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

----- X
In the Matter of

LAXMI PROPOSED DUNKIN DONUTS
(2006-23)
5277 Route 9W
Section 40; Block 2; Lot 20
B Zone

----- X

SITE PLAN

Date: April 17, 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
GERALD CANFIELD
TILFORD STITELER

----- X

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

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MS. HAINES: Good evening, ladies and gentlemen. I'd like to welcome you to the Town of Newburgh Planning Board meeting of April 17, 2008.

At this time we will call the meeting to order with a roll call vote starting with Frank Galli.

- MR. GALLI: Present.
- MR. BROWNE: Present.
- MR. MENNERICH: Present.
- CHAIRMAN EWASUTYN: Present.
- MR. PROFACI: Here.

MS. HAINES: The Planning Board has experts that will provide input and advice to the Planning Board in reaching various SEQRA determinations. I ask that they introduce themselves at this time.

- MR. DONNELLY: Michael Donnelly, Planning Board Attorney.
- MS. CONERO: Michelle Conero, Court Stenographer.
- MR. CANFIELD: Jerry Canfield, Fire Inspector, Town of Newburgh.
- MR. HINES: Pat Hines with McGoey,

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Hauser & Edsall, Consulting Engineers.

MR. COCKS: Bryant Cocks with Garling Associates, the Planning Consultants.

MS. ARENT: Karen Arent, Landscape Architectural Consultant.

MS. HAINES: Thank you. At this time I'll turn the meeting over to Frank Galli.

MR. GALLI: Please stand for the Pledge.

(Pledge of Allegiance.)

MR. GALLI: Shut off all your cell phones.

MS. HAINES: The first item of business we have tonight is Laxmi Proposed Dunkin Donuts which will not be reviewed tonight. I will read a letter from Jim Gillespie of Bohler Engineering dated April 17, 2008. "Dear Mr. Ewasutyn, with regard to the above-referenced project, we are respectfully requesting that the project be removed from tonight's Planning Board agenda and tabled until the next scheduled meeting of the Planning Board. We are currently working on addressing outstanding consultant comments and preparing architectural drawings to comply with

LAXMI PROPOSED DUNKIN DONUTS

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Town guidelines. We are hopeful this additional time will allow us to satisfactorily address all comments and obtain final approval at the next meeting. We thank you for your understanding and assistance with this issue. Should you have any questions or require any additional information, please feel free to contact us. Sincerely,
Bohler Engineering, Jim Gillespie."

This project will be scheduled for the Planning Board meeting of May 15, 2008.

(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.

DATED: April 28, 2008

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

----- X

In the Matter of

CENTRAL VALLEY REAL ESTATE
(2007-14)

Stony Brook Lane
Section 97; Block 1; Lot 55
B Zone

----- X

SITE PLAN
ARCHITECTURAL REVIEW

Date: April 17, 2008
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
CLIFFORD C. BROWNE
KENNETH MENNERICH
JOSEPH E. PROFACI

ALSO PRESENT: DINA HAINES
MICHAEL H. DONNELLY, ESQ.
BRYANT COCKS
PATRICK HINES
KAREN ARENT
GERALD CANFIELD
TILFORD STITELER

APPLICANT'S REPRESENTATIVE: LOUIS T. POWELL

----- X

MICHELLE L. CONERO
10 Westview Drive
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CENTRAL VALLEY REAL ESTATE

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MS. HAINES: The next item of business is Central Valley Real Estate. It is a site plan located on Stony Brook Lane, it's in a B Zone and being represented by Lou Powell.

MR. POWELL: This is a 4,615 square foot office building proposed on the end of Stony Brook Court. We've been before the Board several times and are seeking final approval, or conditional final approval. There may be a couple minor outstanding items.

We have received the comments from the consultants. There is I think just one issue, where you want to put the sprinkler connection.

The detail of the pavement is shown on page 2 in the middle. I need to clarify --

MR. HINES: That's fine. As long as it's there. I didn't see it.

MR. POWELL: Other than that, I think most everything else has been resolved.

CHAIRMAN EWASUTYN: Bryant Cocks, Planning Consultant, outstanding planning comments?

MR. COCKS: This project was forwarded to the City of Newburgh for the sewer flow

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acceptance and the Orange County Planning Department on March 19th. We did get back a letter from Orange County Planning Department. At this time we haven't gotten back the approval from the City of Newburgh. That would be outstanding before final approval.

Other than that, they addressed our site plan comments and revised the lighting plan as requested. It is now a pedestrian scale and doesn't spill over on the adjacent lots.

CHAIRMAN EWASUTYN: Pat Hines, Drainage Consultant?

MR. HINES: The only comment we had, and Mr. Powell mentioned, we're looking for the Town road paving detail. I know there was a paving detail. I didn't know it complied with the Town specs. That part of Stony Brook Road is a Town road. We'll look at that. If it complies it's fine. Otherwise our previous comments of 28 February have been addressed.

CHAIRMAN EWASUTYN: Jerry Canfield?

MR. CANFIELD: Our fire protection concerns had been addressed.

One issue with the Sovereign Pin Oak,

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which I believe Karen Arent has a suggestion to rectify the situation. We have nothing further.

CHAIRMAN EWASUTYN: Karen, outstanding comments on the site plan?

MS. ARENT: The lighting comment was addressed at the last meeting.

The Pin Oak, Mr. Canfield was worried you wouldn't be able to see the cul-de-sac when you pull out. The Pin Oaks do have descending branches. As long as there's perpetuity, that would be fine.

The landscape cost estimate of \$19,222 is accurate and will be submitted to the Town Board for approval.

CHAIRMAN EWASUTYN: Comments from Board Members. Frank Galli?

MR. GALLI: No additional.

CHAIRMAN EWASUTYN: Cliff Browne?

MR. BROWNE: Nothing more.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: No questions.

MR. PROFACI: Nothing.

CHAIRMAN EWASUTYN: Lou, we couldn't take action this evening on the site plan because

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without the City flow acceptance letter we can't grant any type of approval.

I'll have Mike Donnelly give you an example where we may go with this tonight.

MR. DONNELLY: There's a contract between the Town and the City under which the Town promises that it will grant no final approvals until the City has signed off. We could give you a preliminary approval with a handful of conditions but I don't know what that would do for you. The other choice would be to, as soon as that letter is received, put it on the first available agenda and give you final approval at that time. I think it's going to be fairly short order. Pat's going to try to shake the trees.

MR. POWELL: This is like the same as the County, the City has to sign off?

MR. DONNELLY: Actually, the sewer flows go to the City's plant.

MR. POWELL: That was issued.

MR. DONNELLY: If it is then we're ready, but I haven't seen it.

MR. HINES: I don't have it. I checked

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and I don't have it.

MR. POWELL: I didn't bring my folder but I'm --

CHAIRMAN EWASUTYN: As a matter of fact -- as a matter of fact he's right. 10/9/07.

MR. HINES: It was in our comments early on.

CHAIRMAN EWASUTYN: Do you have it?

MR. MENNERICH: In March we sent it. We still needed to get from the City.

MR. HINES: I think that may have been when it went from Jim Osborne's office to the City.

CHAIRMAN EWASUTYN: No. Jean Ann McCrane. "Dear Mr. Osborne, pursuant to your letter of July 31, 2007 and in accordance with the provisions of the intermunicipal sewer agreement dated the 6th of May 2004, we have reviewed the description of this project as described in the project narrative dated the 17th of July 2007" -- no. Excuse me. I'm reading -- I'm reading something all together different. I apologize. This one is -- this one is for the medical office building. I apologize. I got

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that one cross filed.

MR. HINES: Bryant has a copy of the letter from Jim Osborne to Bill Hauser.

CHAIRMAN EWASUTYN: I just marked that one incorrectly in the files. We don't have a record of it. Do you have it?

MR. POWELL: I have it.

CHAIRMAN EWASUTYN: I don't have anything. You don't have anyone in the office, do you? So far it doesn't look like we may have it, Lou.

MS. HAINES: Is it locked?

CHAIRMAN EWASUTYN: Take my key. We'll do the ARB.

Do you want to take us through, Nick, the ARB one more time?

MR. CARDAROPOLI: I'm Nick Cardaropoli, the owner and builder. Basically since the last time that I came last month to the ARB we got the elevations correct with our step footing going down. Our brick will follow the grade down, you can see the front elevation, and it's also better to depict it on the materials that we're using. It's not going to be -- the brick is very similar

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to the brick that's in Stony Brook. This is a little overly red. The printer said, you know, it doesn't necessarily print exactly how the architect had it on the computer but he tried to do the best he could.

The rear elevation, it shows the concrete which we would masonry paint the same color as the siding to sort of blend in, which we've had good success in the back, so you don't see all -- it doesn't look like concrete exposed.

We did eliminate the metal on the roof. The reason was it was really just -- I felt maybe there was too much going on in a small building. You know, stone, brick. You know, two reverse gables. And then I thought kind of crowding it with the metal and another color might be too much. So we decided to take it off. You know, nice architectural shingled roof, the timber line roof. A little bit more straightforward. We also -- we changed the roof color a little slightly. The other was a little brown for Stony Brook Court. In looking at -- you know, in surveying most of the buildings there, they tend to be more in the gray. There's kind of gray and

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a little bit lighter, so we changed that. He kind of showed, you know, sunlight to be a little bit grayer and if it was shaded it would be a little bit darker. That's what he tried to do on the plan.

The glass is the same, our cool breeze glass, energy saving. All our windows, window frames, store front aluminium would be the antique bronze, and any exterior paint, the columns and the fascia, would be this brownish color, earth tone color. That's about it.

CHAIRMAN EWASUTYN: Comments from Board Members on ARB?

MR. GALLI: No additional.

CHAIRMAN EWASUTYN: Cliff Browne?

MR. BROWNE: Looks good.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: Good.

MR. PROFACI: It looks fine.

CHAIRMAN EWASUTYN: Do any of our consultants want to add anything? Pat Hines, Jerry, Bryant?

MR. COCKS: No.

CHAIRMAN EWASUTYN: Karen?

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MS. ARENT: It looks very nice. The only thing we didn't discuss was the signage.

MR. CARDAROPOLI: What we did is -- obviously we would conform with the sign ordinance in the Town, but we put -- we made provisions for two sign boards figuring there were two tenants. Normally what we do is we have them do -- we specify like a black letter, non lit of course type of sign, one over each tenant space.

MS. ARENT: If you could just make a note saying that the signs will be in this area and they'll be in accordance with the Town of Newburgh design guidelines, that should cover it.

MR. CARDAROPOLI: Okay.

MS. ARENT: We just need to also make sure those signs as well as the free-standing sign, they are in accordance with the Code which is one-half square foot of signage for each linear foot of road frontage.

MR. CARDAROPOLI: Like the directory signs also?

MS. ARENT: Yes. The ones that you have out front, the monument sign.

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MR. CARDAROPOLI: Sure.

MS. ARENT: Not the monument -- yeah, the monument sign. That would have to comply.

MR. CARDAROPOLI: Okay.

CHAIRMAN EWASUTYN: You're correct, we did receive a letter from the -- from the City of Newburgh dated -- Dina, do you want to read the letter?

MS. HAINES: Sure. The letter is dated October 9, 2007. It says, "Dear Mr. Osborne, pursuant to your letter of 24 July 2007 and in accordance with the provisions of the intermunicipal sewer agreement dated May 6, 2004, we have reviewed the description of this project as described in the project narrative dated June 5, 2007 prepared by Eustance & Horowitz, P.C. It is noted that this project was not included on the list of projects furnished by your office describing inclusion in the original 2,000,000 gallon per day flow to be discharged to the City system. We assume therefore that the sewage flow from this project, 475 gallons per day, is to be included in the 1,800,000 gallons per day allocated available with the construction

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2 of the expansion of the sewer -- sewage treatment
3 plant by the Town. Based upon the above,
4 permission is hereby granted for this connection.
5 Please advise this office when you believe
6 initial flow from this project is to commence.
7 If you have any questions regarding this
8 approval, please contact me at your convenience.
9 Very truly yours, Jean Ann McCrane, Esq."
10 CHAIRMAN EWASUTYN: Thank you. That
11 puts us in a good position.
12 MR. DONNELLY: We're ready to go then.
13 CHAIRMAN EWASUTYN: Any additional
14 comments from anyone this evening?
15 (No response.)
16 CHAIRMAN EWASUTYN: Then I'll move for
17 a motion to grant both final site plan approval
18 for Central Valley Real Estate and to also grant
19 ARB approval subject to the conditions of the
20 resolution that Mike Donnelly will present to us
21 this evening.
22 Mike.
23 MR. DONNELLY: We'll need a sign-off
24 letter from Pat Hines on the issues he mentioned
25 earlier. A sign-off letter from Karen on the

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sign details having been added to the architectural plans. We'll have the standard ARB condition, a landscape security and inspection fee. There is a stormwater improvement security required but no inspection fee is what I understand.

MR. HINES: The other way around. There's no -- there's an inspection fee but no improvements because it's tying into the existing Stony Brook system.

MR. DONNELLY: And the usual requirement of no outdoor fixtures that are not shown on the plans may be constructed on site.

CHAIRMAN EWASUTYN: Any questions from the Board Members?

MR. GALLI: No.

MR. BROWNE: No.

MR. MENNERICH: No.

CHAIRMAN EWASUTYN: Then I'll move for that motion.

MR. PROFACI: So moved.

CHAIRMAN EWASUTYN: I have a motion by Joe Profaci.

MR. BROWNE: Second.

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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.
Nick, do you know where you could help
us out. It seems like there's always a void
after this. The conditions that were discussed
as far as your final site plan approval, the
bonds and the inspection fees, when the time
comes and everyone wants maps signed, everyone
seems to forget that, you know, these fees, the
checks, the bonds, it starts a whole -- it's
really important because we seem to lose several
weeks in the process --
MR. CARDAROPOLI: Sure.
CHAIRMAN EWASUTYN: -- and then the
Town -- like you approved the bond amount. Now
the Town --

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MS. ARENT: I'm sorry. I did submit it and it was already approved on April 2nd.

CHAIRMAN EWASUTYN: So now the bond has to be posted.

MR. CARDAROPOLI: Okay. No problem.

CHAIRMAN EWASUTYN: It's really important for expediting this.

MR. CARDAROPOLI: I can get a list of all the fees as well besides the bond?

MR. DONNELLY: Most of them -- there's only the landscape bond. The inspection fee is in the Code.

MR. HINES: \$2,000 is the minimum. It's in escrow. If it's not spent it's returned.

CHAIRMAN EWASUTYN: Speak to Bryant Cocks tomorrow and Bryant will be able to define it more clearly for you so you know what checklist you have to cross reference.

MR. CARDAROPOLI: An ILC is good for the bond, irrevocable letter of credit?

MR. DONNELLY: Usually Mark Taylor does accept them. You have to run it by him. Not for the inspection fee. I think that would have to be cash.

CENTRAL VALLEY REAL ESTATE

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MR. CARDAROPOLI: Okay. Thank you.

(Time noted: 7:18 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.

DATED: April 28, 2008

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

----- X

In the Matter of

ORCHARD HILLS
(2003-41)

Route 9W & Oak Street
Section 9; Block 1; Lot 45.21
R-3 & R-1 Zones

----- X

AMENDED SITE PLAN

Date: April 17, 2008
Time: 7:19 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
GERALD CANFIELD
TILFORD STITELER

APPLICANT'S REPRESENTATIVE: ROSS WINGLOVITZ

----- X

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

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MS. HAINES: The next item of business we have is Orchard Hills. It is here for an amended site plan, it's located on Route 9W and Oak Street and it's being represented by Ross Winglovitz.

MR. WINGLOVITZ: Good evening. Ross Winglovitz from Engineering Properties. I submitted back in early March, I guess, the amended site plan for Orchard Hills. The primary amendment that we were talking about is actually the townhouse section where these units have been revised from the previous footprints that were there. Uphill units were reduced in size, both in length and in width, and the downhill units I think were decreased in width slightly.

We had a work session with your consultants. There were comments regarding SEQRA. We did submit a letter last week indicating how we thought SEQRA may differ on different subjects. We think that we're basically in compliance with the SEQRA findings that were issued that were done for the D.E.I.S.

We did add to the plan as a result of that meeting, which took some time to figure out

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2 with Jerry and the State Department of Codes,
3 which is the new regulation regarding roadway
4 fire access lanes. This plan that you got on
5 Friday represents where we had widened the
6 roadway and/or show fire access lanes near
7 hydrants. The State now requires 26-foot wide
8 lanes, 20 feet either side of the hydrant where
9 you provide central water and have hydrants for
10 fire protection. So that was reflected in the
11 highlighted plan that you received showing the
12 locations of where those hydrants are, and the
13 lane has been provided.

14 I have some comments from the
15 consultants. I'd be glad to discuss anything you
16 would like to discuss this evening.

17 One comment from Pat was regarding the
18 Health Department. I did note that we did change
19 a hydrant location based on providing the access
20 lanes. I know Jerry is looking for a couple more
21 moves. We'll go back to the Health Department
22 and confirm that the minor changes that we made,
23 they're acceptable or get amended approval from
24 them regarding that.

25 MR. HINES: I was more concerned with

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the road grades. I checked probably fifteen spots and it looked like you held the existing grades.

MR. WINGLOVITZ: I think there was a slight tweak here and a slight tweak coming down the hill. We'll go through that. I think there was a bust in the original design where we went back and fixed it, right here and right in front as it transitions up here. Other than that it's pretty much held. Actually, the disturbance areas were reduced, especially the townhouses because the units became smaller.

As Karen noted, we did test the critical areas which was the single family with no change, and all of the limits of disturbance were held on those.

CHAIRMAN EWASUTYN: I know you were saying at the work session that you were looking at the possibility -- the minor changes in the stormwater management plan. The concept seems to work. You were having a more interesting time trying to understand how the HOA may work with this project.

MR. HINES: Right.

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CHAIRMAN EWASUTYN: Could you elaborate on that?

MR. WINGLOVITZ: I'll try. The answer is basically there will now be 22 lots in total. All the single-family lots and this property will be individual lots. From my understanding, based on the improvements that are built on each lot there will be the cost for the improvements that are going to be jointly maintained and will be apportioned appropriately. What will end up happening is the property owner for the apartments will end up paying 250 out of 270 percent, roughly, of those -- of the maintenance costs for any of those improvements that the HOA is obligated to maintain.

MR. DONNELLY: If you remember, in the original resolution there were two conditions that related to this, one was that there be a developer's agreement, which I think you reached.

MR. WINGLOVITZ: Yeah.

MR. DONNELLY: That might need to be amended based upon this.

MR. WINGLOVITZ: It absolutely does.

MR. DONNELLY: Two, there was a

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2 condition that required that the rules and
3 regulations of the then dual homeowners
4 associations be reviewed and approved by the Town
5 Board. I think this revision will have to be
6 done, so those conditions will need to be carried
7 forward again if the Board acts on this amended
8 plan.

9 MR. WINGLOVITZ: Instead of being
10 carried forward in the condo association they'll
11 be carried forward in the HOA.

12 MR. HINES: One of the concerns we
13 talked about at work session was that the 21
14 single-family houses I guess would easily be
15 outvoted by the owner of one or both of the other
16 parcels and would have very little say in the
17 activities of the homeowners association.

18 MR. WINGLOVITZ: I really don't know
19 how -- I don't know the answer to that.

20 MR. DONNELLY: There's actually two
21 sides to that. If the apartment unit owner is a
22 single vote, he's at the disadvantage.

23 MR. HINES: Right. That's what I mean.
24 I don't know how that's going to work. It seems
25 -- it could be problematic I guess. I always

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look to Cliff for those issues.

MR. WINGLOVITZ: I don't know the answer.

MR. DONNELLY: There should be a proposal on that score and those rules and regulations of that association should be reviewed by the Town Board because it will erupt for the Town's purposes as a maintenance issue. The Town Board has a stake and a role in approving those rules and regulations, so you'll need to get them to the Town Board.

CHAIRMAN EWASUTYN: You had started out by saying you were here tonight also to address some of the comments from our consultants, and you also submitted a letter talking about the change. Just for a matter of record, the original 126 units that were going to be townhouses are now going to be rental units so the total project will consist of 250 rental units and 21 single-family homes?

MR. WINGLOVITZ: Correct.

CHAIRMAN EWASUTYN: You also reduced the number of bedrooms. Bring us along on that.

MR. WINGLOVITZ: Yup. As part of the

1
2 change, the units on the uphill side, there were
3 two style town home units. It's still town home
4 style construction but the ones on the uphill
5 side, which are these buildings of 30 units, are
6 going to be two bedrooms instead of three
7 bedrooms which was previously approved. So you
8 have a reduction in bedroom count of 30 from the
9 previous proposal, a slight reduction in water
10 usage, a slight reduction in sewer usage. We had
11 a slight reduction in school-age children, like
12 two, a slight reduction in population.

13 CHAIRMAN EWASUTYN: The Board was
14 wondering if you could supply us with some kind
15 of information as far as school-age children to
16 document that there may not be an increase.
17 We're not sure if rental units generate more
18 children than private ownership might. Do you
19 know if --

20 MR. WINGLOVITZ: I didn't do the
21 analysis, Jane Daly did the analysis. She came
22 up with the analysis that the reduction was a
23 slight decrease. I think it was like two
24 children from the thirty. I can provide the
25 references where she came up with that for the

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Board's files or confirmation.

CHAIRMAN EWASUTYN: I'll turn to the Board Members right now for just some of their comments and we'll dovetail back and forth between your response letter and comments from our consultants that you may want to address.

Frank Galli?

MR. GALLI: No additional.

CHAIRMAN EWASUTYN: Cliff?

MR. BROWNE: I think we covered -- I brought up the issue about the HOA and the single family versus the rental and ownership and how that's all going to play out. I think it's important to get that squared away and documented, how it's going to work.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: The only thing I don't think was mentioned was Ken Wersted's letter relative to trip generation changes and, you know, the conclusion was that it wasn't going to change things that much. There was an increase of four trips in the a.m. peak and thirteen trips in the p.m. peak hour, but relative to the existing traffic it was not significant. I have

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nothing else.

CHAIRMAN EWASUTYN: Joe Profaci?

MR. PROFACI: Nothing further, John.

CHAIRMAN EWASUTYN: All right. If you don't mind, discuss some of the comments from our consultants.

MR. WINGLOVITZ: Absolutely. I think I touched on Jerry's comments. We'll provide those hydrant changes. We discussed them with the Department of Health.

The fire lanes. Jerry, your second comment about the fire lanes, I thought your comment was talking about signage. Provide the appropriate signage. Would that be --

MR. CANFIELD: Yes.

MR. WINGLOVITZ: That's not a problem. We'll relocate those hydrants and discuss that with the Health Department to make sure that's all right with them.

We discussed Ken Wersted's letter.

Pat --

MR. HINES: The only two outstanding on mine would be the change in ownership and it's relationship to the SEQRA Findings Statement and

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2 that we previously did any changes to that as
3 necessary. I think part of that is going to be
4 hinging on my fifth comment regarding the changes
5 to the stormwater management. It looks like some
6 of the control structures moved. I don't have
7 the detail sheet. I'm assuming the outlet
8 control structures stayed the same but were
9 relocated for valued engineering. I believe
10 there were changes of some swales where there was
11 some closed pipe previously. We want to take a
12 look at those and make sure they function
13 correctly.

14 I think you're scheduled for a work
15 session Tuesday. Is that correct.

16 MR. WINGLOVITZ: I am?

17 MR. COCKS: I was pretty sure you were
18 on there.

19 MR. WINGLOVITZ: I might be in San
20 Diego. Jay can be here from my office, and he's
21 done most of this. Tuesday work session.
22 Absolutely.

23 CHAIRMAN EWASUTYN: I'll let Mike
24 Donnelly speak at this point. There is
25 information that we will need in order to make a

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consideration of a consistency.

MR. DONNELLY: I think there's several steps the Board needs to follow up on, and some of it is getting data. This had an Environmental Impact Statement and a Findings Statement. We need to have an analysis or an assessment of any potential environmental impact of this amendment that's different from what was there before. I'm not saying there will be any but I think the Board needs to see recommendations from its consultants for the calculations that you used for school-age children. Assuming that there are no new impacts, then a SEQRA consistency determination could be issued. The Board then needs to make a determination as to whether or not to hold a public hearing on the amended site plan, and I don't know whether it's prepared to discuss that or it wants to wait and see whether there are amended impacts. On the other side of the fork in the road, in the event there is a new impact, then the Board will have to decide whether or not some further formalized SEQRA review is warranted. If we return to the first road, it seems to me when that is done, if we

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work out some of these issues regarding the amended developer agreement, the drainage issues, the HOA formation and rules, that this can probably be on track for action in the not too distant future.

CHAIRMAN EWASUTYN: So Bryant, that would be the purpose of the work session coming up. That would be this Tuesday?

MR. COCKS: It is this Tuesday. I don't know if that's too close to gather all this information.

MR. WINGLOVITZ: I think we want to discuss Pat's concerns and make sure we address them as far as design issues.

MR. COCKS: Okay.

CHAIRMAN EWASUTYN: So everyone has a clear understanding what they'll be working on. I don't necessarily think --

MR. WINGLOVITZ: One thing I do want to mention and I did mention to John last week, since we submitted this plan in March, last week there was a change to this building which I believe is the final change. From what I understand from the owners, the budgets have come

1
2 in and now everything is okay. The buildings on
3 the downhill side are being slightly smaller by
4 like 10 feet smaller, slightly longer. They were
5 originally 24 foot wide, they're going to be 25
6 foot wide units. That will be reflected on the
7 new plan. It actually pulls in the line and so
8 forth.

9 CHAIRMAN EWASUTYN: Have you done any
10 market studies as far as what the fair market
11 rental would be for -- what is the current fair
12 market rental for a two or three-bedroom rental
13 in the Town?

14 MR. WINGLOVITZ: I wasn't involved in
15 the studies but I have seen some. I believe the
16 three bedrooms were around \$1,800, \$1,900. There
17 was a strong demand for rentals in the Town of
18 Newburgh.

19 CHAIRMAN EWASUTYN: And a two-bedroom
20 unit?

21 MR. WINGLOVITZ: Depending on the
22 townhouses, they were higher. They were like
23 \$1,600 I believe. The apartments -- the
24 traditional apartments went down from there. I
25 think roughly \$1,000 up to \$1,900 was kind of the

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range, and if you had two bathrooms or one bathroom it went up 50 bucks or whatever and worked its way up.

CHAIRMAN EWASUTYN: And why you chose to go from sale units to rental units?

MR. WINGLOVITZ: Market conditions. Right now, as you remember at our public hearing, there was a builder involved who backed out of the project about a year-and-a-half ago, two years ago. The owner had been trying to market the project in its entirety. Nobody was really that interested in the town homes or the single family. Everybody was very interested in the apartments. Because of the real high demand in Newburgh, this was very interesting to a lot of people. He decided to convert to town home style.

CHAIRMAN EWASUTYN: Tilford, do you have any questions? Tilford Stiteler.

MR. STITELER: Not at this time.

CHAIRMAN EWASUTYN: Karen, do you have anything you want to add?

MS. ARENT: I just had site plan things that need to be detailed.

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MR. WINGLOVITZ: I will be bringing in, now that I think everything is finalized, the architecture, and I owe you foundation landscape plans. I saw your comment on the signs. We'll try to tie that all together with the architect. The garbage enclosures. All that, tie it all together.

CHAIRMAN EWASUTYN: Just as a matter of conversation, we've never had the opportunity to look at rental units in the Town, something of this scale. Do they generally look for a one-year lease, a two-year lease, a three-year lease? What is standard or what might one consider?

MR. WINGLOVITZ: I don't know the exact answer to that. My understanding is that people actually go into it with a one-year lease and end up staying there three or four years. They'll be looking for one-year leases I know. My understanding of the industry is it actually ends up being much longer than that.

CHAIRMAN EWASUTYN: Okay. I'll move for a motion, if we haven't already, to -- this coming Tuesday is?

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2 MR. COCKS: The 22nd.
3 CHAIRMAN EWASUTYN: Okay. I'll move
4 for a motion to set this up for a consultants'
5 work session for the 22nd of April.
6 MR. GALLI: So moved.
7 MR. BROWNE: Second.
8 CHAIRMAN EWASUTYN: I have a motion by
9 Frank Galli. I have a second by Cliff Browne.
10 Any discussion of the motion?
11 (No response.)
12 CHAIRMAN EWASUTYN: I'll move for a
13 roll call vote.
14 MR. GALLI: Aye.
15 MR. BROWNE: Aye.
16 MR. MENNERICH: Aye.
17 MR. PROFACI: Aye.
18 CHAIRMAN EWASUTYN: Myself. So
19 carried.
20 MR. WINGLOVITZ: Thank you very much.
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22 (Time noted: 7:35 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.

DATED: April 28, 2008

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

----- X

In the Matter of

HILLSIDE DEVELOPMENT
(2004-09)

Jeanne Drive
Section 34; Block 2; Lot 66
IB Zone

----- X

ARCHITECTURAL REVIEW

Date: April 17, 2008
Time: 7:35 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
GERALD CANFIELD
TILFORD STITELER

APPLICANT'S REPRESENTATIVE: JUSTIN DATES

----- X

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

HILLSIDE DEVELOPMENT

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MS. HAINES: The next item of business is Hillside Development. It is here for ARB approval. It is located on Jeanne Drive and being represented by Justin Dates.

MR. DATES: Justin Dates from Maser Consulting. Also with me is Michael Perez from Hillside Companies, the developer of the project.

I'll go through the elevations here of the building facade. Does everyone have a copy of the color rendering? I have extra ones. Okay. Along the -- this is the front elevation along Jeanne Drive. We have split faced block, a beige color, along the perimeter of the foundation, also around the main entrance to the building. Moving up from there we have an efface wall with a saddle tan finish on it. This is the color of the split faced block. It's a beige color. And then the finish on the efface has this texture called saddle tan finish on it. Put together it's similar in texture but the break line gives it a nice effect. Just above the efface wall here we have a metal finish with the gable there which is the same color as the efface, that saddle tan color which we have right

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2 here. Earth tone. Moving up to the roof, the
3 fascia along that edge -- we have a metal roof.
4 It's called a Hawaiian blue finish. You can see
5 the sample. That wraps around the perimeter of
6 the building. It is over top of the overhangs to
7 the doors and the roof piece on these overhangs.
8 It's actually clear to allow light through, too.
9 There's a good amount of windows in place. The
10 first level here is office space. That's going
11 to let a lot of natural light into this space.
12 And then around the perimeters, the rear and side
13 elevations, you can see the same saddle tan metal
14 siding that will go around the sides and the
15 rear.

16 I think the location of Jeanne Drive
17 and what's out there, I think this is going to
18 stand out in a good sense compared to what's out
19 there. There are some metal buildings with split
20 faced block. It is in kind with what's out
21 there. And for the uses that are out there, I
22 think this is a good addition to that. This
23 along with our landscape plan that we also
24 submitted, I think it's going to, you know, bring
25 a good looking building to that street. Based on

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Hillside's reputation, I think they're going to do a good job on the construction of this building.

CHAIRMAN EWASUTYN: Mike, will this be your new office?

MR. PEREZ: No, it won't be. It was originally going to be.

CHAIRMAN EWASUTYN: Comments from Board Members?

MR. GALLI: How many tenants are going to be involved? Two?

MR. PEREZ: Probably. It will be one or two. I don't know yet. I don't have anybody yet. We have someone who is interested in purchasing the building and they would be looking to rent it out. I think they're looking for one or two tenants to fill the building with. Most likely the office space will come down also. Originally we figured for our office and the office of my friend here, Paul Hoffner from John Herbert Company. Originally we were going to take the building. Since then -- it's been awhile now. Since then we've made other arrangements, purchased another building.

HILLSIDE DEVELOPMENT

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2 Basically we're looking to sell this now.
3 CHAIRMAN EWASUTYN: Cliff Browne?
4 MR. BROWNE: Good. Thank you.
5 CHAIRMAN EWASUTYN: Ken Mennerich?
6 MR. MENNERICH: I don't have any
7 questions.
8 CHAIRMAN EWASUTYN: Joe Profaci?
9 MR. PROFACI: Nothing, John.
10 CHAIRMAN EWASUTYN: Final questions
11 from Jerry Canfield?
12 MR. CANFIELD: I have nothing
13 outstanding.
14 CHAIRMAN EWASUTYN: Pat Hines?
15 MR. HINES: I have nothing else.
16 CHAIRMAN EWASUTYN: Bryant Cocks?
17 MR. COCKS: No.
18 CHAIRMAN EWASUTYN: Karen?
19 MS. ARENT: I wrote in my review that
20 this building is not in accordance with the
21 design guidelines but it's similar to other
22 buildings on Jeanne Drive, and the only -- well,
23 the concern that I had was that the landscaping
24 isn't -- there's not enough. There's not much
25 space for landscaping. Again, this is in

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accordance with the other projects along the road.

The only thing that I thought might be helpful would be to beef up a little bit of the landscaping along the side from where you see it along the road if the Board is interested. Otherwise --

CHAIRMAN EWASUTYN: Do you think you can do that, Michael?

MR. PEREZ: Sure we can do that. Absolutely.

Also Karen, if you notice the driveway on that -- the parking area on that plan is actually six foot above the road so that that side would not be visible from the road. We would be more than happy to put more shrubs or landscaping to cover that.

CHAIRMAN EWASUTYN: And just with the new tenant, you said there wouldn't be that many trucks, bigger trucks parked along Jeanne Drive. You don't control that.

MS. ARENT: Also, the signs must be shown. There's one sign that looks like it's closer than ten feet to the property line. In

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accordance with the Zoning Code it has to be ten feet from the property line. The one in the island.

You also need to show the signs on the architectural plans or just write notes that the signs will be in conformance with the sign guidelines and zoning.

MR. PEREZ: Sure. Absolutely. I'm hoping for no sign on the building itself personally, but we wouldn't control it at that point.

CHAIRMAN EWASUTYN: Mike, conditions of approval for ARB.

MR. DONNELLY: The ARB would be the sign-off letter from Karen and the standard ARB condition. My file indicates this was granted preliminary site plan approval only in September of 2004. If everything else is satisfied, you could give it final site plan approval at the same time as you grant this ARB.

CHAIRMAN EWASUTYN: Has a landscape cost estimate been approved? Did the Town approve them?

MS. ARENT: No.

HILLSIDE DEVELOPMENT

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CHAIRMAN EWASUTYN: So that would have to be submitted to the Town.

MS. ARENT: Yes.

CHAIRMAN EWASUTYN: Again, there's some truth to what I said earlier with Nick. Eventually when it comes time for these plans to be signed, the conditions that are stated in the resolution as far as the inspection fees, the bonds, please make sure all that is in place because generally speaking it delays the project for sometimes several weeks.

MR. DONNELLY: In terms of the site plan conditions, we're using the preliminary resolution as a guide. It required Orange County Health Department approval. I take it that's been obtained.

MR. PEREZ: Yes.

MR. DATES: Yes.

MR. DONNELLY: The jurisdictional determination by the Army Corp.

MR. COCKS: Yes.

MR. PEREZ: Yes.

MR. DONNELLY: That's done. Karen's sign-off we'll need. The standard Architectural

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Review Board condition. Landscape security and inspection fee. I take it a stormwater inspection fee.

MR. HINES: Yes.

MR. DONNELLY: I don't think there's any offer of dedication here. Am I correct?

MR. HINES: There is not.

MR. DONNELLY: The last condition then would be the requirement that no outdoor fixtures or structures not shown on the plans be constructed on site.

CHAIRMAN EWASUTYN: Mike, I'll move for a motion that we approve both the site plan and ARB. Would that be satisfactory?

MR. DONNELLY: Yes.

CHAIRMAN EWASUTYN: Having heard the conditions for approval of the resolution for the motion of site plan approval and ARB prepared by Attorney Mike Donnelly, I'll move for that motion.

MR. PROFACI: So moved.

MR. GALLI: Second.

CHAIRMAN EWASUTYN: I have a motion by Joe Profaci. I have a second by, Frank Galli was

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that?

MR. GALLI: Mm'hm'.

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.

MR. PEREZ: Thank you very much.

(Time noted: 7:45 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.

DATED: April 28, 2008

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

----- X

In the Matter of

TUTTLE AND CONROY LOT LINE CHANGE
(2008-12)

West side of Sloan Road
Section 43; Block 5; Lot 2.22
R-3 Zone

----- X

CONCEPTUAL SKETCH PLAN

Date: April 17, 2008
Time: 7:45 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
GERALD CANFIELD
TILFORD STITELER

APPLICANT'S REPRESENTATIVE: WILLIAM B. HILDRETH

----- X

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

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MS. HAINES: The next item of business is the Tuttle and Conroy lot line change. It's a conceptual sketch plan, it's located on the west side of Sloan Drive and it's being represented by William Hildreth.

CHAIRMAN EWASUTYN: Bill, if you don't mind we're all going to leave the room and leave you by yourself. We have news to report that may cause you all to want to leave the room as you begin to digest what we're going to tell you.

Mike.

MR. DONNELLY: As you may be aware, there is no specific animal in the Town of Newburgh Zoning Ordinance called a lot line change. Indeed the definition of a subdivision is rather broad and includes any type of lot line change. Despite that, for a long period of time, including long before I had been here, the Planning Board had been approving lot line changes in circumstances where no new building lot is being created, no nonconformity is being cured or no infrastructure lines or encroachments are being created as a matter of informality and accommodation to its citizens. However, in a

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2 recent lawsuit we were brought to task on that
3 and the Appellate Division told us quite
4 emphatically there is no such thing as a lot line
5 change in the Town of Newburgh, at least until we
6 remedy that by amending the Code. So until and
7 unless the Town Board amends the Code, there are
8 no longer any lot line changes and any lot line
9 change needs to be applied for in process as a
10 subdivision.

11 MR. HILDRETH: Which means what with
12 respect to this application?

13 MR. DONNELLY: It means the application
14 fees that go with a subdivision, the level of
15 formality, which would include a public hearing
16 would be required, notification to I believe
17 adjoining property owners, et cetera.

18 MR. HILDRETH: The fees I think should
19 be the same because the fees I think were the
20 same for a two-lot subdivision, were they not?

21 CHAIRMAN EWASUTYN: Dina knows.

22 MS. HAINES: They're not.

23 MR. HILDRETH: They're not. The escrow
24 would be different. The application fee is
25 probably -- there's going to be an adjustment in

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the fees.

MS. HAINES: There's going to be an adjustment definitely in the fees.

MR. HILDRETH: Not the worst thing that's happened to me in the last few months. Shall I proceed?

CHAIRMAN EWASUTYN: Please. Thank you.

MR. HILDRETH: This is a lot line change --

MR. DONNELLY: No, it's not.

CHAIRMAN EWASUTYN: Subdivision.

MR. HILDRETH: Do I have to amend this to a subdivision on the submission? It's not a subdivision.

MR. DONNELLY: We'll treat it as a subdivision.

MR. HILDRETH: In private some day you and I will talk about a lot of this.

CHAIRMAN EWASUTYN: Talk to Mike Donnelly.

MR. DONNELLY: I'm not fighting you on this.

MR. HILDRETH: I would love to offer my opinion in private about lot line changes. Do we

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have to formally apply as a subdivision here based on what you said?

MR. DONNELLY: I think we can just treat this as a subdivision. If we have an subdivision application form, that needs to be filled out. I don't know what we have.

MR. HILDRETH: The application is the same. It's just a matter of changing the fees. If you don't mind, I'm going to have a hard time not calling this a lot line change. May I continue?

MR. DONNELLY: Yes.

MR. HILDRETH: It's two developed single-family residential parcels. All that's happening here is the line that currently divides them -- by the way, it's located on the west side of Sloan Road in an R-3, about 1,300 feet north of River Road. What's happening here is the existing line between them is being moved north about 25 feet. That's it. When you do that the subsequent revised area, the setbacks all comply with the current zoning bulk requirements, so there's no issues there. The transferred parcel area is about 5,200 square feet. There are no

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proposed developments or any improvements by either party. The applicants, the Tuttlles, are selling that portion to the Conroys and that's it. This is just a handshake between two lot owners.

CHAIRMAN EWASUTYN: Pat, I think you had one or two clean-up items.

MR. HINES: I'm good. Me and Mr. Hildreth had a conversation regarding that and I think he won.

MR. HILDRETH: As far as the septic system goes on the Conroy lot. I've shown the septic system area on Tuttle because I was involved with that and I know where it is. The Conroy lot was already approved when I got on board. The only place for it to exist is between the house and the road and the driveway and the southerly property line. If you need more specific information than that I can contact the Conroys. They may or may not know.

MR. HINES: I didn't ask that question.

MR. HILDRETH: I know. You're done.
I'm done with you.

MR. COCKS: I'm fine with that.

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MR. HINES: That lot is getting larger actually.

MR. HILDRETH: It's getting larger. Do you need a generic septic system in this area?

MR. HINES: No.

MR. HILDRETH: Never mind. Okay.

MR. COCKS: As long as Pat is okay with it.

MR. HILDRETH: Do we set a public hearing date?

CHAIRMAN EWASUTYN: First we would have to make a SEQRA determination and then -- I can't give you a date at this moment.

MR. HILDRETH: You can or can not?

CHAIRMAN EWASUTYN: I can not. I mean that too based upon what we have in-house. I couldn't give you that at this point.

MR. HILDRETH: Okay.

CHAIRMAN EWASUTYN: I think really what we're looking at at this point in time is probably our first meeting in June.

MR. HILDRETH: You'll let me know.

CHAIRMAN EWASUTYN: Dina will let you know. I would like at this point to bring it to

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Board Members for their comments.

MR. GALLI: Does there have to be a public hearing?

MR. DONNELLY: I'm afraid so.

MR. HILDRETH: If you treat it as a subdivision it does. Prior to this, as a lot line change you probably had discretion or something.

MR. BROWNE: I'm okay.

MR. MENNERICH: No questions.

MR. PROFACI: No.

CHAIRMAN EWASUTYN: I'll move for a motion to declare a negative declaration and to set this up for the next available date for a public hearing.

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.

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MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: And myself yes.

Bill, if you have a chance, speak with
Dina maybe tomorrow as far as where we stand.

MR. HILDRETH: I'll be gone tomorrow.

Can I call you Monday?

CHAIRMAN EWASUTYN: Bryant, this is
within 500 feet of a County road?

MR. COCKS: No.

(Time noted: 7:52 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.

DATED: April 28, 2008

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

----- X

In the Matter of

WELCOME GROUP HOTELS
(2008-11)

South side of Pepsi Way, west of intersection of
Pepsi Way and Route 52
Section 97; Block 1; Lot 20.6
IB Zone

----- X

CONCEPTUAL SITE PLAN

Date: April 17, 2008
Time: 7:52 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
GERALD CANFIELD
TILFORD STITELER

APPLICANT'S REPRESENTATIVE: THOMAS DePUY

----- X

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

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MS. HAINES: The next item of business is Welcome Group Hotels. It's a conceptual site plan, it's located on the south side of Pepsi Way west of the intersection of Pepsi Way and Route 52. It's in an IB Zone and it's being represented by Tom DePuy.

MR. DePUY: I'm Tom DePuy with DePuy Engineering. I represent the Welcome Group, L.L.C. I have the two principals here with me.

They're proposing an extended stay. It's actually going to be a Candlewood Suites hotel on Pepsi Way. It's a two-phased project. The first phase would be 81 rooms and the second phase would be 80 rooms.

The drainage wants to drain to the rear of the property where we're proposing a detention pond. We're going to make it a wet pond and landscape it. It actually needs to discharge out and go across lot 5 of the original Brook Trust subdivision. An easement had been left there when we did the original subdivision. We'll come down and discharge into this stormwater easement here. This eventually goes out into the large wetlands in the back. That had been utilized

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back for the original subdivision.

Basically the motel itself would have one-bedroom, extended studio and studio rooms. I think there was a question brought up. They would have efficiency kitchens in them. That I think triggers a couple different things. They haven't yet figured out the overall room layout, whether they would want to put a coffee shop in or not. I think that's another issue. Also on the phase 2, whether there's a possibility that they would want to put a restaurant in at that time. I think basically that's it in general. I know there are a lot of comments and stuff. I'll see if there's any other input from the Board.

CHAIRMAN EWASUTYN: Just from an introduction, and I've always kind of felt that the narrative letter, the submission letter was something that if you never looked at the site plan you would kind of have an idea what it was all about. So just speaking for myself, I would appreciate it in the future that if you did make a submission like this, if there were going to be suites that you would -- you would state that in fact.

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2 MR. DePUY: Yeah.
3 CHAIRMAN EWASUTYN: You gentlemen, have
4 you had experience? Can you tell us how you
5 visualize this hotel working? And for the
6 record, your name?
7 MR. GIRI: Good evening everybody on
8 the Board. Good evening. This is a --
9 CHAIRMAN EWASUTYN: Your name?
10 MR. GIRI: My name is Giri. I built a
11 house here in Newburgh --
12 CHAIRMAN EWASUTYN: You did the one
13 down on Stone Hedge Road there.
14 MR. GIRI: And also on Candlestick Hill
15 Road in the subdivision.
16 CHAIRMAN EWASUTYN: I remember you.
17 You came here. I remember meeting you one
18 evening also.
19 MR. GIRI: Yes. This is a franchise
20 from Intercontinental Group which happens to be
21 rated 8 in the magazine for the year 2008. They
22 have the best hotel. This will have a mixed
23 scale extended stay portal in the Town of
24 Newburgh, which there is no existing product in
25 this category. The hotel offers a lot more

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2 features, a phenomenal price of what other hotels
3 are charging. For example, we have a pool.
4 Every room, every suite will offer a full size
5 refrigerator and microwave oven. It's an
6 efficient kitchen. With all the building in the
7 Town of Newburgh and around, a product like this
8 we felt was needed. So we are proposing an
9 efficient basis.

10 We already did a market study. We did
11 the economic impact study. Everything came out
12 positive.

13 In the future meetings, if the Board
14 wants we can present all the copies and all the
15 details. We wanted to get a feel from the Board
16 as to what direction we should be heading.
17 Newburgh is experiencing a tremendous growth so
18 we feel that this will bring in a lot of positive
19 impact on the development of the Crossroads of
20 the Northeast.

21 CHAIRMAN EWASUTYN: Just as a matter of
22 discussion to understand the concept before we
23 begin discussing the concept layout, I'll ask
24 Frank Galli if he has any questions as far as the
25 concept of suites?

WELCOME GROUP HOTELS

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MR. GALLI: I just had a question. All of them were going to have kitchens?

MR. GIRI: Yes. We believe that every room has an efficient kitchen. It's a suite. It's an efficient kitchen.

MR. DONNELLY: John, do you want me to raise the issue?

MR. GALLI: The zoning.

MR. DONNELLY: There are two zoning issues that are raised. One is in the definition of hotel, or motel rather, only 25 percent of the units can have kitchens. There is another applicant that's asking for an area variance so that they can get 100 percent of the units with kitchens. You would need to follow that path as well.

The second issue that's raised is the use itself. A hotel use can only be located on a lot under the Newburgh Code that has its primary frontage on a State highway. That I think, but it would be for the Zoning Board to determine, is a use variance. So you would need to make application for both a use variance and an area variance before you could get site plan approval

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from this Board.

MR. GIRI: I want the meeting --

CHAIRMAN EWASUTYN: Can I?

MR. GIRI: Sure.

MR. MENNERICH: Mike, thinking about the use variance and being on a State road, there's a couple other hotels in the Town of Newburgh where we -- that aren't on State roads. The one off of 17K.

MR. DONNELLY: I don't know whether they predated this requirement or whether there's been an interpretation by the Zoning Board.

MR. MENNERICH: Also, the one on Corporate Boulevard that wants the kitchen efficiency units. That's on a private road, too.

MR. DONNELLY: That's right. You're right.

MR. MENNERICH: I don't know how we handle something like that.

MR. DONNELLY: Well that one -- does that one -- it doesn't have its entrance -- does it have frontage?

MR. HINES: It has Thruway frontage. I'm not sure of the lot geometry. It may own

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part of that private road.

MR. DONNELLY: I don't think we noticed the issue at the time.

MR. DePUY: We have 50 feet on Route 52.

MR. HINES: You actually have 100 feet I think.

MR. DePUY: Something like that.

MR. HINES: A 59 and a 49.

MR. DONNELLY: We're going to have to examine how we did that with the others. I think that's certainly relevant to the application to the Zoning Board. There was a suggestion earlier that we query why that requirement exists knowing that it is commonplace now for hotels to be located off State highways, behind restaurants, shopping centers, industrial parks and things of the kind. Maybe the Town Board would want to reconsider that restriction.

MR. GIRI: May I please make a comment? Before we proposed this particular brand of hotel we did a thorough market study. The Town of Newburgh didn't have any extended stay except the hotel suites that opened in Stewart Airport which

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2 is a much higher price portal than this one.
3 Also, since this is an extended stay it is
4 different from transient. A lot more services
5 are offered. Like Holiday Express would not have
6 a kitchen offered in it. So that's why if the
7 location is a little secluded, if it's away from
8 the traffic, that's where this particular model
9 fits in. Based on all the studies that's how we
10 came up with this particular franchise. We
11 already obtained the franchising license.

12 MR. GALLI: We have one before us now
13 on the Planning Board that has the extended stay,
14 and they're going through the process of the
15 Zoning Board trying to get that approved because
16 it exceeds the 25 percent. You're going to follow
17 what they follow.

18 MR. GIRI: Sure.

19 MR. GALLI: And you might want to watch
20 their turn out before the Zoning Board. If they
21 get approved or if they get denied, whichever way
22 they go, then you have a feel which way they're
23 going to treat you by what decision they make on
24 them because they're trying to do the same thing
25 you are.

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MR. GIRI: We'll follow all the guidelines.

MR. GALLI: I'm not worried about you following the guidelines. I'm saying that's a precedent you may want to keep an eye on.

MR. GIRI: All right.

MR. HINES: I think that issue is on next Thursday actually.

MR. GALLI: The hearing has been held open a few times.

CHAIRMAN EWASUTYN: Before I turn to our consultants, the one consultant that isn't here this evening is Ken Wersted. Ken did say that there would need to be an update on the traffic study.

MR. DePUY: Yeah. I believe --

CHAIRMAN EWASUTYN: You were part of the original -- why don't you bring us through a little history of the project since you were part of the original. Originally when you were coming before us, the use that you had in mind at that time.

MR. DePUY: Okay. Basically we had, I believe it was a six-lot subdivision. Lot number

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2 1 is where Pepsi actually settled in on. We had
3 a road come down and -- I guess I should have
4 brought the subdivision -- come down and there's
5 a cul-de-sac right about here, and that's where
6 Pepsi comes off. At the time we had proposed
7 industrial, commercial and office use. I mean
8 this use is a little bit different than what was
9 originally proposed. At that time we did a
10 detailed Environmental Impact Statement and
11 reviewed numerous different impacts, traffic,
12 water, sewer, stormwater, and I believe we -- we
13 had gotten pos dec'd and did a full impact
14 statement at the time. So I think as we come
15 through with this project we'll have to reopen
16 that and reexamine it from the thresholds that
17 were originally established. And so it is a
18 slight different use from what we proposed from
19 -- I don't think it will exceed any of the
20 thresholds that were established but later on
21 lots may start to exceed those thresholds. That's
22 something that will have to be looked at. We
23 would probably propose doing a comparative
24 analysis of what was proposed at that time versus
25 what this use is and what it's using for water,

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sewer, traffic, et cetera as we head on.

CHAIRMAN EWASUTYN: Comments from --
excuse me.

MR. MENNERICH: Tom, on the traffic
impacts, --

MR. DePUY: Right.

MR. MENNERICH: -- the timing of a
light on Route 52, do you think that was covered
in the original?

MR. DePUY: Yeah. They had -- when
they did the original traffic study we did have a
threshold that would trigger a light there. We
actually had to revisit that when we did the
Pepsi expansion and we still didn't have the
warrant. There was no warrant. We hadn't
reached the warrant yet to have a traffic light
out there. This will have to be reanalyzed at
that time. I know Pepsi wants a traffic light
but they can't have it because it doesn't exceed
the certain warrants that the State had
established.

CHAIRMAN EWASUTYN: Frank?

MR. GALLI: I was only going to say
with The Market Place there, you might be getting

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close to your warrant.

MR. DePUY: Right.

MR. MENNERICH: The majority of the traffic coming out of there is going to want to take a left on Route 52 to go towards 84.

MR. DePUY: Yup. And it had been previously looked at. I think Craig had asked us to re-study this intersection with a new traffic count and everything to see if -- the background has probably changed from what the original report was. Not to restudy everything through the area but this is the main intersection that he had asked to be restudied.

MR. GALLI: When was the original Pepsi? That was back in --

CHAIRMAN EWASUTYN: '94.

MR. DePUY: '94, '95. Then when we put the expansion on it was two years ago we had re-examined everything.

MR. GALLI: The fire hydrant is still not working. Okay.

CHAIRMAN EWASUTYN: Just remember there is no signage on the road right now stating that it's Pepsi Way. I think the requirement is that

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there should be one.

MR. HINES: That leads into my first comment. We're not really sure what Pepsi Way is.

MR. DePUY: I know. We had offered it for dedication. For some odd reason it never got followed through with. I think at the time Pepsi was the only one on it so, you know, they were maintaining and everything so they never really followed through on a dedication.

MR. HINES: I'm not saying the Town wishes to take dedication. I think we need to follow up with some kind of private road access and maintenance agreement between all of the lots. Now that there will be another user in the complex, it could become an issue.

MR. DePUY: Okay.

CHAIRMAN EWASUTYN: Do you want to continue?

MR. HINES: Sure. Actually, the rest of my comments are really technical because Mr. DePuy had done a lot of engineering work. We're at concept phase here. I have comments regarding the grading, the stormwater management report.

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As far as concept goes, that was probably our main conceptual comment.

We have jurisdictional fire department should be received.

Jerry's comments regarding the access drive will need to be addressed.

There's a sewer easement that also appears not to have been filed.

We're interested to know the status. There's a pump station shown there. I don't know if that's used any more. Right where you just indicated.

MR. DePUY: I can find out. That was a Town --

MR. HINES: I'm thinking that was maybe eliminated when the Crossroads sewer came through, but I'm not sure. We need to investigate that. If it is they need to show the lines in and out of it to make sure everything is separated.

The rest of my comments are on the stormwater management report and are technical that can be addressed after concept and ZBA and the plans are more finalized.

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CHAIRMAN EWASUTYN: Jerry, we received comments from you this evening. Do you want to discuss that with Tom?

MR. CANFIELD: Sure. I did fax Mr. DePuy my comments. We did discuss them briefly. Again, some of them are technical in nature which deals with the water line placement, the hydrants, turning lanes, accessibility.

Probably the most prevalent is a request for a hydraulic analysis of the water system available to the site. These comments were discussed with the jurisdictional fire department, Frank Valdina who does have some knowledge of the water system in that area as well. Our concern is that there's enough volume and pressure. A multi-story building, obviously it needs to be sprinklered but it also needs stand pipes. As we discussed with Mr. DePuy, maybe talking about some kind of on-site pumps or something of that nature.

One item on my comments that's still out in the open, because it's a multi-story building obviously over 30 feet, a ladder truck is going to be needed for the building. The

1
2 jurisdictional fire department does not have a
3 ladder truck. It's their call whether they
4 consider and accept utilizing a mutual aide
5 ladder company which is right up the road,
6 however it's still their call. Chairman Valdina
7 will discuss that with his department and get
8 back to us.
9 Also, I did fax to you, Tom, today
10 later the largest Town aerial device that we have
11 for your truck turning analysis plan that we had
12 discussed. I'm going to give you the
13 specifications on that. You received that?
14 MR. DePUY: Yeah. I got the turning
15 radius and the overall length and everything.
16 MR. CANFIELD: Basically that's it.
17 CHAIRMAN EWASUTYN: Now that brings us
18 back to the design guidelines and the concept
19 that's before us.
20 Bryant Cocks and Karen Arent, our
21 Planner and Landscape Architect, will begin
22 discussing with you some thoughts they have on
23 the concept plan. Bryant.
24 MR. COCKS: Sure. We already discussed
25 a lot of the zoning issues I think. A couple

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issues including rental cars and the parking.
If you would kind of just write out a narrative
so we have all that information.

MR. DePUY: Yeah. There's no rental
cars. We'll put that in there.

MR. COCKS: That's just all zoning
stuff. It's in there, we just have to make sure
so when you do go to the ZBA they know what we're
sending you for. That includes the efficiencies
and what percentage. That's all been addressed.

By the design guidelines it isn't in
conformance. They really stress moving the
buildings closer to the street and having
landscaping in front, moving the parking either
to the rear or sides. So, you know, if the
buildings move forward, I know the site kind of
is a pie shape, it kind of comes in a little.

MR. DePUY: That's our problem. If we
move it forward our setbacks are such that we
have to keep shrinking the building. It just
doesn't lay out for the room type and room layout
within the -- that was -- that's our constraint
as we slide forward.

MR. COCKS: Well there's going to have

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2 to be some happy medium. All the parking is in
3 front. That was probably the one thing the
4 design guidelines of the Town stressed they
5 didn't want to see anymore. It's not really
6 screened from the road at all. There's no room
7 for landscaping up in front. I think you're
8 really going to have to take a look at it and try
9 to make some adjustments and come back in and
10 show a design that maybe the Planning Board feels
11 more comfortable with. There's just --

12 MR. DePUY: I mean as far as maybe just
13 eliminating some of the parking in the front
14 instead of moving the building forward because it
15 just -- if we shrink the building it just doesn't
16 layout for this type of use. That's the problem.

17 MR. COCKS: There's a lot of room in
18 back.

19 MR. DePUY: Possibly taking all this
20 parking and sliding it out here and making this
21 green. We want to move the buildings as much
22 forward as possible. As it comes forward it also
23 brings the building up for us too because the
24 site wants to fall off to this area over here.
25 We can look at it.

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MR. COCKS: I think, you know, creating a green space with a courtyard in front, I think that would be a nice amenity to have. It would lessen the impact of the building a little, especially if you don't see any cars in front of it. I think that would definitely look a lot nicer.

The site lighting is also going to be a big part of the site. There's a couple residents and offices right in front there. You're really going to have to look at how much is going to spill over and what type of lighting is going to be shown, like throughout the parking lot and whatever is going to be in front of the building also.

MR. DePUY: Okay.

MR. COCKS: Maybe if you do have a lot of open space in front, if you do go that way, maybe you could move the stormwater detention in front.

MR. DePUY: Grade wise it all wants to fall off right to this side. That's the problem.

MR. COCKS: I was going to say maybe a pond would take up a nice area. That can't

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occur.

Also, just the site has to make sure it addresses the width of the drive aisles for Jerry Canfield.

MR. DePUY: Yup.

MR. COCKS: They're going to have to be 26 feet in width. That's going to have to be approved by him but I just want to make you aware of that.

A couple of different site plan sheets have different rooms listed. It says 80 on one and 79 on another. That just needs to be clarified.

MR. DePUY: Cleaned up. We're 81 and 80. I think we have 79 on one of the sheets, on the second or third sheet.

MR. COCKS: Then you guys are going to have to create a signage plan. I don't know where you're planning on putting the sign in front of the building. I mean it's going to be on your property up there. I don't really know --

MR. DePUY: We show it right in here.

MR. COCKS: Okay. We're going to need

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to see a signage schedule for that, and it's going to have to be part of the ARB process.

CHAIRMAN EWASUTYN: I think ideally we're probably not looking for a sign that's 25 or 40 feet up in the air.

MR. GIRI: What would you like?

CHAIRMAN EWASUTYN: I'm just saying from your location I would assume you're looking to have as high as possible a sign. Again, we're probably not looking for something of the height you may think would be required.

MR. GIRI: Please can I make a comment?

CHAIRMAN EWASUTYN: It's not to argue the design things, we're just talking to you about that now.

Karen, your comments on the concept.

MS. ARENT: With regard to the signage and the entrance, I find that Pepsi Way is kind of hard to find even though I know where it is, and I would think that somebody coming for the first time to your hotel would have the same difficulty. So I would think that you would want to consider some kind of entrance perhaps on Pepsi Way. Since it is a privately-owned road,

1
2 maybe you could get permission to do some nice
3 stonewalls and nice signage.
4 MR. GIRI: Sure.
5 MS. ARENT: That might be something to
6 consider and to show the Board as a way to get
7 recognition of your hotel as well as make a nice
8 entry that everybody can find.
9 MR. GIRI: Sure.
10 MS. ARENT: So maybe we can consider
11 something like that. I think it's -- I find it
12 hard to find my way in between the two houses.
13 It just doesn't seem like there's a big
14 commercial area back there. So if you did
15 something nice, that might help.
16 MR. GIRI: Sure.
17 MS. ARENT: The other thing to
18 consider, Tom, when you're looking at conceptual
19 design, I don't know if it works with the way the
20 grades lay out but maybe if the building was
21 perpendicular to the site somehow you could get
22 more space. Just to look and see what can be
23 done to satisfy the design guidelines to the best
24 of your ability.
25 MR. DePUY: Okay.

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MS. ARENT: And basically Bryant talked about mostly everything else in my list.

CHAIRMAN EWASUTYN: Mike, so the issue before us this evening, besides them going back and addressing the design guidelines and the concept plan, is what?

MR. DONNELLY: They need to obtain two variances, one for the use itself that you'll have to appeal from a denial by the code compliance department, and the second, an area variance for the kitchen units.

I did look at the section as a follow up to Ken's question. There was an amendment to Section 185-27, the section dealing with hotels, in 2007, local law number 1 of 2007 enacted in March of that year. It made changes. I don't know if that's one of the changes but there was a change at that time. That might explain why there are existing hotels and motels on other than State highways. I don't know what that date is in relation to the Northeast site. I think we probably approved that before March; right? That's been around for awhile.

CHAIRMAN EWASUTYN: Mm'hm'.

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MR. DONNELLY: We could refer you to the Zoning Board for the area variance because State law allows us to, but you would have to appeal from a denial by the building department for the use variance.

MR. DePUY: Okay.

MR. DONNELLY: I can point out in the referral letter that you will need to and will be applying for the use variance as well.

MR. BROWNE: Excuse me, Mike. If that Code change says they don't need that, then they don't have to go for that one?

MR. DONNELLY: The Code change that made it a State highway. I don't know. There was a change to the section in 2007. I don't know what the change was. Right now the Code says two things that affect this applicant, you have to have primary frontage on a State highway and, number two, you can't have more than 25 percent of the units with kitchens.

MR. BROWNE: I misunderstood. I'm sorry. Thank you.

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

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MR. GALLI: Just if I can, what did you have in mind for a sign out in front of your building?

MR. GIRI: Sorry?

MR. GALLI: What did you have in mind for a sign out in front of your building? You were trying to -- what were you thinking that your sign was going to be?

MR. GIRI: Since this is a franchise, the Intercontinental dictates a lot on the signage. They consider, you know, the visual effect, you know. So a lot of things on the signage will be dictated by the franchise. We will also consider comments from the Board and requirements from the franchiser. We will do the best to make it work.

Also I'll make one more comment. We are also trying to make this building as green as possible. We are in consultation already with NYCERTA trying to bring the experts in to the project and make it as green as possible. In the back we're trying to put a gazebo and have a courtyard area. Because of the parking requirements and all that it would not be

WELCOME GROUP HOTELS

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2 possible to put it in the front. We're trying to
3 make the whole space as green as possible, as
4 friendly as possible and as energy efficient as
5 possible. We are considering using all the solar
6 panels, and whatever other help that we can get
7 from NYCERTA we want to use. We'll do the best.

8 CHAIRMAN EWASUTYN: All right. So
9 right now probably just three points, the concept
10 will have to be looked at a little more clearly
11 as far as parking and establishing more of that
12 green front, and as far as the two outstanding
13 ZBA issues.

14 MR. HINES: We were talking about
15 height. Is it a four-story hotel?

16 MR. GIRI: It's a four-story hotel. It
17 will be like 44 feet or something.

18 MR. HINES: There's a 50-foot limit in
19 this zone.

20 CHAIRMAN EWASUTYN: According to what
21 they're proposing and requiring. So plus or
22 minus 5 feet.

23 MR. GIRI: One of the reasons why we
24 are in, we wanted to get a feel of the Planning
25 Board's concerns. Is it a positive development,

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is it something that's going to help in our Town of Newburgh with all the growth happening. So we wanted to hear your comments.

CHAIRMAN EWASUTYN: Thank you. Ken?

MR. MENNERICH: Could I just ask a question?

MR. GIRI: Sure.

MR. MENNERICH: Following up on the sign, do you think that you're going to be able to put a sign on that site that's going to be visible from 84?

MR. GIRI: Sure. Right now it's around 20 feet. This particular, when it's finished it's going to be around 44 plus. We will have signage that will be visible from 84. Again, considering the Pepsi building is covering part of the way, it may not have a clear visibility right but when you pull close you will see it. The sign may not help you to pull into the exit. So that's what then the DOT approval authority to put signage on the highway to say that since there's an exit from the both sides. We'll have enough signage.

CHAIRMAN EWASUTYN: Tom, you may want

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2 to consider the formula for signage, and you may
3 want to begin looking at that beforehand. Before
4 you make application to the ZBA you may want to
5 include -- I think if the corporate has standards
6 with the amount of frontage, you may be needing a
7 variance for signage.
8 MR. BROWNE: These buildings have signs
9 up on the building itself; correct?
10 MR. GIRI: Yes.
11 MR. BROWNE: Plus something in the
12 front?
13 MR. GIRI: There is a sign in the
14 front.
15 MR. BROWNE: All that signage up there
16 is part of the calculation as well as that.
17 MR. GIRI: Right. They have standard
18 requirements depending on the size of the
19 building, height of the building.
20 MR. BROWNE: We do, too.
21 MR. DONNELLY: They might not mesh.
22 MR. DePUY: They never do. That's a
23 good suggestion. We'll look at the signage.
24 Maybe we need a variance on that. If we have to
25 go to the ZBA we may request a variance on that

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at the same time.

CHAIRMAN EWASUTYN: Any additional comments from the Board?

MR. BROWNE: One more. We were talking about the height, 40, 44, 45 feet. Have you looked at the visual from 52, how high that's going to be above the properties on the road?

MR. GIRI: That's something Tom is doing.

MR. DePUY: We had started looking at that as far as if you can view it from 52. I think there's a tree line here that blocks some of it. I don't know how -- we're going to do a detailed analysis. That's what we're going to look at and see where it falls.

MR. BROWNE: I was thinking from my own personal perspective. I'm a road warrior. One thing I detest is when I'm trying to find the hotel and I can't find the darn thing. I think Karen's suggestion with the --

MR. DePUY: The entrance.

MR. BROWNE: Yeah. I think that's a great idea if you can make that work.

MR. GIRI: We'll seriously consider

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that.

CHAIRMAN EWASUTYN: Any additional comments?

MS. ARENT: When you're talking with corporate about your signage, Town of Newburgh has a design guideline that you're not allowed to have internally illuminated signs.

MR. DePUY: Right.

MS. ARENT: That's important to speak with them about.

MR. GIRI: Sure.

CHAIRMAN EWASUTYN: Thank you.

MR. GIRI: Thank you.

MR. DePUY: If I have some other questions can I talk to the consultants about some of their --

CHAIRMAN EWASUTYN: Give me an example of what --

MR. DePUY: Well if I do come up with a little more green area or something like that that would be more acceptable.

CHAIRMAN EWASUTYN: I'll leave it up to the Board. Frank?

MR. GALLI: If he comes up with more

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green area I think we would want to see it. I mean --

MR. DePUY: I'd bring it back to the Board but just make sure I'm --

MR. GALLI: The design guidelines ask for specific things. We follow the design guidelines. If it's within those guidelines I think the Board is comfortable. If it's not within those guidelines the consultants are only going to tell you it's not in the guidelines, come back to the Board and see what they want to do. I think that's what would happen if you started asking them. That's my personal --

MR. DONNELLY: The waiver authority belongs to the Board, not the consultants.

MR. DePUY: I understand that. I want to make sure I understand when they make the guideline --

CHAIRMAN EWASUTYN: I think what's always been -- Frank is leading in that direction. I think it's always been the policy of the Board that the Board approve the concept plan, and then after that, if there's discussion back and forth, a consultants' meeting as far as

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engineering and detail, at that point in time it would makes sense. Right now we would like to have the first opportunity to make --

MR. DePUY: All right.

CHAIRMAN EWASUTYN: Mike, do we want to refer this now to the ZBA or do we want to wait for him?

MR. DONNELLY: There's an issue there.

CHAIRMAN EWASUTYN: The use we can't.

MR. DONNELLY: The use we can't ,and SEQRA. Unlike a residential side yard variance that's exempt from SEQRA, it's a Type II action, these would require SEQRA compliance. There should probably be a lead agency determination and a declaration of significance, otherwise the Zoning Board will have to -- we had this recently where they had to hold up while we did a SEQRA determination before they could act. So I think either we can segment it out by a use variance, part of it. If they are going to have signs, I don't know if you want to send them twice. It's inescapable to me that those signs won't require a variance. They can go get the use variance themselves if they want.

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CHAIRMAN EWASUTYN: So in which case we're not in a position to take an action to declare our intent for lead agency because you're not prepared really as far as the ZBA. We would need to do that.

MR. DONNELLY: You could do the lead agency but you couldn't do the declaration.

CHAIRMAN EWASUTYN: I think as Ken has always said, and we've gone through this before, to declare our intent for lead agency we'll be circulating these plans. Since the concept isn't what we want to begin circulating -- I think you brought that up more recently. It's a valid point.

MR. DePUY: Okay.

(Time noted: 8:28 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.

DATED: April 28, 2008

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

----- X

In the Matter of

SHOPPES AT UNION SQUARE
(2007-05)

Referral to the Zoning Board of Appeals

----- X

BOARD BUSINESS

Date: April 17, 2008
Time: 8:29 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
GERALD CANFIELD
TILFORD STITELER

----- X

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

SHOPPES AT UNION SQUARE

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MS. HAINES: The first item we have for Board business tonight is the Shoppes at Union Square. You need to refer this to the ZBA.

CHAIRMAN EWASUTYN: Mike, it seems like we --

MR. DONNELLY: My notes said that we did at the last meeting. I dictated the letter and somehow it didn't get sent. Larry Wolinsky -- it wasn't Larry Wolinsky. Somebody called me and then I realized the letter hadn't been sent. A referral has been made. If I was premature I can notify the Zoning Board of that but I have already sent a letter.

MR. WASNER Mr. Chairman, may I attempt to explain? We made our --

CHAIRMAN EWASUTYN: Do you have a name?

MR. WASNER: I'm sorry. I'm Brian Wasner.

CHAIRMAN EWASUTYN: Cool, Brian. I'm John.

MR. WASNER: I'm Brian Wasner, I'm the civil engineer for the project from Langan Engineering. Following up on the February Planning Board conditional preliminary approval,

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we intended to go in to get the variances that are required for the Cosimo's lot. There are several bulk variances, front yard, side yard, rear yard, lot coverage and surface coverage.

As Mr. Donnelly eluded to, there was a disconnect with getting the letter, the actual referral letter to the Zoning Board. Until earlier this week when we got the letter we weren't able to make an application to the Zoning Board. However, in that time we were able to address most of the consultants' comments from the last Planning Board meeting and their review letters, some minor revisions to the retaining -- the stonewall height and the fencing around the detention basin and additional drainage calculations and so forth. We had that work done. We also made a minor modification to the additional building that's going to be placed on the Cosimo's lot. And while that doesn't change the square footage and the resulting change results in a loss of two parking spaces in order to save two additional trees along Orr Avenue, therefore the plan would still be compliant. We didn't want to present this plan to the Zoning

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Board without presenting it to the Planning Board first. We don't actually believe that we require a revised referral letter because the revised footprint does not actually require any additional variances. All the same variances are still required.

So I'm here tonight to just present, if you even need a presentation of the updated plan. We understand that this updated plan still needs to come back to the Planning Board for architectural review as well as final site plan approval. So we know you will review it in more detail later. We felt it wasn't going to be appropriate that we present a different plan to the Zoning Board than we had previously presented to you.

MR. DONNELLY: I think that's fair and respectful.

CHAIRMAN EWASUTYN: Frank Galli?

MR. GALLI: I have no problem with that. I appreciate it.

CHAIRMAN EWASUTYN: Cliff Browne?

MR. BROWNE: Good.

MR. MENNERICH: Okay.

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MR. PROFACI: I appreciate it.

MR. WASNER: So very quickly then, the revision to the plan, other than the reviewers' comments, is solely focused down here on the Cosimo's lot. The previous application had a 5,000 square foot retail on the ground floor with 5,000 square feet additional retail on the second floor for a total of 10,000 square feet. After doing some discussion -- after having some discussions with potential tenants, the landlord for the property has come to the realization that that second floor retail, there's really not a market for it, and requests that we convert about 3,000 square feet of the retail to the lower floor. 2,000 square feet would -- about 2,000 square feet would remain on the second floor. So the previously proposed 10,000 square foot building is now a 9,970 square foot building, a 30 square foot reduction. Approximately 8,000 is on the lower floor, 2,000 is on the second floor. That primarily comes in the area behind Cosimo's as well as the small area between this building and the future building over on the next parcel.

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In order to accommodate the additional square footage we had to shift some parking around on the site and a previous area here that was cut off along Orr Avenue has been expanded. Two trees that were previously not anticipated to be saved can now be saved with this layout, and that results in a two parking space loss from our previous plan.

As I previously mentioned, all the bulk variances required for the Cosimo's lot remain the same, the side yard, rear yard, lot coverage and surface coverage.

If you have any questions, I'd be happy to answer them.

CHAIRMAN EWASUTYN: Frank, any questions?

MR. GALLI: No.

CHAIRMAN EWASUTYN: Cliff ?

MR. BROWNE: The square foot -- footprint on the front on that building grew?

MR. WASNER: On the ground floor, yes.

MR. BROWNE: How much did it grow on the ground floor dimension wise?

MR. WASNER: Before it was a 50 by

1
2 100-foot building. Now it's -- it's a little odd
3 shaped but it varies from about 75 feet. It's
4 still about 100 feet long, it just got sort of
5 fatter in these areas. Instead of being 50 feet
6 wide it varies between 50 and 75.

7 MR. BROWNE: The length stayed the
8 same?

9 MR. WASNER: The length stayed about
10 the same. It may have grown a couple feet. The
11 change really is in the fatness of, the depth of
12 building.

13 MR. BROWNE: Thank you.

14 CHAIRMAN EWASUTYN: Ken Mennerich?

15 MR. MENNERICH: I guess I'm a little
16 surprised that you could work your parking. It
17 would seem like your parking would have gotten
18 worse by making the footprint on the ground
19 larger.

20 MR. WASNER: Well most of the -- the
21 frontage of the front -- the building that faces
22 Route 300 already had parking in front of it. On
23 the other side where we have this driveway, there
24 was never any parking here. So by growing -- and
25 we have the loading and sort of the operational

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2 area behind the building. We didn't lose
3 anything there. Really where we lost a few
4 spaces is in the front of the building right
5 here. We were able to make that up directly
6 across. As you may recall, this is viewed as a
7 shopping center where there's envisioned to be a
8 lot of shared parking between the uses. So the
9 minimal amount of parking spaces that we lost in
10 front were replaced over in this area adjacent to
11 the building.

12 MR. MENNERICH: Traffic flow that goes
13 in front of Cosimo's now along Route 300, will
14 that be able to continue around the new building?

15 MR. WASNER: Yes.

16 MR. MENNERICH: Thank you.

17 CHAIRMAN EWASUTYN: Joe?

18 MR. PROFACI: Nothing.

19 CHAIRMAN EWASUTYN: Pat Hines?

20 MR. HINES: We were just looking at the
21 plan. Did the restaurant pad move closer to the
22 stream and the bridge?

23 MR. WASNER: The restaurant pad?

24 MR. HINES: Yes.

25 MR. WASNER: No. It's in the same

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location as the previous plan.

MR. HINES: It looked like it was closer to the stream. We'll have to take a look at it.

I think it can still go to the ZBA. We'll look at the revised plans when they come back to us.

CHAIRMAN EWASUTYN: Karen?

MS. ARENT: It sounds good that you're saving two trees. We are losing a little bit of green space but it looks fine.

CHAIRMAN EWASUTYN: Bryant?

MR. COCKS: I don't have any comments right now. I haven't looked at it.

CHAIRMAN EWASUTYN: Jerry, Tilford?

MR. CANFIELD: Our comments were forwarded to Bryant who's been discussing them.

CHAIRMAN EWASUTYN: Fine. Thank you.

MR. WASNER: Okay. Thank you very much.

MS. HAINES: The next item we have for Board business is F.W. Webb --

CHAIRMAN EWASUTYN: Excuse me. We don't have to refer because it's --

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MR. DONNELLY: It's been done.

(Time noted: 8:38 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.

DATED: April 28, 2008

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

----- X

In the Matter of

F.W. WEBB
(2004-32)

Discussion regarding air conditioning units

----- X

BOARD BUSINESS

Date: April 17, 2008
Time: 8:39 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
GERALD CANFIELD
TILFORD STITELER

----- X

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MS. HAINES: The next item we have is F.W. Webb. I received an e-mail from Karen dated April 15, 2008. We'll need to determine to allow roof mounted air conditioning units as opposed to the ground mounted air conditioning units as was approved.

MS. ARENT: Since I requested the visuals I got them today. I think it's a no brainer that this will be a big impact visually.

CHAIRMAN EWASUTYN: Can you bring that board a little closer?

MS. ARENT: Yes. This is the F.W. Webb building. Here is the front. This is the roof. This is the front facade. These are where the air conditioning units will be placed. This is the rendering. It was described to me over the phone that you could hardly see them. I said please submit visuals. They also gave this photograph but I don't know how -- it's hard to determine. This is what they are intending to do. It's taken from an angle where it's hard to tell exactly what the visual impact would be. This does appear to be that they'll be quite visible.

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MR. MENNERICH: Especially if they
paint them yellow.

MS. ARENT: They will be the gray to
match the building. Originally they were ground
mounted in front here with some landscaping
around. The reason why they want to move them is
because it's much more efficient mechanically as
far as cooling. That's why I entertained the
idea and asked for the visuals. They said it's a
savings because they don't have to go as far with
the coolant, and then they also don't have to
split the mechanical systems and have -- which
requires extra plumbing. So that's the big
reason why they're requesting this change.

It's up to you. I brought the site
plan if you want to see it. I think that the
visual impacts would be from Corporate Boulevard
but also across the field in front of Grainger.

MR. BROWNE: We're looking at almost a
level view into the building; correct?

MS. ARENT: From the road? From Route
17?

MR. BROWNE: Yeah.

MS. ARENT: It's almost level. I think

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2 you might be a tiny bit higher perhaps. I have
3 to look at the grades.
4 MR. MENNERICH: From the west you
5 probably are.
6 MS. ARENT: That's where you'll have
7 visuals.
8 MR. HINES: There's going to be a hotel
9 in front of it from 17.
10 MS. ARENT: There will be a hotel in
11 front of this. I'm thinking of looking across
12 Corporate Boulevard in front of Grainger is where
13 you would see it. It would be from fairly far
14 away. It's not right on top of you.
15 Do you want to see a site plan? I have
16 the site plan here.
17 MR. GALLI: The only question I would
18 have is I know there's been an ongoing issue with
19 impact on this property of residential to
20 commercial and seeing things.
21 MS. ARENT: Right.
22 MR. GALLI: That's been a big problem
23 with this particular property right now. Now if
24 they are going to stick these units on top of the
25 roof that you can actually see -- can you see

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2 these units from Fletcher Drive? I'm sure you
3 can.
4 MR. BROWNE: They're open.
5 MR. MENNERICH: When the leaves are off
6 the trees.
7 MR. GALLI: The visual impact is
8 definitely going to be worse than what was
9 originally stated and what we originally went
10 through.
11 MR. BROWNE: Are they going to put sod
12 around the whole thing?
13 MR. DONNELLY: That's the problem.
14 MS. ARENT: This roof style doesn't
15 allow raising a parapet because it's metal. So
16 there's no --
17 MR. GALLI: Maybe Mike can bring us
18 forward.
19 MR. BROWNE: Re-open the public thing
20 on the visual.
21 MR. DONNELLY: You did do a visual
22 analysis. You'll remember the lawsuit was very
23 much focused on the visual impacts. So you would
24 have to do some kind of SEQRA assessment of what
25 those are.

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2 MS. ARENT: I will let the construction
3 manager know that. I think that they probably
4 don't want to go through that process and would
5 rather put them on the ground.
6 MR. BROWNE: Yeah. Wouldn't it cost
7 them more to reinforce the roof to do all this,
8 to build it, than continue with the project the
9 way it was planned?
10 MS. ARENT: No.
11 MR. BROWNE: I would think it would be
12 cheaper.
13 MS. ARENT: I don't think the roof
14 needs to be reinforced for the amount of weight.
15 They feel that this is much less expensive to do.
16 MR. BROWNE: What's the limitation for
17 putting something around it so you can't see
18 these things? Sloping the roof?
19 MR. MENNERICH: I don't know as I've
20 ever seen a sloped roof with roof mounted --
21 MR. GALLI: Can we be changing -- that
22 suit is still ongoing?
23 MR. DONNELLY: It's over.
24 MR. GALLI: It's over?
25 MR. DONNELLY: Yeah.

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MR. GALLI: Okay.

MR. DONNELLY: We were successful and the analysis that we conducted was found adequate by the courts, but it's not to say that we couldn't start another lawsuit if we didn't adequately address these new visual impacts.

MR. GALLI: They're not any better, they're getting worse.

MR. DONNELLY: This is clearly, as Karen has told you, a more significant visual impact than the earlier plan.

MR. GALLI: That's what I'm getting at.

MS. ARENT: It is more.

CHAIRMAN EWASUTYN: So the alternative we're discussing now is we would either prefer that they stay with the ground mounted units and/or -- what is it that we would --

MR. DONNELLY: They need to apply for amended site plan approval and we would have to then conduct the appropriate environmental analysis of the impacts.

MR. GALLI: Right.

MS. ARENT: I'll let him know.

MR. MENNERICH: Visuals from points

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like 17K.

MS. ARENT: Fletcher Drive.

MR. MENNERICH: Fletcher Drive.

MR. DONNELLY: And proposed mitigation if possible. The mitigation might look worse than the units on this style roof.

MR. BROWNE: We would have to also, if we go that route, have another public hearing on that?

MR. DONNELLY: It depends on where you go with SEQRA. Like the earlier case, it depends upon what you wanted to do. You wouldn't be required to hold a hearing. You certainly could.

MR. BROWNE: I think with this we would be almost obligated to personally. That's my point.

MS. ARENT: That was the purpose of me bringing it forward. So I'll let him know and copy you on the e-mail.

CHAIRMAN EWASUTYN: Why don't you speak with Mike as far as the appropriate language, and you could maybe memorialize it in the form of a letter more than an e-mail.

MS. ARENT: Sure. No problem.

F.W. WEBB

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(Time noted: 8:44 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.

DATED: April 28, 2008

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

----- X

In the Matter of

NEWBURGH MALL

Change of Use

----- X

BOARD BUSINESS

Date: April 17, 2008
Time: 8:45 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
GERALD CANFIELD
TILFORD STITELER

----- X

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

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CHAIRMAN EWASUTYN: Change of use for
Newburgh Mall. We discussed that. You can let
Joe know that they have to make an application to
the Planning Board.

(Time noted: 8:45 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.

DATED: April 28, 2008

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

----- X
In the Matter of

EXETER
(2002-26)

Discussion by Michael Donnelly regarding litigation

----- X

BOARD BUSINESS

Date: April 17, 2008
Time: 8:46 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
GERALD CANFIELD
TILFORD STITELER

----- X

MICHELLE L. CONERO
10 Westview Drive
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CHAIRMAN EWASUTYN: Mike, there's one other item that you have to discuss.

MR. DONNELLY: You'll remember that we discussed the Exeter litigation in executive session at your last meeting. We can speak out loud now because you need to take an action. What we had discussed was the possibility of seeking to reargue the decision of the Appellate Division and/or seeking permission to appeal to the Court of Appeals. The Town Board had met in executive session before yours. They have now met in a public session and have authorized the expenditure of legal fees to pursue those two alternatives. They assured me it is not part of your budget. The appeal would actually be of the part of the decision that affected the Planning Board, therefore you need to vote to authorize the re-argument of that decision and the application to the Court of Appeals for leave to appeal. We discussed it last month, it isn't a surprise. I think there is merit to the re-argument motion. Whether it will be successful has more to do with the impatience of the court than the merit of the argument. That's

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where we stand. You would need to vote for an authorization to pursue that legal course.

CHAIRMAN EWASUTYN: Questions from the Board?

MR. GALLI: No additional.

MR. BROWNE: No. I would like Mike to make sure that he gives us the right words we're waiting on.

MR. MENNERICH: Wasn't this mainly to limit the amount of --

MR. DONNELLY: Yes. What we perceive as the error of the Court, it was really an inadvertent one we believe, and that is that although the local law that was challenged did change the zoning on this property, it did not affect either the density of development or setbacks -- not density. It did not affect lot size or setback which are the triggers of the protection afforded by Section 265-A of the Town Law. Therefore even if you take the Court's decision that this was a subdivision and not a lot line change, the trigger does not apply to this subdivision to entitle the applicant to the old ordinance protection that the Court in

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sweeping language granted, and that's the nature of your re-argument.

MR. MENNERICH: Thank you.

CHAIRMAN EWASUTYN: Joe, any questions?

MR. PROFACI: No.

CHAIRMAN EWASUTYN: Mike, for the statement that Cliff Browne made, if you would give us the verbiage for authorization, we'll move for that motion.

MR. DONNELLY: I think the motion is to authorize the filing of a motion to re-argue the decision of the Appellate Division and to seek permission to appeal to the Court of Appeals from that decision.

MR. BROWNE: Do we need to reference --

MR. DONNELLY: I'm sorry. We are talking about Exeter.

MR. BROWNE: So moved.

CHAIRMAN EWASUTYN: I have a motion by Cliff Browne. Do I have a second?

MR. PROFACI: Second.

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

(No response.)

EXETER

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2 CHAIRMAN EWASUTYN: I'll move for a
3 roll call vote starting with Frank Galli.
4 MR. GALLI: Aye.
5 MR. BROWNE: Aye.
6 MR. MENNERICH: Aye.
7 MR. PROFACI: Aye.
8 CHAIRMAN EWASUTYN: Myself. So
9 carried.
10 CHAIRMAN EWASUTYN: I'll move for a
11 motion to close the Planning Board meeting of the
12 17th of April.
13 MR. GALLI: So moved.
14 MR. BROWNE: Second.
15 CHAIRMAN EWASUTYN: I have a motion by
16 Frank Galli. I have a second by Cliff Browne.
17 I'll ask for a roll call vote starting with
18 Frank Galli.
19 MR. GALLI: Aye.
20 MR. BROWNE: Aye.
21 MR. MENNERICH: Aye.
22 MR. PROFACI: Aye.
23 CHAIRMAN EWASUTYN: Myself. So
24 carried.
25 (Time noted: 8:48 p.m.)

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

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DATED: April 28, 2008

