially do a grand opening for  
24 all four buildings at the same time, the  
25 suggestion was made to come back and address it

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2 with the Board. What we're talking about is  
3 instead of opening everybody in May, we're going  
4 to be fully complete with construction early fall  
5 of `08. The three pad tenants out in front,  
6 Chili's, Starbucks and Longhorn, will be open.  
7 The rear building, Panaro and Verizon, will be  
8 open. The building will be complete -- depending  
9 on how leasing goes, I could have everybody  
10 completely open by the fall of `08.

11 CHAIRMAN EWASUTYN: I guess it goes  
12 back to traffic control.

13 MR. HINES: Traffic, landscaping and  
14 the requirements for bonding those improvements  
15 prior to opening the other buildings.

16 MR. DOWN: We do have bonds in place  
17 right now. I believe the one bond for the  
18 landscaping was \$107,000. That was previously  
19 placed with the Town. My understanding on the  
20 bonding would be for perimeter landscaping around  
21 each of the buildings.

22 MR. HINES: And the delay in putting in  
23 the feature at the intersection, the wall which  
24 is currently bonded.

25 I think your expedited construction

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2 schedule as you just explained, which is  
3 different than we heard when we previously met  
4 with you, may take some of the concerns away that  
5 we had, that being that we initially heard that  
6 Longhorn wasn't coming and what that area was  
7 going to look like if nothing was built for two  
8 years.

9 MR. DOWN: That was our big concern,  
10 too. We knew it was a concern for the Town.  
11 Unfortunately when you're dealing with these  
12 national tenants we're subject to what they have  
13 going on. It was really out of the blue when we  
14 were told Longhorn, which we knew was successful,  
15 they were then being sold to Darden.

16 MR. HINES: The concern we heard from  
17 the code compliance supervisor was also internal  
18 traffic control as it relates to construction  
19 equipment in there, being some delineation on the  
20 site so what was open for the general public to  
21 access while Starbucks, Longhorn and the other  
22 buildings were being constructed. There needs to  
23 be some notes and such on the plans how fencing  
24 of those areas will be accomplished.

25 MR. DOWN: We're certainly going to

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2 work with staff and code compliance and the  
3 building officials. If we're talking about  
4 Chili's opening in March and we have construction  
5 going here, we're certainly going to be cording  
6 that off to protect the general public and the  
7 patrons that come to the site. All of your  
8 access points will be in, your site lighting will  
9 be in, all of the underground is done, the pylon  
10 signage will be done. It will just be -- you may  
11 have construction areas. This obviously will be  
12 under construction and these two will probably be  
13 under construction at the same time.

14 MR. HINES: At work session we were  
15 concerned with tying in COs with the work  
16 required. It looks like their construction  
17 schedule may work with accomplishing that  
18 requirement, not issuing the CO for the Longhorn  
19 building until all site amenities are in.

20 MR. DOWN: We certainly have no  
21 objection if staff believes it's appropriate to  
22 increase, modify bonds for the protection of the  
23 Town. We're certainly not going to object to  
24 that.

25 MR. HINES: The code compliance office



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is looking to us and the Planning Board to give them a guide. That's what we're working with right now. That's what we discussed at work session, how to implement these various improvements in the timeframe that fits your construction schedule.

CHAIRMAN EWASUTYN: Karen?

MS. ARENT: It sounds like the stonewall -- the construction of the stonewall which is not bonded could be tied in with the certificate of occupancy for the building that follows Chili's, for the next building on the site. It shouldn't receive a certificate of occupancy until the stonewall is installed. Perhaps that would work now.

MR. DOWN: My only concern with that is again you just get into a timing issue. We have a rough winter and -- I'm not a construction person. You have a rough winter and this wall can't go in or can't be complete until June. My preference would rather be tie it to either the issuance of the CO or we place an appropriate bond with the Town.

MS. ARENT: I was agreeing to the

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C of O for say Starbucks. Starbucks' CO. The next building. Whatever building you want to open after the Chili's. You get the Chili's C of O. Whatever building you want to get after that, the stonewall would have to be installed before you can ask for that C of O.

MR. DOWN: That would be fine.

CHAIRMAN EWASUTYN: Bryant Cocks, Planning Consultant?

MR. COCKS: The only thing we're going to need is just this phasing plan with one sheet with just the list narrative of what's going to be going when. That will just give code compliance one reference sheet instead of having to look at like a narrative. If you can just kind of condense everything onto there.

MR. DOWN: That's fine.

CHAIRMAN EWASUTYN: Can I make a suggestion if the Board agrees with it? As stated earlier, there may be a change as far as the head of the building department. If we think we have enough detail now, maybe we should, either at the next consultants' meeting, have this applicant back to meet with the new code

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compliance officer or within the course of the next one or two weeks, three weeks get together to make sure we have a clear outline --

MR. GALLI: I have no problem with that.

CHAIRMAN EWASUTYN: -- so everything is translated. There's going to be a change in the head of the department. I don't know how to put this all together.

Mike, you're good at words.

MR. DONNELLY: That part is easy. They are going to have to satisfy his concerns. I'm trying to work on the resolution. I think we can call this a phasing resolution.

The first condition will be it's subject to all of the conditions of the original site plan approval. Number two, if I'm listening correctly, it will say the Chili's building shall be eligible to receive a certificate of occupancy whenever construction of that building and all access improvements have been completed to the satisfaction of, and I'll saying the Planning Board engineer, subject of course to code compliance issues as determined by the code

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2 compliance department. Additional bonding to the  
3 satisfaction of the Town Board. Another  
4 condition includes bonding to secure construction  
5 of the stonewall shall be posted before the  
6 Chili's CO is issued. No further certificates of  
7 occupancy shall be issued until the stonewall is  
8 completed to the satisfaction of the Planning  
9 Board engineer.

10 CHAIRMAN EWASUTYN: Karen, you wanted  
11 to make a correction on that?

12 MS. ARENT: I think we can eliminate  
13 the bonding and just tie it into the C of O for  
14 the following building. We do need to collect  
15 landscape bonds for the individual buildings,  
16 too.

17 MR. DONNELLY: That was fixed as part  
18 of the original --

19 MS. ARENT: No.

20 MR. HINES: We also want the traffic  
21 light up. In that January timeframe is what you  
22 mentioned for the traffic control.

23 MR. DOWN: They're going to start the  
24 underground work in January. I don't think all  
25 of the lighting will be -- the arm mast and the

1  
2 actual signal itself won't be there until  
3 probably May.  
4 MR. HINES: Starbucks opening was May?  
5 MR. DOWN: Yes.  
6 MR. HINES: That still works.  
7 CHAIRMAN EWASUTYN: Mark Sargent, would  
8 you like to add to that or educate us on that?  
9 MR. SARGENT: Actually I have more  
10 questions than I do statements.  
11 You have your highway work permit for  
12 your signal?  
13 MR. DOWN: Do we have that?  
14 MR. CUBBERLY: The only thing we don't  
15 have is the contractor has to post it with the  
16 local office, but everything is all set to go.  
17 MR. SARGENT: So your plans are in,  
18 they have been approved?  
19 MR. CUBBERLY: Yes.  
20 MR. SARGENT: There's some final  
21 paperwork.  
22 MR. CUBBERLY: We have to fill in the  
23 name of the contractor and --  
24 MR. SARGENT: Permit to operate and  
25 install, pay the 1,200 bucks annual fee to

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maintain it.

MR. CUBBERLY: I'm not sure about --

MR. HINES: I think the contractor has to post the bond.

MR. CUBBERLY: I don't know what the annual fee is. The local office has approved all the plans for the installation. Once we finalize the agreement with the contractor we'll be able to obtain the permit to do the install.

MR. SARGENT: I'm just curious to know who your contractor is.

MR. CUBBERLY: I forget the gentleman's name. It's a local contractor.

MR. SARGENT: So you'll have that, and you also have the driveway on 17K.

MR. DOWN: With the Thruway.

MR. SARGENT: That's the Thruway?

MR. DOWN: We're going over some Thruway land.

MR. HINES: The Thruway owns it.

MR. CUBBERLY: We're working through the final stuff with the Thruway right now.

MR. SARGENT: Is there some kind of contingency on receiving the permits also in

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there?

MR. DONNELLY: It may have been in the original resolution. It sounds familiar to me.

MR. HINES: The original resolution said if the 17K access wasn't obtainable they would come back and address that.

MR. DONNELLY: This is subject to approval by the New York State Thruway Authority upon written agreement between the applicant and New York State Thruway authorizing access across Thruway Authority lands to the site. Site work may, with the approval and authorization of the Town of Newburgh Code Compliance Department, begin before said approval is obtained. Should the New York State Thruway Authority require changes in either the location or configuration from what is shown on the plans, the applicant must return to the Planning Board for further review.

MR. SARGENT: So it doesn't actually say DOT highway work permit.

MR. DONNELLY: That's a different section. This approval in that condition is subject to approval by the New York State

1  
2 Department of Transportation of the two proposed  
3 driveway utilizations in substantially the same  
4 location and configuration as shown on the plans.  
5 Again, should there be any changes they would  
6 have to return. I think there must be one  
7 regarding the traffic light as well.

8 MR. SARGENT: I guess that would be  
9 part of the permit.

10 MR. DONNELLY: I think that's how we  
11 covered them at that time.

12 MR. SARGENT: So obviously you need  
13 your permits to build your driveways before you  
14 can open the store. Right?

15 MR. DOWN: I need the permits -- I have  
16 my permits here. I'm squared away with the DOT.  
17 It got into an issue of the Thruway did not want  
18 to act, or at least begin to act until the DOT  
19 issued their permits. DOT now issued their  
20 permits. We're back at Thruway going through  
21 their process to cross a 25 -- I think it's a  
22 total of 2,500 square foot pie shape. It's  
23 probably about a 10-foot crossing and it's just  
24 -- it's going through the bureaucracy of getting  
25 that stuff, you know, all in line. This will be



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the main access point. This is a benefit for tenants, patrons, and as I said we're working through the final stuff with the Thruway Authority right now.

MR. SARGENT: I don't see any reason that should hold up the occupancy schedule you're talking about.

CHAIRMAN EWASUTYN: Okay. Comments from Board Members. Frank Galli?

MR. GALLI: No additional. The road is built and in place. All they have to do is take the guardrail down and it's open.

MR. SARGENT: Which road?

MR. GALLI: The Thruway one.

MR. CUBBERLY: 17K.

MR. GALLI: 17K. Everything is in place. The guardrail is covering it.

MR. HINES: Actually the other road is constructed, too.

MR. DOWN: That's already been in. This is in. It's the widening in here for the decel coming in.

MR. GALLI: No additional comment.

CHAIRMAN EWASUTYN: Ken Mennerich?

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MR. MENNERICH: No questions.

CHAIRMAN EWASUTYN: Joe Profaci?

MR. PROFACI: No thanks, John.

MR. DONNELLY: I've revised then the second of those new conditions to say additional landscape bonding for the individual buildings to the satisfaction of the Town Board shall be posted before the Chili's certificate of occupancy is issued. No further certificates of occupancy shall be issued until the stonewall is completed and the traffic light is installed, both to the satisfaction of the Planning Board engineer. Is that how we're going to cover it then?

MR. HINES: That's fine.

MR. DONNELLY: Karen?

MS. ARENT: That's fine.

CHAIRMAN EWASUTYN: Rather than making it subject to a consultants' work session, can the Board move to have Pat Hines meet with Jerry Canfield and Pilford to define whatever --

MR. HINES: Whatever additional notes.

MR. DONNELLY: Do you want me to add that as a condition?

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CHAIRMAN EWASUTYN: Please.

MR. CUBBERLY: I think we would like to meet with them as well.

CHAIRMAN EWASUTYN: That's what I'm saying. Meet as a group. Right.

MR. CUBBERLY: We can work out what we need to to make sure everyone is satisfied.

CHAIRMAN EWASUTYN: So this won't be an amended site plan, this is just --

MR. DONNELLY: It's an amended phasing resolution.

MR. DOWN: We're not changing the site plan.

CHAIRMAN EWASUTYN: Mike, can I move for that motion?

MR. DONNELLY: Yes.

CHAIRMAN EWASUTYN: I'll move for a motion to approve the amended phasing plan for Newburgh Retail Developers.

MR. PROFACI: So moved.

MR. MENNERICH: Second.

CHAIRMAN EWASUTYN: I have a motion by Joe Profaci. I have a second by Ken Mennerich. Any discussion of the motion?

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(No response.)

CHAIRMAN EWASUTYN: I'll move for a  
roll call vote starting with Frank Galli.

MR. GALLI: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: Myself yes. So  
carried.

Thank you.

MR. CUBBERLY: Thank you.

MR. DOWN: Thank you, ladies and  
gentlemen.

(Time noted: 9:25 p.m.)

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C E R T I F I C A T I O N

I, Michelle Conero, a Shorthand Reporter and Notary Public within and for the State of New York, do hereby certify that I recorded stenographically the proceedings herein at the time and place noted in the heading hereof, and that the foregoing is an accurate and complete transcript of same to the best of my knowledge and belief.

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DATED: January 2, 2008

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STATE OF NEW YORK : COUNTY OF ORANGE  
TOWN OF NEWBURGH PLANNING BOARD

----- X  
In the Matter of

IL CENA COLA RESTAURANT  
(2007-45)  
228 South Plank Road  
Section 60; Block 2; Lot 51  
B Zone

----- X  
CONCEPTUAL AMENDED SITE PLAN

Date: December 20, 2007  
Time: 9:25 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

- BOARD MEMBERS: JOHN P. EWASUTYN, Chairman
- FRANK S. GALLI
- KENNETH MENNERICH
- JOSEPH E. PROFACI
- ALSO PRESENT: DINA HAINES
- MICHAEL H. DONNELLY, ESQ.
- BRYANT COCKS
- PATRICK HINES
- KAREN ARENT
- MARK SARGENT

APPLICANT'S REPRESENTATIVE: MARK OLSON  
----- X  
MICHELLE L. CONERO  
10 Westview Drive  
Wallkill, New York 12589  
(845)895-3018

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CHAIRMAN EWASUTYN: The last item of business we have this evening is Il Cena Cola Restaurant. It's a conceptual amended site plan, it's located on 228 South Plank Road, it's in a B Zone and it's being represented by Mark Olson.

MR. OLSON: Good evening. Just a brief description of what we're proposing for this project. There is an existing approximately 3,200 square foot building/restaurant on the site, small parking area to the south of the existing building, and the front of the parcel is pretty well continuously paved out onto the road.

What our proposal is is to add a substantial addition for catering purposes for the same proprietor to run. He would have a restaurant entry separate from the catering facility entry which would be on the other side with more of a formal approach and entry.

We would develop -- our intent is to develop two separate traffic entries, one specifically for the restaurant usage and one specifically for the catering usage in that for catering when you come into the restaurant you

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would want more of a formal entry, more valet parking, that type of thing whereas the restaurant would be less formal.

Our intent to exit the parcel from only one point was to alleviate stacking and congestion on the site, allow stacking along this here to exit onto Route 52 more central to the parcel.

We got several comments on the project being in a conceptual state. We are working on different aspects of these comments on a conceptual basis.

You know, with the wall that we're proposing along the front I know that Karen made the statement that she would like to see the stone. Absolutely. I would agree. This is an illustration here along the bottom of the wall. Our client had a stucco Mediterranean thing going on that he liked but to tie it in with the water table we're proposing on the building -- I would agree.

The elevations are something like this.

We're utilizing a clay tile roof, stucco for the upper walls, stone for the water



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table, developing a portico over the entrance to the catering facility for that formal drop-off valet type of entry.

There was one question with reference to a refuse enclosure.

CHAIRMAN EWASUTYN: I think at this point we have a general idea of the concept and the issues you're touching upon as far as the stonewall. They are all kind of fine but they're really not down to where we should be beginning with this site.

MR. OLSON: All right.

CHAIRMAN EWASUTYN: I'm going to turn to Mark Sargent to review Ken Wersted's items. I know we talked about the need for an actual survey but we have to get down to some hard facts now that are missing.

Mark Sargent.

MR. SARGENT: Okay. I guess Ken faxed you this letter dated December 14th. You answered the first question. He wants to know a little bit more about how the site would function.

Confirming the number of seats, it

1  
2 appears that there's a capacity of 440 people in  
3 total, and the number of employees. This kind of  
4 gets to the issue of traffic and trip generation,  
5 concerns about the radius on site and turning in.

6 MR. OLSON: For the portico I think it  
7 was --

8 MR. SARGENT: The drop off. Even the  
9 radius or radii from 52. You'll have to get DOT  
10 involved. Obviously you know that. Confirming  
11 the delivery vehicle size and characteristics so  
12 that that can be -- make sure that's  
13 accommodated.

14 I also noticed, Bryant, your comments  
15 picked up on the same thing. We have a concern  
16 potentially about parking capacity. It appears  
17 that it meets Code. I'm not really a Code guy  
18 but one space per four seats equates to 110  
19 parking spaces being proposed on site. With the  
20 type of facility that this is we have a sense  
21 that there might be a potential that you could  
22 use up all 110 spaces. I guess we're looking for  
23 a little more information to substantiate that  
24 that's going to be sufficient.

25 Talking with DOT about a highway work

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permit and the landscaping right-of-way, the stonewall sight distance issue. In other words, make sure when you get out to the edge of the road you can see well enough.

You're proposing a two-way driveway and a one-way driveway. We didn't get into that in detail because that overlaps with DOT's review and we don't want to send you in one direction and tell you what you need and have them tell you you need something else. We'll work with them on that.

CHAIRMAN EWASUTYN: Pat Hines?

MR. HINES: I know you have my comments. Conceptually the site currently is not curbed and the Planning Board has a policy that when commercial sites come before them that curbing is required. That's going to force you to have to work with stormwater management a little better also. They have consistently required that of all commercial sites, regardless of the size, and certainly this is much larger than some of the ones that haven't been curbed in the past. That will need to be worked into your concept.

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The flood plain. There is a flood plain along the creek there. That needs to be delineated to make sure you're outside of that or a flood plain development permit will be required. We're looking for that existing conditions plan. I found it difficult to compare what was there versus what was proposed. That would be helpful.

Water and sewer utilities, jurisdictional determination. A lot of these are beyond the concept but I think for concept the existing conditions, the curbing. There are no provisions for stormwater management on the site. You might able to get away with Chapter 9 redevelopment. You can take a look at that. That will be something that needs to be addressed along with the rest of my comments.

CHAIRMAN EWASUTYN: Bryant Cocks, Planning Consultant?

MR. COCKS: Just to echo Mark Sargent's comments, we feel if it's going to be a catering hall, a lot of these events like weddings, people usually come in couples. The one for every four seats plus employee parking might not be enough,

1  
2 especially if the restaurant is going to be  
3 functioning at the same time as the catering  
4 hall. We want to take a hard look at the  
5 parking. There are not really many uses  
6 adjoining the site or anything like that that  
7 would be able to spill over if they could have an  
8 agreement. That's going to be a big issue.

9 As Pat mentioned, there are some  
10 wetlands on site and we're going to need to see  
11 delineation.

12 We're going to need to see some  
13 signage.

14 I notice there were a couple entry and  
15 exit signs. We're going to need the details on  
16 whatever signage will be on there and also on the  
17 building.

18 You discussed the wall with Karen,  
19 about changing that, so that's going to be  
20 adjusted. It just looked like it needed to be  
21 extended on the southern side of the site.

22 For concept that's about it.

23 CHAIRMAN EWASUTYN: Karen Arent?

24 MS. ARENT: I think for concept, I  
25 think you might have mentioned this Pat, but that

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he needs to show some grades to make sure that it works with the curb and existing site features. I have to say it's nice to see that the building is oriented to the pond and the terraces and the decks are overlooking the pond. That would make a nice amenity for the building.

There's a couple things I think Ken should review also. I noticed that the parking area to the south of the building, the dimensions aren't to Code and they look like they're trying to do a one-way circulation system and that it should be angled. It's not the standard 24 width aisles.

I was also wondering about the turning radius inside the site for limos. Like once they go through the canopy to get out -- I don't know if -- it looks like a limo wouldn't make that turn. I would imagine limos are going to be going in there.

I was hoping to see landscaping match the beauty of the interior of the site and for the owner to consider hiring somebody that knows landscaping because I think the inside of that building is really beautiful. It would be nice

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to see landscaping to match your proposed  
architecture as well as the interior.  
Then just to prepare a lighting plan.  
That's it.  
CHAIRMAN EWASUTYN: Comments from Board  
Members. Frank Galli?  
MR. GALLI: No additional.  
CHAIRMAN EWASUTYN: Ken Mennerich?  
MR. MENNERICH: The only thing I was  
wondering is the dumpster location is right by  
the main entrance to the restaurant.  
MR. OLSON: As it is right now.  
MR. MENNERICH: It doesn't sound like  
too good an idea.  
MR. OLSON: I would tend to agree,  
however to enable us to really very well disguise  
the enclosure and not have it be a separate  
building, take up space in the parking lot, it's  
how he operates now. We were able to pretty much  
enclose it in very similar construction so it's  
well disguised.  
MR. MENNERICH: Okay.  
CHAIRMAN EWASUTYN: Joe Profaci?  
MR. PROFACI: Nothing at this time.

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CHAIRMAN EWASUTYN: I guess you're going to have to bring some qualified people on board to work with you on this.

MR. OLSON: Mm'hm'.

CHAIRMAN EWASUTYN: Okay. I think at this point we'll wait to get revised plans before we go to concept.

MR. OLSON: Thank you.

(Time noted: 9:40 p.m.)



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C E R T I F I C A T I O N

I, Michelle Conero, a Shorthand Reporter and Notary Public within and for the State of New York, do hereby certify that I recorded stenographically the proceedings herein at the time and place noted in the heading hereof, and that the foregoing is an accurate and complete transcript of same to the best of my knowledge and belief.

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DATED: January 2, 2008

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STATE OF NEW YORK : COUNTY OF ORANGE  
TOWN OF NEWBURGH PLANNING BOARD

----- X

In the Matter of

MID-VALLEY AMALL  
(2001-13)

ZBA Variance/Planning Board Resolution

----- X

BOARD BUSINESS

Date: December 20, 2007  
Time: 9:40 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman  
FRANK S. GALLI  
KENNETH MENNERICH  
JOSEPH E. PROFACI

ALSO PRESENT: DINA HAINES  
MICHAEL H. DONNELLY, ESQ.  
BRYANT COCKS  
PATRICK HINES  
KAREN ARENT  
MARK SARGENT

----- X

MICHELLE L. CONERO  
10 Westview Drive  
Wallkill, New York 12589  
(845)895-3018

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CHAIRMAN EWASUTYN: We just have one item to discuss this evening. Dina, do you want to bring that on board?

MS. HAINES: The first one is Mike Donnelly for the Mid-Valley Mall regarding signage and the ZBA variance.

MR. DONNELLY: This related to that issue we spoke of earlier of the timing of the cohesive sign plan and the discussion we had last week. I've prepared a resolution that I called an approval of the cohesive sign plan and ARB. It essentially says that the cohesive sign plan is hereby approved -- I'm sorry. The cohesive sign plan hereby approved shall govern this site and all individual stores within the site. Notes should be added to the site plan referencing a requirement that all signs throughout the mall shall be governed by the approved cohesive sign plan. Limited exceptions for national franchise operations may be considered in the future, and we have a condition that references the original site plan approval. You discussed this last week. This was the issue about having done this out of order and how we got a little out of

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2 whack. They presented a cohesive sign plan.  
3 Although it might be as wonderful as you would  
4 like, it does not utilize the full extent of the  
5 size variances granted by the Zoning Board and it  
6 has, under the circumstances, been recommended to  
7 you as something that you consider approving.

8 CHAIRMAN EWASUTYN: Okay. So at this  
9 point I believe what's being held up here is  
10 there's an application to put up a sign for  
11 Planet Fitness. Jerry Canfield needs to hear  
12 back from the Board on this.

13 MR. DONNELLY: I'll send him this  
14 resolution.

15 MS. ARENT: The date of the cohesive  
16 sign plan would be 11/30/07.

17 MR. DONNELLY: Thank you.

18 CHAIRMAN EWASUTYN: Do we need to move  
19 for a motion? Do you want to one more time  
20 present that for the Board?

21 MR. DONNELLY: It will reference the  
22 original site plan and impose a requirement that  
23 all signs in the mall for all individual stores  
24 must comply with the terms of that cohesive sign  
25 plan that Karen has just told us is dated

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November 30, 2007.

CHAIRMAN EWASUTYN: I'll move for that motion.

MR. GALLI: So moved.

MR. MENNERICH: Second.

CHAIRMAN EWASUTYN: I have a motion by Frank Galli. I have a second by Ken Mennerich. Any discussion of the motion?

(No verbal response.)

CHAIRMAN EWASUTYN: I'll move for a roll call vote starting with Frank Galli.

MR. GALLI: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: And myself yes.

Who is going to contact --

MS. ARENT: I'll contact them. I can e-mail them.

There's copies of the cohesive sign plan. Would you like them for your record or do you want him to mail them in?

CHAIRMAN EWASUTYN: What do you recommend?

MS. ARENT: I would just take them

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right now.

CHAIRMAN EWASUTYN: You are?

MR. TANDY: Patrick Tandy from DLC  
Management.

MS. ARENT: One for your records and  
one for Jerry.

CHAIRMAN EWASUTYN: Give the balance to  
Dina. Does anyone on the Board want one? Give  
them to Dina and we'll distribute them. One goes  
to Jerry, the balance we'll put in everyone's  
box.

MS. HAINES: All right.

CHAIRMAN EWASUTYN: Thank you so much  
for your patience.

Does everyone want to go home? I'll  
move for a motion that we close the Planning  
Board meeting of the 20th of December.

MR. GALLI: So moved.

MR. MENNERICH: Second.

CHAIRMAN EWASUTYN: I have a motion by  
Frank Galli. I have a second by Ken Mennerich.  
I'll ask for a roll call vote starting with Frank  
Galli.

MR. GALLI: Aye.

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MR. MENNERICH: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: And myself. So  
carried.

(Time noted: 9:45 p.m.)

C E R T I F I C A T I O N

I, Michelle Conero, a Shorthand  
Reporter and Notary Public within and for  
the State of New York, do hereby certify  
that I recorded stenographically the  
proceedings herein at the time and place  
noted in the heading hereof, and that the  
foregoing is an accurate and complete  
transcript of same to the best of my  
knowledge and belief.

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DATED: January 2, 2008





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STATE OF NEW YORK : COUNTY OF ORANGE  
TOWN OF NEWBURGH PLANNING BOARD

----- X  
In the Matter of

BERLIN, L.L.C.  
(2006-30)  
Route 17K and Skyers Lane  
Section 89; Block 1; Lot 32  
B Zone

----- X

SITE PLAN

Date: January 3, 2008  
Time: 7:00 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman  
FRANK S. GALLI  
CLIFFORD C. BROWNE  
KENNETH MENNERICH  
JOSEPH E. PROFACI

ALSO PRESENT: DINA HAINES  
MICHAEL H. DONNELLY, ESQ.  
BRYANT COCKS  
PATRICK HINES  
KAREN ARENT  
GEORGE ZOUTIS

APPLICANT'S REPRESENTATIVE: JOHN QUEENAN

----- X

MICHELLE L. CONERO  
10 Westview Drive  
Wallkill, New York 12589  
(845)895-3018

BERLIN, L.L.C.

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CHAIRMAN EWASUTYN: Good evening, ladies and gentlemen. I would like to welcome you to our first meeting of the new year, January 3, 2008.

At this time we'll call the meeting to order with a roll call vote.

MR. GALLI: Present.

MR. BROWNE: Present.

MR. MENNERICH: Present.

MR. PROFACI: Here.

CHAIRMAN EWASUTYN: Myself present.

The Planning Board has experts who make recommendations to the Planning Board in reaching various SEQRA determinations. I'll ask that they introduce themselves at this time.

MR. DONNELLY: Michael Donnelly, Planning Board Attorney.

MR. HINES: Pat Hines with McGoey, Hauser & Edsall, Consulting Engineers.

MR. COCKS: Bryant Cocks with Garling Associates.

MS. ARENT: Karen Arent, Landscape Architectural Consultant.

CHAIRMAN EWASUTYN: Thank you. At this

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time I'll turn the meeting over to Cliff Browne.

MR. BROWNE: Rise and join us.

(Pledge of Allegiance.)

MR. BROWNE: Would you please turn off your cell phones, et cetera. Thank you.

CHAIRMAN EWASUTYN: The first item of business this evening is Berlin, L.L.C. It's a site plan located on Route 17K and Skyers Lane, it's zoned B and it's being represented by Keith Berlin.

MR. QUEENAN: Good evening. My name is John Queenan from Lanc & Tully Engineering representing the applicant. Also here with me tonight is Mr. David Wieboldt, the architect -- the applicant's architect; and the applicant, Mr. Keith Berlin.

We're before you tonight once again with a site plan for a 6,000 square foot commercial building located along Route 17K in the B Zoning District.

We were before you previously in September of last year with the same site plan. Since that time, just to give a brief presentation, we've updated the plan to address

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all the previous consultants' comments from that time.

The overall site hasn't changed with the exception that the building now has -- the Dunkin Donuts has been reduced in size to 2,000 square feet and we've added another retail user within the internal layout of the building. The overall square footage of the building has not changed, and we've revised the parking calculations to that effect.

We're before you tonight to hopefully advance the site plan to a preliminary approval with a SEQRA determination, if that's possible, and to begin the Architectural Review Board process.

CHAIRMAN EWASUTYN: Very good.

Mike, is there anything, before I turn to our consultants, that would prohibit us from making a SEQRA determination?

MR. DONNELLY: I don't think any of the comments that we heard during work session would prohibit us from doing that.

MR. HINES: They've addressed our stormwater management concern which was the major

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outstanding item the last time.

CHAIRMAN EWASUTYN: Bryant Cocks?

MR. COCKS: All of our site comments have been addressed and they don't have any variances.

CHAIRMAN EWASUTYN: Karen Arent?

MS. ARENT: The only thing would be the architecture, that has to be in accordance with the guidelines.

CHAIRMAN EWASUTYN: Let's start with comments from our Drainage Consultant, Pat Hines.

MR. HINES: We have a couple comments. The water system layout provides laterals to each of the individual users. That's not going to be permitted by the Town. One lot, one service, one meter. You'll have to internally meter that however you want.

The fire flow -- fire protection needs to be set up so when the potable water is turned off the fire flow -- the other way around. The fire flow is turned off the potable water is also turned off. I can provide you the detail. I think you may have it in your office, John.

MR. QUEENAN: That's not a problem.

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MR. HINES: You have a thrust block schedule. Thrust blocks aren't allowed. All restraining joint pipe is required, and a chart for the restrained joint pipe needs to be added to the plans.

Similarly, the standard notes for the water and sewer need to be on the plans.

We're looking for a design report for the pump stations because you are pumping against and existing force main, just to make sure that that functions within range so that your pumps aren't fighting with the existing pumps in the force main.

The stormwater management report that was submitted, they've addressed our previous comments and that's acceptable.

The hydrant location should be signed off by the jurisdictional fire department.

There's also a requirement not in my comments, that was in my earlier comments, that the City of Newburgh flow acceptance letter is required for the sanitary discharge.

MR. QUEENAN: I had prepared that. I sent that in, I think back in July.

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MR. HINES: Doesn't surprise me.

MR. QUEENAN: They do have it.

MR. HINES: Okay. That will be required to be received.

CHAIRMAN EWASUTYN: When you said you sent in, who did you send it to?

MR. QUEENAN: I sent it to Jim Osborne.

CHAIRMAN EWASUTYN: May I make a suggestion that you follow up, because at some point in time a final determination can't be made until we have a sign off from the City.

MR. QUEENAN: Sure. I will.

MR. HINES: That's all our comments.

CHAIRMAN EWASUTYN: Comments from Board Members in reference to Pat Hines?

MR. GALLI: No.

MR. BROWNE: Nothing on that.

MR. MENNERICH: No.

MR. PROFACI: No.

CHAIRMAN EWASUTYN: Bryant Cocks, Planning Consultant?

MR. COCKS: The engineer's and surveyor's seal and signature have to be on the plans prior to the next submission.

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You guys addressed all of our comments regarding the lot layout.

The rest of our comments are about either architecture or signage.

Just one comment on the pylon sign. Is that internally illuminated?

MR. QUEENAN: It won't be.

MR. COCKS: Okay. It just wasn't detailed on that.

Then you guys provided the lighting at sixteen feet as requested. We would just -- I know Karen is going to discuss this also. We're just going to see if you could make it a little more, I don't know -- just the box a little nicer. Use a different detail.

MR. QUEENAN: You mean a different fixture?

MR. COCKS: Different fixture, yes.

The rest are regarding the architecture, so I guess we'll wait for that.

CHAIRMAN EWASUTYN: Since Bryant was talking about and now we know it won't be an illuminated sign, let's walk through the standards for signage.



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MS. ARENT: On this site there's several different -- all the buildings will need a sign as well as the pylon sign on the outside, so we ask for you to develop a signage chart and include that on the architectural drawings as well as the site plan that allocates the square footage of signage for each business. The reason why we do this is because your proposed signage is going to exceed the allowed signage because you're only allowed 82 square feet of signage and your pylon sign I think takes up almost 60.

MR. QUEENAN: We're going to be revising that. We discussed it after your comment. We're going to make it -- once we do the chart --

MS. ARENT: Okay. If you do need Zoning approval the Planning Board will look at your proposed signage guidelines and chart and then recommend that you go to the Zoning Board if you need it.

MR. QUEENAN: Okay.

MS. ARENT: I listed in here different ways that you can prepare this chart.

Also list on the guidelines what

1  
2 materials the signs will be made out of as well  
3 as the source of lighting, the type of lighting.  
4 That also applies to your pylon sign because you  
5 have to show whatever lighting that you're  
6 proposing to light that sign with. If it's  
7 ground mounted or if it's -- you have to just  
8 show that on the plans.

9 MR. QUEENAN: Okay.

10 MS. ARENT: And then I have a lot of  
11 comments about landscaping. I think I clearly  
12 spelled it out so that whoever is preparing the  
13 plan will be able to understand what to do.

14 And then as far as the lighting, I also  
15 think that it would be nice to see a more  
16 ornamental light fixture, one that would go with  
17 the new building that will be proposed that's in  
18 accordance with the design guidelines. Maybe the  
19 engineer and architect can work together to  
20 develop site lighting or building lighting.

21 MR. QUEENAN: Is there a particular  
22 type of light that you've used in the past in  
23 Town?

24 MS. ARENT: There have been lights we  
25 used in the past you can look at. Like there was

1  
2 another project, not here, but they used a nice  
3 fixture. We can look at whether that would work  
4 with your building or not.  
5 MR. QUEENAN: Okay.  
6 MS. ARENT: I also noticed on my  
7 previous notes that we talked during the Planning  
8 Board meeting about making sure your stonewall  
9 aligns with the stonewall on the Pilot site.  
10 MR. QUEENAN: Okay.  
11 MS. ARENT: Can you show us on the plan  
12 where the stonewall is on the Pilot site so that  
13 we know?  
14 MR. QUEENAN: I'm sure I can get the  
15 end of that wall.  
16 MS. ARENT: That would be great.  
17 CHAIRMAN EWASUTYN: I think Ken  
18 Wersted, our Traffic Consultant, made that  
19 original comment. Correct?  
20 MS. ARENT: Yes, I think so.  
21 The rest of my comments are in  
22 reference to the architecture.  
23 CHAIRMAN EWASUTYN: Okay. You have an  
24 idea of that. Let's begin discussing ARB.  
25 MR. QUEENAN: Sure. I'll turn it over

1  
2 to -- Dave and I will handle both.  
3 One quick question. Pat, the building  
4 is not going to be sprinklered. It won't have  
5 any sprinkler system.  
6 MR. HINES: Yes, it will.  
7 MR. DONNELLY: Newburgh Code.  
8 MR. QUEENAN: Is that the Code?  
9 MR. HINES: Yes.  
10 MR. QUEENAN: Thank you. That was  
11 easy.  
12 MR. DONNELLY: That was a quick  
13 argument.  
14 MR. WIEBOLDT: Typically there will be  
15 one trunk --  
16 MR. HINES: One sprinkler coming in.  
17 The potable water will T off. The valve to turn  
18 the sprinklers off will be between the main and  
19 where the potable water Ts off. I can give John  
20 Queenan the detail.  
21 MR. WIEBOLDT: One sprinkler valve to  
22 handle the whole building?  
23 MR. HINES: Yes.  
24 MR. WIEBOLDT: So one tenant will  
25 basically have access to that valve?

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MR. HINES: That will be outside so that the only way you can turn the sprinklers off is to turn the potable water off to the whole building. It reminds people that their sprinklers are off, to turn them back on.

MR. WIEBOLDT: Within the building there's not three separate sprinkler valves?

MR. HINES: No.

MR. WIEBOLDT: Okay. As far as the architectural review, this building was developed back in June, so it was basically at the same time that your design guidelines came out so it was done really without any idea the design guidelines applied to this building. Obviously there's some very significant discrepancies with what the guidelines are to what the building is.

This building was developed as a takeoff of the prototype of the Dunkin stores and we tried to, inherent in the design of the building, to take the essence of what they were doing as a Dunkin store. That kind of basically brings to us where we are.

The colors that are shown -- that's not necessarily what we had planned. The plotting

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2 didn't quite bring them out. The photographs on  
3 the side with the oranges and the dark browns and  
4 the beiges are what the Dunkin colors are. We  
5 would like to keep with that color scheme if  
6 possible to be able to have some corporate  
7 identity with the program. That's kind of where  
8 we are so far with the architectural review. I  
9 know Karen had some comments that I saw earlier  
10 today.

11 CHAIRMAN EWASUTYN: I think one of the  
12 important elements, going back to the signage,  
13 based upon our Code that cup would be considered  
14 signage.

15 MR. WIEBOLDT: Okay.

16 MR. BERLIN: We'll just remove it.

17 CHAIRMAN EWASUTYN: Just a matter of  
18 conversation.

19 MS. ARENT: Should I go over the --

20 CHAIRMAN EWASUTYN: I think they have  
21 your list.

22 MS. ARENT: You have the list; right?

23 CHAIRMAN EWASUTYN: I don't know if we  
24 want to take the time now to go back and forth  
25 over that list. Do you want to?

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MR. WIEBOLDT: Sure.

CHAIRMAN EWASUTYN: The purpose of that would be?

MR. WIEBOLDT: Generally I think to get an idea of just the process we can do to kind of get this before the Board as quickly as possible.

CHAIRMAN EWASUTYN: You want to start defining it a little more closely?

MR. WIEBOLDT: Right.

CHAIRMAN EWASUTYN: All right. Let's go through.

MS. ARENT: I'll just list the guidelines. Create a clear distinction between the buildings root, body and base to reduce the appearance of the building's mass. The base of the building should appear heavier than the rest of the building. Use similar colors, textures and other materials, facade articulation techniques to enable new development to blend in. Utilize traditional building materials such as fieldstone, brick or wood, stucco, not synthetic. Facade treatments for new buildings should be consistent with those in the area. Avoid the use of excessive use of glass. Use colors that blend

1  
2 with the surrounding natural environment and  
3 surrounding traditional buildings. Avoid use of  
4 high intensity colors that are metallic or  
5 fluorescent. Use gable roofs with the minimum  
6 pitch -- we've had another project where this  
7 minimum pitch of 8 over 12 did not work, so you  
8 could just show us that it doesn't work. If for  
9 some reason it doesn't work on your building and  
10 you can propose another pitch, just illustrate  
11 why, if it doesn't work, it doesn't work.

12 MR. WIEBOLDT: The gable roof with  
13 gable ends. We're not talking about a hip roof?

14 MS. ARENT: You can use a hip roof. It  
15 might work good on your building since you're  
16 facing -- it would help create a nice look from  
17 the road.

18 MR. WIEBOLDT: Okay.

19 MS. ARENT: And then flat roofs only  
20 use as secondary roofs. The one concern that  
21 maybe the Planning Board should think about that  
22 I had when Mr. Wieboldt was describing what they  
23 would like to do is the use of the standard  
24 Dunkin Donut colors aren't really in accordance  
25 with the traditional buildings in the Town.



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Those colors I don't think are traditional. Is it more of a tan color? That's something that might be discussed. I know the Pilot building right next door has a lot of brick in it. I didn't know if that's something you want to carry through with this or use stone or something like that.

MR. WIEBOLDT: I brought the -- I'll drop these off. The three colors on the top are the Dunkin colors, the orange and the dark brown and the beige. That's the corporate colors. I'll drop a sample off with you.

CHAIRMAN EWASUTYN: Cliff Browne had a comment in reference to colors. This may be an opportunity to discuss it now. Cliff.

MR. BROWNE: One of the things I've observed is that some colors, based on the color itself and materials it's made out of, fades rather quickly. In a year or two I could see this thing being pretty ugly. Personally I think it's terrible. My personal opinion.

With that, I perceive that the colors that you're using here, and I've seen a lot of Dunkins that really fade bad quick, particularly

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2 the oranges and pinks and so on. That brown I'm  
3 almost sure is going to fade really quick unless  
4 you have something that's really durable and that  
5 you can show that will last for ten years. Most  
6 things will not last that long. Most of them are  
7 just going to fade out and be ugly really quick.  
8 So then it comes down to okay, if you can't kind  
9 of guarantee it's not going to fade out what are  
10 you going to do as far as maintaining the  
11 appearance so it doesn't look old in a year.  
12 That's what I see happening with these things.  
13 From my perspective, from our Town, I think we  
14 need as a Board to make sure that the buildings  
15 that go up stay good looking for a long period of  
16 time because you're going to put this thing up  
17 now and the Town will be stuck with this thing  
18 for thirty years. It will be there and we're  
19 going to be looking at this thing for  
20 thirty years. So in thirty years I would like it  
21 to look as good as it does the first day it's put  
22 up.

23 MR. WIEBOLDT: In response to that, I  
24 know Dunkin has a really aggressive policy of  
25 making their properties -- keeping their

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2 properties up and they have a periodic upgrading  
3 and things.  
4 MR. BERLIN: Every ten years they're  
5 doing it. Now they're creating incentives for  
6 doing it every seven years just to refresh them  
7 quicker. That's the most current image out.  
8 They are trying to sort of copy Starbucks. I'm  
9 not a fan either, however I don't have any  
10 choice. They're using hardy plank now which is  
11 something they never used before. That's a  
12 concrete vinyl siding type of material. It's a  
13 paintable surface. By doing that, conceivably if  
14 it starts to fade, and because Dunkin is raising  
15 their standards, that in five years you can just  
16 paint it now versus having to replace and take  
17 down and make a tremendous expense. That's why  
18 they're trying to make it easier for us now  
19 because the costs are so prohibitive in redoing  
20 these buildings. That's why it was every ten  
21 years. They're trying to like use Drive-It type  
22 of materials, a synthetic stucco type of thing.  
23 They're paintable now where before they were very  
24 porous and it just wasn't a good material. So  
25 they can refresh the buildings quicker and

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2 maintain them and that doesn't happen, or it  
3 shouldn't happen is the key. They were just  
4 trying to eliminate, you know, split faced block.  
5 They fade, you can't do anything when it gets  
6 graffiti. This is the newest. It's hardy plank  
7 and Drive-It material so they're paintable  
8 surfaces. You just paint right over it and then  
9 move forward.

10 MR. BROWNE: Are you familiar with what  
11 he's talking about?

12 MS. ARENT: Hardy plank, yeah.

13 MR. BERLIN: It's as good as it gets.

14 MS. ARENT: They're showing metal  
15 siding but hardy plank is acceptable.

16 I just wanted to mention that the  
17 Starbucks that is coming to Town, they showed us  
18 architectural drawings of an all brick building.  
19 Nothing like what we're seeing here.

20 MR. BERLIN: What was all brick?

21 MS. ARENT: The Starbucks. When they  
22 presented their building, their building on the  
23 corner of 300 and 17K, it was an all brick  
24 building.

25 CHAIRMAN EWASUTYN: Frank Galli, any

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comments?

MR. GALLI: No additional.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: The concept of using hardy board versus the sheet metal I think is really worth considering.

MR. BERLIN: I think this is a little behind. We've had a further conversation about that that -- obviously this isn't current where it should be but we were considering and we already talked about running the hardy plank the whole building, and then you were talking about stone, getting some sort of pretty veneer stones to see if we can place them in there just to snazz it up a little bit prior to any of these conversations.

CHAIRMAN EWASUTYN: Stop for a second. Michelle, do you have the names of everyone speaking?

THE REPORTER: Yes. Thank you.

MR. WIEBOLDT: I can tell you with the revisions it's certainly going to change the materials on the building. Things are going to change significantly with the new design

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standards.

CHAIRMAN EWASUTYN: Joe Profaci?

MR. PROFACI: And you are open to installing other than a flat roof, something with a pitched gable roof or a hip roof?

MR. WIEBOLDT: We'll be looking as far as the design standards. Yes.

MR. PROFACI: Okay.

CHAIRMAN EWASUTYN: Do you want to wrap it up for now?

MS. ARENT: I think that we went over everything. The only thing is to show the air conditioning units. Make sure they're well screened, and the condenser units. The site plan with the gable roof --

MR. DONNELLY: It will be a condition of the resolution that you can't build them unless they are shown on the site plan if they are outdoor on the ground. So you need to show them. If they are on the roof you have to show that.

MR. BERLIN: Can I just make a comment? The hardy plank material is fine? If we wanted to run the whole building in that, that's okay?

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MR. GALLI: It's a lot better than the metal.

MR. BERLIN: We past that. As I said, the plans were not current. We're going on to do that, make it hardy plank on that side of the building. It's better.

MR. MENNERICH: Hardy board also looks better when you have a pitched roof, too.

MR. BERLIN: It's a beautiful product. And the Drive-It, like I said, you can manipulate it a lot better than we used to be able to. That's why we can make coins and pretty things on the building to make it look nice, and some decorative stones. Then the fact if it fades you just take a roller with the proper material and roll it on and it's fresh.

MR. WIEBOLDT: I notice the design standards prohibit synthetic stucco. That is the Drive-It material. Is there a reason for that?

MS. ARENT: If you think something is not working and you can prove that's what your solution is, it's long lasting -- these are guidelines. The Planning Board -- I don't want to speak for them.

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MR. BERLIN: It's an industry standard.

MS. ARENT: We usually ask you to prove why. Like on that gable roof they say pitch it 8 to 12. On another project it was too big of a building, the roof would have been really, really high. The architect just drew what it looked like, so he proved why he couldn't do it.

MR. HINES: The other thing is I've been informed that you've applied for a clearing and grading permit on the site for some 1,500 yards of material which is under the threshold of the Planning Board approval. I think that's premature with your outstanding DOT permits and the other issues that we need to address on the site. There's a concern what that site would look like should it not be built, the timeframes of where you're going to go from here. Knowing the amount of fill you need on the site versus what you're applying for now, I think it's premature.

MR. BERLIN: What happened is we had an opportunity to get fill because we need 4,000 cubic yards, as you know. We had an opportunity to get it so we -- for free. It was just --



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that's why I followed the protocol and asked how I go about doing it without causing any ill effect on anybody.

MR. ZOUTIS: I have your application. I think at this stage of the project we should be sitting on it. You're in SEQRA. How is this going to be stored on the site? What's it going to look like? You're going to be going for over double the amount eventually.

MR. HINES: We've issued those or allowed them to be issued and processed. There was one permit outstanding. You don't have a DOT permit for your access road.

MR. QUEENAN: Not yet.

MR. HINES: You would need that for a clearing and grading permit. I think you're a little bit ahead of yourself. I just wanted to let the Board know that was occurring and we were recommending against that.

CHAIRMAN EWASUTYN: John, you're going to follow up with Jim Osborne as far as a City flow acceptance letter for sewer?

MR. QUEENAN: Yes.

CHAIRMAN EWASUTYN: I'll move for a

BERLIN, L.L.C.

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motion from the Board to declare a negative  
declaration for the Berlin, L.L.C. site plan.

MR. GALLI: So moved.

MR. MENNERICH: Second.

CHAIRMAN EWASUTYN: I have a motion by  
Frank Galli. I have a second by -- Ken Mennerich  
was that?

MR. MENNERICH: Yes.

CHAIRMAN EWASUTYN: Any discussion of  
the motion?

(No response.)

CHAIRMAN EWASUTYN: I'll move for a  
roll call vote starting with Frank Galli.

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: Myself yes. So  
carried.

It's discretionary with the Planning  
Board as to if they deem it necessary to have a  
public hearing for site plans. I'll move for a  
motion now from the Board to see if they want to  
have a public hearing. Frank Galli?

BERLIN, L.L.C.

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MR. DONNELLY: John, you may have done that at the August meeting.

MR. BERLIN: We did that already.

CHAIRMAN EWASUTYN: I apologize. Thank you.

All right then. I'll move for a motion from the Board to grant preliminary approval for Berlin, L.L.C.

Mike, do you want to give us conditions on that, please?

MR. DONNELLY: Sure. You don't have any problem with -- I wasn't sure if we were ready for that.

CHAIRMAN EWASUTYN: I think that's what --

MR. HINES: Just preliminary and then we're going to work out these other technical issues with the sewer and water.

CHAIRMAN EWASUTYN: That will blend in with what we were saying earlier this evening as far as final approval. Final approval and ARB will go hand in hand, so we have to complete both tasks that evening.

MR. DONNELLY: Okay. We'll need sign-

1  
2 off letters from Pat, Karen and Bryant's comments  
3 from this evening. We'll need a City of Newburgh  
4 flow letter, DOT approval. We will incorporate  
5 the narrative that was part of the application  
6 that specifies the use of Dunkin Donuts without a  
7 drive-in into the resolution itself. Ultimately  
8 we'll need a landscape security, a stormwater  
9 improvement security. The condition I mentioned  
10 earlier about outdoor fixtures and amenities  
11 needs to be shown on the plans.

12 CHAIRMAN EWASUTYN: For preliminary?

13 MR. DONNELLY: Yes.

14 MR. HINES: The legal agreements for  
15 the future access to the adjoining site.

16 MR. DONNELLY: Right now it's owned by  
17 the same owner; right? Am I correct? Do you own  
18 the adjoining property that shows the  
19 interconnection?

20 MR. BERLIN: No.

21 MR. DONNELLY: No. What I think is  
22 proposed is this applicant is making provision to  
23 connect such that when the other applicant comes  
24 in they'll be able to use it. I don't know that  
25 we can bind that other applicant until they're

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before us.

MR. HINES: Not the other one. I want to make sure this one has the ability to make -- if somebody puts a Starbucks next to it they may frown on that.

MR. DONNELLY: The problem is to record the document you would need them to sign off over there. I think the map note and the provision is the best we can ask for at this point.

MR. HINES: Okay.

CHAIRMAN EWASUTYN: Any comments from the Board Members as far as the conditions for preliminary approval. Frank Galli?

MR. GALLI: No additional.

MR. BROWNE: No.

MR. MENNERICH: No questions.

MR. PROFACI: No.

CHAIRMAN EWASUTYN: Having heard conditions for preliminary approval from our attorney, Mike Donnelly, I'll move for that motion.

MR. PROFACI: So moved.

MR. MENNERICH: Second.

CHAIRMAN EWASUTYN: I have a motion by

BERLIN, L.L.C.

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Joe Profaci. I have a second by Ken Mennerich.  
Any discussion of the motion?

(No response.)

CHAIRMAN EWASUTYN: I'll move for a  
roll call vote starting with Frank Galli.

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: Myself yes. So  
carried.

Thank you.

MR. BERLIN: Thank you very much.

MR. QUEENAN: Thank you.

(Time noted: 7:27 p.m.)

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C E R T I F I C A T I O N

I, Michelle Conero, a Shorthand Reporter and Notary Public within and for the State of New York, do hereby certify that I recorded stenographically the proceedings herein at the time and place noted in the heading hereof, and that the foregoing is an accurate and complete transcript of same to the best of my knowledge and belief.

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DATED: January 7, 2008

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STATE OF NEW YORK : COUNTY OF ORANGE  
TOWN OF NEWBURGH PLANNING BOARD

----- X  
In the Matter of

JCM GRANITE  
(2006-40)  
162 Route 17K  
Section 94; Block 1; Lot 61  
IB Zone

----- X

CONCEPTUAL SITE PLAN

Date: January 3, 2008  
Time: 7:28 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman  
FRANK S. GALLI  
CLIFFORD C. BROWNE  
KENNETH MENNERICH  
JOSEPH E. PROFACI

ALSO PRESENT: DINA HAINES  
MICHAEL H. DONNELLY, ESQ.  
BRYANT COCKS  
PATRICK HINES  
KAREN ARENT  
GEORGE ZOUTIS

APPLICANT'S REPRESENTATIVE: JONATHAN CELLA

----- X

MICHELLE L. CONERO  
10 Westview Drive  
Wallkill, New York 12589  
(845)895-3018



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CHAIRMAN EWASUTYN: The next item of business this evening is JCM Granite. It's a conceptual site plan located on Route 17K in an IB Zone. It's being represented by Jonathan Cella.

MR. CELLA: The existing parcel is 1.1 acres with an existing 3,000 square foot steel building on it which we're proposing to add a 1,000 square foot addition to and construct an additional 4,800 square foot two-story building in the front of the parcel.

The project plans show adequate parking and access to Willow Street in the rear and 17K on the south side of the parcel.

Since last time we've been here we have started with the drainage work. We know there are comments on that and we were looking to address them with our next submission.

We are in the process of working with the DOT in getting their approval. The access that we're showing now, we have talked to them and they have directed us to limit our access onto 17K. That's why we're constructing the access onto Willow Street in the rear. If we

1  
2 haven't cleared it up there's a parcel in between  
3 ours which won't let us get onto Cochection  
4 Avenue.

5 CHAIRMAN EWASUTYN: When you say they  
6 won't let you --

7 MR. CELLA: We don't own it.

8 CHAIRMAN EWASUTYN: Okay. And they're  
9 not willing to provide --

10 MR. CELLA: No. They're not going to  
11 give us anything.

12 CHAIRMAN EWASUTYN: Let's start with  
13 the drainage. Pat Hines.

14 MR. HINES: We received a brief  
15 stormwater management report that did not give us  
16 the inlet/outlet discharge for the detention  
17 pond. The outlet control structure needs to be  
18 depicted on the plans and modeled in that report.

19 As Jonathan just said, DOT approval for  
20 the access as well as the tying in on the  
21 utilities in their right-of-way will be required.

22 A City of Newburgh flow acceptance  
23 letter.

24 The jurisdictional fire department  
25 needs to weigh in on the site.

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There's some grading issues in a couple spots on the site, grading along Willow, and then there's a 504 or 502 contour issue on the site.

We talked at work session about the retaining wall along the entire eastern property there and what that was going to look like. There's going to be a need to have an elevated retaining wall holding up the site parking from the lower ground next door.

There will be a need for guiderail fencing and what that will look like.

Karen and I talked at work session on whether the grading could be done to reduce the amount of fill to eliminate that retaining wall. I think you're filling to chase the water over to the detention pond.

MR. CELLA: That's correct.

MR. HINES: There may be some kind of under parking storage that may be able to be implemented on the site to reduce that amount of fill. Eliminating the retaining wall may save you enough to make the under parking storage work. We're asking you to take a look at that both for the aesthetics and for the drainage.

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I have a comment regarding the proposed stonewall. Typically dry stonewalls are required rather than the masonry artificial stonewall that you're looking to propose. You can take a look at that.

I know Bryant is going to talk about access to the building, putting a courtyard between the two.

Handicap parking. The handicap parking is a significant distance away from the entrance to the proposed new building. I think Bryant is going to talk to you about maybe rotating the entrance of the building so they're facing each other. That may help.

The buildings will need to be sprinklered. Potable water and fire flow system standards will be required.

Curbing details, pavement details, retaining wall details, guiderail details and the roadway pavement section.

There's a note on there that says Willow Lane will be extended and built to Town specs. That's not shown to be wide enough for Town specs.

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MR. CELLA: All right.

MR. HINES: If the existing roadway is that wide you'll need to get Jim Osborne and Darrell Benedict to sign off on the less than Town specification for the width. We'll need to have the details of that Town road section put on the plans.

That's our comments so far.

CHAIRMAN EWASUTYN: Bryant Cocks, Planning Consultant?

MR. COCKS: As Pat was saying, we are making the suggestion that maybe since the showroom is facing the back of that building, maybe flip-flop the proposed office building and put a little courtyard in there kind of facing each other. I think it will bring the site together and also make a little area for people to eat their lunches during the summertime. I know the back of the building will then be facing 17K, so I mean it's going to have to be dressed up to make it look nice from the road. I think you really have an opportunity to make a nice little area in there and also mitigate some of the impacts out in that fenced-in outdoor storage

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on the back half of the site.

There's also the dumpster location that was put in the back of that site. It was also fenced in. I was asking is the front building also going to be using that since it's locked and gated?

MR. CELLA: They would be using the same. We could provide access to it.

MR. COCKS: Okay. As Pat said, the handicap spaces are right in the middle of the front row of parking and to get in the front entrance of that building it's kind of far.

MR. CELLA: We do have additional parking. We can split the handicap between the --

MR. COCKS: You guys do have four additional parking spaces so you do have a little leeway there.

Pat was mentioning the grade change.

With the row of parking right there, that will also need to be screened in accordance with design guidelines. I don't know how much area you're going to have there to screen it with the guiderail and fencing and whatever is going

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to be done. I don't know what's going to happen when that's revised.

Just a surveyor's seal and signature on the survey sheet instead of an engineer's seal and signature.

If you would submit the architectural as soon as possible. The Planning Board is going to start looking at them at the same time as giving final approval, so we want to see that as soon as possible now.

We're going to need to see a lighting plan in accordance with the design guidelines that that be 16 feet or less.

CHAIRMAN EWASUTYN: Jonathan, comments on some of Bryant's comments?

MR. CELLA: It was mainly on Pat's. I had one question if I could ask. We're under an acre of disturbance and we were hoping that per DEC guidelines we didn't have to provide the water quantity, just the quality. That's what we're proposing at this point.

MR. HINES: I'm okay with that.

MR. CELLA: All right.

MR. HINES: I think it will benefit

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your client to take a look at the amount of grading you're doing to chase the water around the site. Maybe that under parking infiltration system or something to that effect. Ultimately you're going to need to convince DOT to accept the flow.

MR. CELLA: Okay.

CHAIRMAN EWASUTYN: Any comments from the Board Members as far as the --

MR. GALLI: I have a comment. What's the purpose of making Willow Avenue wide enough like a Town road if you don't have access to Cochection Avenue?

MR. CELLA: The DOT is only going to allow us to make right-hand turns in and right-hand turns out of the lot, so we have to come out onto Willow Street to get --

MR. HINES: They have to drive on Cochection. They can't get into the site from Willow.

MR. CELLA: There's a strip of land in here --

MR. HINES: About fifteen feet wide.

MR. CELLA: -- that has access directly



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to Cochection.

CHAIRMAN EWASUTYN: Cliff Browne?

MR. BROWNE: I had the same question.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: No questions.

CHAIRMAN EWASUTYN: Joe Profaci?

MR. PROFACI: No questions.

CHAIRMAN EWASUTYN: Karen Arent?

MS. ARENT: As we were speaking, my comment number one basically says for you to draw a detail of all the things you're going to need in this tiny sliver of little land. I'm not sure you're going to be able to fit screening, which is a requirement. You might want to consider Pat's suggestion and the regrading.

MR. CELLA: Okay.

MS. ARENT: I don't think that you're going to even have room for the trunk of a tree by the time you finish really showing the curb, the guiderail, the fence, the stonewall, et cetera. So if you could take a look at that. Also show screening once you do that. You have a little slope. Just plant that entire strip of screen planting as well as some street shade

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trees for the parking area.

The stonewall detail should be drawn. It just -- if you do eliminate the retaining wall then you don't have to worry about how the stonewall will relate to the retaining wall. You are showing the stonewall directly in front of the retaining wall and that didn't make sense to me. So if you eliminate the retaining wall, comment number 2 could be -- part of that could be eliminated.

I do want you to think about having the four-foot high stonewall in front of the building, whether or not you want to drop it so you can see the building from the road. The stonewall is basically to hide the parking. Maybe if you do eliminate the retaining wall here, part of the stonewall runs up the side of this property because that would provide some of the screening we're looking for, as long as you can get it up to a high enough level. I would think about not really having it or lowering it in front of the building. I'm assuming it's going to be -- it will be nice architecture you want to show off rather than hide. I would use

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the money more to screen the parking area. Do something else with the money.

CHAIRMAN EWASUTYN: You had a comment as far as needing details on that proposed six-inch -- six-foot picket fence.

MS. ARENT: The fencing needs to be detailed.

The height of the storage needs to be listed on the plan because it can not exceed the height of the fence. You just have to say maximum height of storage will not exceed, I guess it's six feet is the height of your fence.

MR. CELLA: Right.

MR. HINES: Eight feet.

MS. ARENT: Can the fence be eight feet?

MR. HINES: It's in the IB Zone.

MS. ARENT: So you might want an eight-foot fence for higher storage.

MR. HINES: There's a requirement to screen your storage. I know some of your material may be --

MR. McMORROW: Maybe seven-and-a-half feet. I was thinking about when we finished

1  
2 grading too, we don't want the fence looking like  
3 it's way up against -- as high as the building.  
4 That was my only thing. An eight foot is fine.  
5 CHAIRMAN EWASUTYN: Let me interrupt.  
6 For the record, can you give your name, please?  
7 MR. McMORROW: John McMorrow.  
8 MR. CELLA: He's the applicant.  
9 CHAIRMAN EWASUTYN: He's the applicant.  
10 This is the Stenographer.  
11 MS. ARENT: I was also asking you to  
12 provide some plantings on the outside of that  
13 fence to soften it from the paper Willow Street  
14 in case that does some day go through.  
15 To provide a lighting plan. To refer  
16 to the design guidelines when you're picking  
17 fixtures. Like Bryant said, they have to be  
18 sixteen feet and decorative. It should be  
19 coordinated with the architecture of the  
20 building, so whatever you're doing try to  
21 coordinate the fixtures with the style of the  
22 building.  
23 The sign on the building will need  
24 Architectural Review Board approval.  
25 You have a dumpster inside an enclosed

1  
2 area. I was wondering if you needed the -- I  
3 don't even think they need the screening of the  
4 dumpster. They are showing screening and a  
5 chain-link fence in front of it. Since it's  
6 totally enclosed you might just show steel  
7 bollards so that the dumpster can't hit your  
8 fence. Besides that you don't need any  
9 screening.  
10 That's it.  
11 CHAIRMAN EWASUTYN: Comments from Board  
12 Members. Frank Galli?  
13 MR. GALLI: No additional.  
14 CHAIRMAN EWASUTYN: Cliff Browne?  
15 MR. BROWNE: With the comments that  
16 have been made are there any of the comments that  
17 would drive anything that would cause this plan  
18 not to be conceptually complete at this point?  
19 MR. HINES: If conceptual is the two  
20 buildings and the parking lot layout, I think it  
21 works fine. The grading and the technical  
22 details need to be worked out.  
23 MR. BROWNE: They're all technical?  
24 MR. HINES: If the size of the  
25 buildings work. I don't know if they're going to

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try to swap that building or the entrance. The building footprints aren't going to change.

MR. BROWNE: Flopping the building around and the retaining wall comments, regrading or whatever?

MS. ARENT: My concern would only be if they can't do it with -- if they can't eliminate their retaining wall I'm not sure they're going to be able to screen the parking.

MR. BROWNE: If they can't screen the parking then it can't work?

MS. ARENT: Not according to all the design guidelines and everything. That would be the only concern. If they could eliminate the retaining wall they'll be able to screen the parking.

You have a four-foot high wall and fence on top of that.

MR. BROWNE: If we grant a conceptual, what we're saying now is from a plan standpoint this is okay with the exception of a few technical details we can work out. So if that can't work out then the concept can't work. Is that right?

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MR. HINES: Right.

MS. ARENT: Right. True.

MR. BROWNE: Okay.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: No questions.

CHAIRMAN EWASUTYN: Joe Profaci?

MR. PROFACI: No questions.

CHAIRMAN EWASUTYN: Is the E.A.F. Part  
1 complete so we can declare our intent for lead  
agency?

MR. COCKS: Yes.

CHAIRMAN EWASUTYN: I guess the  
question that Cliff Browne was raising that  
brought a smile to your face, are you confident  
that you can make this project work based upon  
the grades. Understand something, we can't move  
forward on this based upon the design guideline  
standards if we don't have screening along  
Cochecton Road. It won't go any further if you  
can't make that work. I don't know how much you  
gain if you walk away with conceptual approval  
right now. We will circulate for intent for lead  
agency. It's really in your hands as you think  
you can make this work.

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It seems like the question, Jonathan, really is the grading and why you're grading the site the way you are. We have a general understanding of what Pat is saying, if you didn't grade it this way you could do away with a lot of that retaining wall, you could come up with natural screening. It's more engineering comments that you're more competent to answer than we are.

MR. CELLA: We were proposing the pond because it would be cheaper to construct. We could eliminate the pond and use storage under the parking lot for the stormwater management.

MR. HINES: If you can save the need for the retaining wall there would be a significant savings in site development costs there.

MR. CELLA: It may balance out, like Pat is saying. That would definitely eliminate the retaining wall.

CHAIRMAN EWASUTYN: What is the Board's position at this point?

MR. BROWNE: My feeling is that if he can commit to that I don't have a problem with



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the concept. My problem personally is I don't want to approve a concept that's not going to work.

CHAIRMAN EWASUTYN: We could always rescind the motion.

MR. BROWNE: That's true.

MR. DONNELLY: Sure.

MR. HINES: On that two-dimensional plan the concept works, the flat sheet of paper there. The buildings don't need to move, the parking count works, it has no variances.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: Nothing.

CHAIRMAN EWASUTYN: Joe Profaci?

MR. PROFACI: Nothing.

CHAIRMAN EWASUTYN: I'll move for a motion then to declare our intent for lead agency, to grant conceptual approval, and if you would supply plans to Bryant Cocks for circulation to the Orange County Planning Department.

MR. PROFACI: So moved.

CHAIRMAN EWASUTYN: I have a motion by Joe Profaci.

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MR. BROWNE: Second.

CHAIRMAN EWASUTYN: I have a second by  
Cliff Browne. Any discussion of the motion?

(No response.)

CHAIRMAN EWASUTYN: I'll move for a  
roll call vote starting with Frank Galli.

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: Myself. So  
carried.

MR. CELLA: Thank you.

(Time noted: 7:48 p.m.)

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C E R T I F I C A T I O N

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DATED: January 7, 2008

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STATE OF NEW YORK : COUNTY OF ORANGE  
TOWN OF NEWBURGH PLANNING BOARD

- - - - - X

In the Matter of

LANDS OF DZIEWIATOWSKI  
(2007-06)  
296 Forest Road  
Section 1; Block 1; Lot 118  
AR Zone

- - - - - X

CONCEPTUAL SKETCH PLAN  
TWO-LOT SUBDIVISION

Date: January 3, 2008  
Time: 7:48 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman  
FRANK S. GALLI  
CLIFFORD C. BROWNE  
KENNETH MENNERICH  
JOSEPH E. PROFACI

ALSO PRESENT: DINA HAINES  
MICHAEL H. DONNELLY, ESQ.  
BRYANT COCKS  
PATRICK HINES  
KAREN ARENT  
GEORGE ZOUTIS

APPLICANT'S REPRESENTATIVE: HOWARD WEEDEN

- - - - - X

MICHELLE L. CONERO  
10 Westview Drive  
Wallkill, New York 12589  
(845)895-3018

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CHAIRMAN EWASUTYN: The next item of business is the lands of Dzewiatowski. It's a conceptual sketch plan for a two-lot subdivision located on Forest Road in an AR Zone.

Howard.

MR. WEEDEN: Mr. Chairman, thank you. I wish the Planning Board good luck in the coming year of 2008.

I'm trying to reconfigure this subdivision so we can cut out the existing house out of the farm parcel. If you remember, the last time we came here we had another lot over to the side. I got permission from the Planning Board to take it to the Zoning Board of Appeals. Unfortunately I needed County approval to have the barn sticking into the right-of-way which they wouldn't give. I tried to reconfigure this to save the barn.

In looking at the consultants' comments it looks like I'm not going to be able to do that. I don't know how you want to proceed with this. I'll have to check with my client and see how he wants to -- see if he would reconsider taking down the barns again. It looks like we're

1  
2 not going to get the house cut off unless we do  
3 that.  
4 CHAIRMAN EWASUTYN: What's the cross  
5 roads here?  
6 MR. HINES: Whose comment is preventing  
7 that?  
8 MR. WEEDEN: Bryant.  
9 CHAIRMAN EWASUTYN: Bryant, do you want  
10 to elaborate on your comment?  
11 MR. COCKS: You lose your existing barn  
12 during subdivision. I mean they would still ask  
13 you to take it down because it's going to be in  
14 the County right-of-way. Just the one right at  
15 the tip.  
16 MR. WEEDEN: There's a barn right here.  
17 MR. COCKS: It wasn't even shown on the  
18 new plans but on the old ones it was still shown.  
19 MR. WEEDEN: Yes.  
20 MR. COCKS: I mean once you subdivide  
21 the one house off you're going to lose all the  
22 existing --  
23 MR. HINES: One of the barns went away?  
24 MR. WEEDEN: No. It's still there. I  
25 didn't show it because --

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MR. COCKS: That was the one that was in nonconformance.

MR. HINES: We're back to everything works on paper.

MR. DONNELLY: Just so I understand Howard, the Zoning Board said that they would only grant the variance if the County consented to the continuation of the barn in their right-of-way and the County wouldn't so you couldn't get the variance?

MR. WEEDEN: That was a Planning Board requirement, that I have the County approval to have the barn sticking into the road dedication. We have to give 25 feet from the center line and when we do that the front 3 feet of the barn is in the 25-foot strip.

MR. HINES: We have in the past jogged them around existing structures.

MR. WEEDEN: I've done it in the past also.

CHAIRMAN EWASUTYN: The setback?

MR. HINES: The dedication strip.

MR. DONNELLY: As long as the municipality that's going to accept the

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dedication approves it. I think that was the intent of what we had said.

MR. HINES: Did you ask the County that?

MR. WEEDEN: I can contact Pat Kennedy and do that and then we'll go back to the original plan and go to the Zoning Board of Appeals after we get Pat Kennedy's approval.

MR. HINES: That may be your course of action. I know the County has jogged right-of-ways around existing structures.

MR. WEEDEN: I've done it before myself.

MR. HINES: I think that would be your course of action. Whether you get the one lot or two lots, I don't care. If you ask that question.

MR. WEEDEN: If it's okay with the Planning Board I would like to proceed with that and jog around the barn.

CHAIRMAN EWASUTYN: Bryant?

MR. COCKS: If the County allows it, yeah.

MR. GALLI: I have no problem.



1  
2 MR. BROWNE: Fine.  
3 MR. MENNERICH: Yes.  
4 MR. PROFACI: Fine.  
5 MR. WEEDEN: Thank you very much.  
6 MR. HINES: I had a question. There  
7 was a recent subdivision on this parcel? Is that  
8 the case?  
9 MR. WEEDEN: The reference maps were  
10 for the 1978 subdivision down here and 1979  
11 subdivision. The 2005 map is a septic system  
12 design by Roger Ferris.  
13 MR. HINES: That's fine.  
14 CHAIRMAN EWASUTYN: We can't consider  
15 conceptual approval.  
16 MR. HINES: I think he's going to come  
17 back with another lot.  
18 MR. DONNELLY: Actually, I think you  
19 did give conceptual approval. Let's wait and  
20 see.  
21 MR. WEEDEN: I'll keep the Planning  
22 Board posted on that.  
23 CHAIRMAN EWASUTYN: Just cc us on any  
24 correspondence you have with Pat Kennedy.  
25 (Time noted: 7:53 p.m.)

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C E R T I F I C A T I O N

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DATED: January 7, 2008

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STATE OF NEW YORK : COUNTY OF ORANGE  
TOWN OF NEWBURGH PLANNING BOARD

----- X  
In the Matter of

LANDS OF FRATTO  
(2007-12)  
885 Orchard Drive  
Section 1; Block 1; Lot 51.1  
AR Zone

----- X

TWO-LOT SUBDIVISION

Date: January 3, 2008  
Time: 7:53 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman  
FRANK S. GALLI  
CLIFFORD C. BROWNE  
KENNETH MENNERICH  
JOSEPH E. PROFACI

ALSO PRESENT: DINA HAINES  
MICHAEL H. DONNELLY, ESQ.  
BRYANT COCKS  
PATRICK HINES  
KAREN ARENT  
GEORGE ZOUTIS

APPLICANT'S REPRESENTATIVE: HOWARD WEEDEN

----- X

MICHELLE L. CONERO  
10 Westview Drive  
Wallkill, New York 12589  
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CHAIRMAN EWASUTYN: The last item of business this evening is the lands of Fratto. It's a two-lot subdivision located on Orchard Drive in an AR Zone. It's being represented by Howard Weeden.

MR. WEEDEN: This is a two-lot subdivision on Orchard Drive just south of Cronk Road. There's an existing house on the large lot.

We've done a septic system and engineering on the smaller lot for the proposed dwelling.

CHAIRMAN EWASUTYN: Bryant Cocks?

MR. COCKS: We sent this to the Town of Plattekill because it's right on the border. They had no comment on the subdivision plan. They just accepted us as lead agency.

The driveway on lot 1 is going to need highway department approval. They did move the two driveways closer to one another and are utilizing the single curb cut but it's right on the property line so there's going to have to be an agreement there.

They're just going to need an

1  
2 engineer's and surveyor's seal and signature.  
3 That was it.  
4 CHAIRMAN EWASUTYN: Pat Hines?  
5 MR. HINES: You have a culvert shown, I  
6 think it's a sixteen-inch or -- it wasn't a  
7 conventional size. The driveway culvert.  
8 MR. WEEDEN: Yes. I'll change that.  
9 MR. HINES: A deed restriction for the  
10 area to remain undisturbed provided to Mike  
11 Donnelly's office.  
12 We're suggesting that the licensed  
13 surveyor stake out the well and septic because  
14 both of those are located at the minimum  
15 separation from the property line.  
16 MR. WEEDEN: I'll add that to the plan.  
17 MR. HINES: Otherwise that's all we  
18 have.  
19 CHAIRMAN EWASUTYN: Comments from the  
20 Board Members?  
21 MR. GALLI: No additional.  
22 MR. BROWNE: None.  
23 MR. MENNERICH: No questions.  
24 MR. PROFACI: No, John.  
25 CHAIRMAN EWASUTYN: I believe at this

1  
2 point the two-lot subdivision is ready for a  
3 SEQRA determination --  
4 MR. HINES: Yes.  
5 CHAIRMAN EWASUTYN: -- and a public  
6 hearing. I'll move for a motion that we declare  
7 a negative declaration for the two-lot  
8 subdivision for the lands of Fratto and that we  
9 set January 31st for a public hearing.  
10 MR. MENNERICH: So moved.  
11 MR. PROFACI: Second.  
12 CHAIRMAN EWASUTYN: I have a motion by  
13 Ken Mennerich. I have a second by Joe Profaci.  
14 I'll move for a roll call vote starting with  
15 Frank Galli.  
16 MR. GALLI: Aye.  
17 MR. BROWNE: Aye.  
18 MR. MENNERICH: Aye.  
19 MR. PROFACI: Aye.  
20 CHAIRMAN EWASUTYN: And myself yes. So  
21 carried.  
22 MR. WEEDEN: Thank you very much.  
23 CHAIRMAN EWASUTYN: If you would  
24 contact Dina as far as getting the mailing list.  
25 MR. WEEDEN: Yes, I will.

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2 Also, do you want me to contact the  
3 highway department for the approval on that?  
4 CHAIRMAN EWASUTYN: Yes. Just cc us on  
5 that.  
6 Bryant, do you want to do it that way?  
7 MR. COCKS: That's fine. I already  
8 sent them a set of plans, so --  
9 CHAIRMAN EWASUTYN: The highway  
10 department?  
11 MR. COCKS: Yes. I'll follow up on  
12 that.  
13 MR. DONNELLY: Does this need an Orange  
14 County Planning Department referral? Did we do  
15 that?  
16 MR. COCKS: I sent that.  
17 MR. DONNELLY: So thirty days has past?  
18 CHAIRMAN EWASUTYN: We did that on  
19 5/3/07.  
20 MR. WEEDEN: I'll recontact them, and  
21 Ulster County.  
22 MR. DONNELLY: We did. It's a local  
23 determination.  
24 MR. WEEDEN: Would you like me to  
25 recontact them for the public hearing?

LANDS OF FRATTO

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CHAIRMAN EWASUTYN: No.  
MR. WEEDEN: Thank you.

(Time noted: 7:58 p.m.)

C E R T I F I C A T I O N

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DATED: January 7, 2008



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STATE OF NEW YORK : COUNTY OF ORANGE  
TOWN OF NEWBURGH PLANNING BOARD

----- X  
In the Matter of

NOAH ESTATES  
(2007-07)

Final Approval

----- X

BOARD BUSINESS

Date: January 3, 2008  
Time: 7:58 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman  
FRANK S. GALLI  
CLIFFORD C. BROWNE  
KENNETH MENNERICH  
JOSEPH E. PROFACI

ALSO PRESENT: DINA HAINES  
MICHAEL H. DONNELLY, ESQ.  
BRYANT COCKS  
PATRICK HINES  
KAREN ARENT  
GEORGE ZOUTIS

----- X

MICHELLE L. CONERO  
10 Westview Drive  
Wallkill, New York 12589  
(845)895-3018

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CHAIRMAN EWASUTYN: We just have two items of business.  
Dina, would you bring us along, please.  
MR. HINES: The first one is for Noah Estates. We need to go ahead and give them final approval.  
CHAIRMAN EWASUTYN: If you remember, we had the public hearing on this during the snowstorm. We extended it ten days to that Monday. The time has since passed. We had no written comment so I'll move for a motion -- Mike.  
MR. DONNELLY: At the time of the meeting there were some outstanding items, Karen, that you had. I don't know if they've been corrected or if we need to carry the condition that they be satisfied.  
MS. ARENT: I looked at that when we were here last.  
MR. DONNELLY: We just need the letter. If it's done it's done.  
The Town Board had to approve the street name. It's a private road that they have to approve. I don't think that was done. We need

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a private roadway easement and maintenance agreement, the standard condition regarding marking clearing limits in the field, a landscape security, private road security and the payment of parkland fees.

CHAIRMAN EWASUTYN: Having heard the conditions of approval for the five-lot subdivision for Noah Estates, I'll move for that motion.

MR. GALLI: So moved.

MR. PROFACI: Second.

CHAIRMAN EWASUTYN: I have a motion by Frank Galli. I have a second by Joe Profaci. Any discussion of the motion?

(No verbal response.)

CHAIRMAN EWASUTYN: I'll move for a roll call vote starting with Frank Galli.

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: Myself yes. So carried.

(Time noted: 8:00 p.m.)

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C E R T I F I C A T I O N

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DATED: January 7, 2008

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STATE OF NEW YORK : COUNTY OF ORANGE  
TOWN OF NEWBURGH PLANNING BOARD

----- X

In the Matter of

PELLA ESTATES - PHASE II  
(2003-11)

Six-Month Extension of Preliminary Approval

----- X

BOARD BUSINESS

Date: January 3, 2008  
Time: 8:00 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman  
FRANK S. GALLI  
CLIFFORD C. BROWNE  
KENNETH MENNERICH  
JOSEPH E. PROFACI

ALSO PRESENT: DINA HAINES  
MICHAEL H. DONNELLY, ESQ.  
BRYANT COCKS  
PATRICK HINES  
KAREN ARENT  
GEORGE ZOUTIS

----- X

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CHAIRMAN EWASUTYN: Dina, the last item

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of Board business.

MS. HAINES: Brian Stokosa wrote a letter for Pella Estates - Phase II. They want a six-month extension of their preliminary approval. The preliminary approval was first granted on March 1, 2007. Their current extension expires on February 24th of this year and another six-month extension will be effective until August 22nd of 2008.

CHAIRMAN EWASUTYN: Discussion of the motion?

(No response.)

CHAIRMAN EWASUTYN: There being no discussion, I'll move for a motion to grant a six-month extension for Pella Estates -- Phase II until August 22, 2008.

MR. MENNERICH: So moved.

MR. BROWNE: Second.

MR. HINES: Are they still waiting for a DEC permit?

CHAIRMAN EWASUTYN: He didn't say. I was going through the history with Dina on that. I don't know if it's market conditions, DEC. I haven't received anything from the DEC as of

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late.

I have a motion by Joe Profaci. Thank  
you. I have a second by --

MR. PROFACI: The motion was by Ken.

CHAIRMAN EWASUTYN: I lost  
concentration. By Ken Mennerich. I have a  
second by Cliff Browne. Any discussion of the  
motion?

(No response.)

CHAIRMAN EWASUTYN: I'll move for a  
roll call vote starting with Frank Galli.

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: Thank you.

(Time noted: 8:02 p.m.)

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STATE OF NEW YORK : COUNTY OF ORANGE  
TOWN OF NEWBURGH PLANNING BOARD

----- X

In the Matter of

EXETER BUILDING CORP.  
(2002-26)

Status Report

----- X

BOARD BUSINESS

Date: January 3, 2008  
Time: 8:02 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman  
FRANK S. GALLI  
CLIFFORD C. BROWNE  
KENNETH MENNERICH  
JOSEPH E. PROFACI

ALSO PRESENT: DINA HAINES  
MICHAEL H. DONNELLY, ESQ.  
BRYANT COCKS  
PATRICK HINES  
KAREN ARENT  
GEORGE ZOUTIS

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MR. MENNERICH: Is there any update on Exeter?

MR. HINES: I was going to ask that.

MR. DONNELLY: On the Friday after our meeting, although the decision did not come out for another handful of days, the Appellate Division granted the stay that the Town had asked for. The stay that the Town had asked for was a stay prohibiting the Planning Board from taking action. However, the stay by its terms was issued after the Planning Board had taken action and now the Town's attorney needs to apply to have that modified.

What I said to Rick Golden, Exeter's attorney, and Jeff Scully is I'm not going to submit the resolution for signing until the issue is clarified. I still need a plan set to be recited in the resolution in any event, the current revision pages, but I assume since the Appellate Division granted the intent of what the Town asked for that they'll clarify their order to accomplish that. I'll report more when I know. I think that, or I suspect Exeter will then ask the Appellate Division to stay the Town

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2 Board to prohibit them from rezoning the  
3 property. In other words, we'll all sink or swim  
4 by the Appellate Division's decision on the  
5 original motion. But to maintain the status quo  
6 Exeter will argue that the Town shouldn't be  
7 permitted to rezone. However, towns are always  
8 given the authority to correct those errors so  
9 I'm not so sure Exeter will get that stay. I  
10 didn't predict the first one very well either, so  
11 who knows.

12 MR. MENNERICH: Thanks.

13 MR. BROWNE: One more question, John.  
14 Is the Town Board taking any action to fill the  
15 vacancy on our Board?

16 CHAIRMAN EWASUTYN: My understanding is  
17 that they are in the process of interviewing,  
18 re-interviewing those who they had interviewed  
19 for the last vacancy. Whether or not they  
20 accomplish that task at the reorganizational  
21 meeting Monday night, I don't have an answer for  
22 that but they're in the process. That was a  
23 goal, to wait until this part of the year.

24 MR. BROWNE: Thank you.

25 CHAIRMAN EWASUTYN: Any other

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questions, comments?

(No response.)

CHAIRMAN EWASUTYN: Let's keep positive thoughts for Eddie O'Donnell.

With that, we have our reorganizational meeting on the 17th. For those that have the time to attend the Town's reorganizational meeting, that's this coming Monday.

I'll move for a motion to close the meeting of January 3rd.

MR. GALLI: So moved.

MR. MENNERICH: Second.

CHAIRMAN EWASUTYN: I have a motion by Frank Galli. I have a second by Ken Mennerich. I'll ask for a roll call vote starting with Frank Galli.

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: And myself. So carried.

(Time noted: 8:04 p.m.)

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C E R T I F I C A T I O N

I, Michelle Conero, a Shorthand Reporter and Notary Public within and for the State of New York, do hereby certify that I recorded stenographically the proceedings herein at the time and place noted in the heading hereof, and that the foregoing is an accurate and complete transcript of same to the best of my knowledge and belief.

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DATED: January 7, 2008

