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

- - - - - X

In the Matter of

COUNTRY ESTATES AMENDED SUBDIVISION
(2012-25)

Laurie Lane
Section 40; Block 3; Lots 3.0 & 10
R-1 Zone

- - - - - X

TWO-LOT SUBDIVISION

Date: June 20, 2013
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
THOMAS P. FOGARTY
JOHN A. WARD

ALSO PRESENT: MICHAEL H. DONNELLY, ESQ.
BRYANT COCKS
PATRICK HINES
GERALD CANFIELD

APPLICANT'S REPRESENTATIVE: ROSS WINGLOVITZ

- - - - - X

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

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MR. BROWNE: Good evening, ladies and gentlemen. Welcome to the Town of Newburgh Planning Board meeting of June 20, 2013.

At this time I'll 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. FOGARTY: Here.

MR. WARD: Present.

MR. BROWNE: The Planning Board has professional experts that provide reviews and input on the business before us, including SEQRA determinations as well as code and planning details. I would ask them to introduce themselves at this time.

MR. DONNELLY: Michael Donnelly, Planning Board Attorney.

MS. CONERO: Michelle Conero, Stenographer.

MR. CANFIELD: Jerry Canfield, Town of Newburgh.

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

MR. COCKS: Bryant Cocks, Planning
Consultant.

MR. BROWNE: Thank you. At this time
I'll turn the meeting over to John Ward.

MR. WARD: Please stand to say the
Pledge.

(Pledge of Allegiance.)

MR. WARD: Please turn off your cell
phones.

MR. BROWNE: Thank you. Our first
order of business this evening is Country Estates
Amended Subdivision, project number 2012-25.
This is a two-lot subdivision being presented by
Ross Winglovitz.

MR. WINGLOVITZ: Good evening. Ross
Winglovitz, Engineering Properties.

I'm here before you tonight on a matter
that was reviewed by the Board back in January.
These are two lots that were part of the original
Country Estates subdivision on a map filed in the
'50s. The map indicated that these two lots were
not for building purposes.

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At that time we thought we required variances. We subsequently found out that we had indicated the wrong zoning designation and we actually don't need zoning variances for pre-existing -- actually, the lots conform to the zoning.

We did subsequently go to the Health Department and process an application for a new septic on this property. The house will use the existing water system and connect to public water. Last month the Health Department issued a letter indicating the plans were technically complete. The last step of the process for the Health Department would be for us to place, it's approximately a foot or fourteen inches of fill in the septic field area. It's a shallow absorption system that they approved. We didn't want to do that until we had completed the process with the Planning Board. We didn't want to go out there and do any further earth disturbance or spend a lot of money installing that until we were done.

So we're here before you tonight for comments, and, if everything is acceptable, for

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COUNTRY ESTATES

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setting up a public hearing, which I think is required.

CHAIRMAN EWASUTYN: Bryant Cocks, Planning Consultant?

MR. COCKS: My only outstanding comment is the buildable area requirement. You did show there is enough square footage. It just needs to be shown around the house, the light shaded area.

Other than that, the Orange County Health Department did issue conditional approval for the septic system. That's the only comment I have.

CHAIRMAN EWASUTYN: Pat Hines, Drainage Consultant?

MR. HINES: We're looking for the standard notes for the Town of Newburgh connection to the water system to be placed on the plans. I have a copy here, Ross. It's just the one specific to the residential homes.

Again reiterating the Health Department issued a conceptual technical approval on the plans. The fill will have to be placed prior to their final approval. As we discussed at work session, that will be a condition of signing the

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maps.

There's also two encroaching sheds and a fence mechanism, for those to be removed. The Board normally requires those to be removed prior to signing the maps, otherwise there would be a zoning issue with the one.

MR. WINGLOVITZ: It's an ongoing encroachment by the neighbor, the shed and the driveway and the larger shed. There's two sheds. I guess my thought would be that they would send a certified letter to the adjoiner indicating that he needs to remove them, give them a certain amount of time. If not, the owner of the property would remove them.

MR. HINES: You think it's that easy, huh? Can you send that letter out after the public hearing?

MR. WINGLOVITZ: That would be prior to, yeah.

MR. HINES: How ever that mechanism works, they need to be gone prior to signing the maps, otherwise they're a continued encroachment and it couldn't be approved.

It says the driveway is to be removed.

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We're looking for detail on what that's going to look like. Grass lawn? I know the swale is running through there, so that will have to be grassed anyway.

There's an easement that's needed in favor of the Town for the drainage to go through there for Mike Donnelly's review also.

CHAIRMAN EWASUTYN: Jerry -- I'm sorry.

MR. HINES: I was going to say we believe it has sufficient information for a public hearing.

CHAIRMAN EWASUTYN: We have to make a SEQRA determination?

MR. DONNELLY: Yes.

CHAIRMAN EWASUTYN: Jerry Canfield?

MR. CANFIELD: I have nothing. I echo what Pat said about the encroachment. It would just become an enforcement nightmare, so handling it prior to the signing of the maps I think is the way to go.

MR. WINGLOVITZ: I know we would have no problem. He wants to get that rectified as soon as he can.

CHAIRMAN EWASUTYN: Bryant, will you

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review with Ross, I don't think he's been before us as far as the managing of the public hearings now, the notices and all.

MR. COCKS: Sure. Tomorrow I'll send a memo to the assessor requesting the mailing list for 500 feet from the property. After that, it's no longer certified mail. You just have to sign an affidavit saying you sent it out to the property owners. I will provide the public hearing notice, and there's an adjoiner notice that goes with it. You'll also have to laminate an 11 by 17 copy of the public hearing notice and post it on both sides of the street on each side of the property. Not the adjoiner notice, just the public hearing notice. So I'll draw those two documents up and then fax over the mailing list once I get it.

CHAIRMAN EWASUTYN: Once the envelopes are prepared and ready to be mailed, you'll contact us and we'll arrange for you to meet Cindy Martinez, Wayne's secretary, then she'll get someone to notarize it and they'll be mailed from the Town Hall. You'll provide the postage for that.

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Anything else?

MR. COCKS: I think the two public hearing dates to discuss would either be July 18th or August 1st.

CHAIRMAN EWASUTYN: Michael, can we try for the 18th?

MR. DONNELLY: Sure. I'll make it.

CHAIRMAN EWASUTYN: Ross, just as a review, in light of the public hearing and the possibility that people will turn out for the public hearing, this is for the furthermore recent conversation, we'll have to manage that accordingly after it's done based upon any additional cost associated with the public hearing. I think in light of what we discussed in the last twenty-four hours, the fees associated with this based upon the resubmittal that we should be getting shortly will still be asked for later on. So when you do speak with your client, he understands that.

Okay. I'll move for a motion to declare a negative declaration for Country Estates Amended Subdivision and schedule the 18th of July for a public hearing.

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MR. GALLI: So moved.

MR. WARD: Second.

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

MR. MENNERICH: John, I was just curious.

Ross, on the original subdivision was there any environmental reason those lots were listed as not for building purposes?

MR. WINGLOVITZ: Not as far as I know. It was in the '50s and the map calls them out as not for building purposes. It shows the easement. The soils are actually pretty good there.

MR. HINES: Ken, they are rerouting a drainage course through this as part of this project. That may have been the reason it was there. There is drainage on these lots through --

MR. MENNERICH: It's being relocated?

MR. HINES: Rerouted to the one side. That could have been the reason.

MR. WINGLOVITZ: When I first -- this first came to my office, my first thought was

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this is all wetland. We went out there and actually the soil is pretty good. If they were poor at some point and they got filled fifty years ago, I don't know. The soils were good and everything is drying up. Any drainage that actually comes onto the lot now kind of disappears into the ground.

CHAIRMAN EWASUTYN: I have a motion by Frank Galli, I have a second by John Ward, discussion by Ken Mennerich. Any further discussion?

(No response.)

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

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: And myself.

MR. DONNELLY: I take it it does not need a referral to the Orange County Planning Department?

MR. COCKS: No. Ross mentioned about

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that.

MR. WINGLOVITZ: Thank you very much.

(Time noted: 7:07 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: July 8, 2013

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

----- X
In the Matter of

VALON & VATAN RESTAURANT
(2012-26)

34 North Plank Road
Section 84; Block 2; Lot 1.1
B Zone

----- X

SITE PLAN & ARB

Date: June 20, 2013
Time: 7:07 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
THOMAS P. FOGARTY
JOHN A. WARD

ALSO PRESENT: MICHAEL H. DONNELLY, ESQ.
BRYANT COCKS
PATRICK HINES
GERALD CANFIELD

APPLICANT'S REPRESENTATIVE: CHARLES BROWN

----- X

MICHELLE L. CONERO
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MR. BROWNE: Our next item of business is Valon and Vatan Restaurant, project number 2012-26. This is a site plan and ARB being presented by Charles Brown.

MR. BROWN: Since we were here last the only outstanding item as far as the site plan was the sewer letter which we received.

I did get a set of comments from the traffic consultant, Creighton, Manning, regarding the signs. None of those do we have a problem with. It's just a matter of a change of location of a couple of them. And the size of the poles, break away poles, so if they get hit by plows or cars or whatever, they are easy to put back and they don't really damage the vehicles. That's the DOT detail that we have.

So that's it for the site plan. Do you want me to bring it up?

CHAIRMAN EWASUTYN: You might as well continue on. We have the time.

MR. BROWN: As far as ARB, we did bring the samples of the cultured stone. It is a stone product, dressed fieldstone chardonnay. That's the color for the stucco. Those haven't changed

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since the last meeting and I brought both of those with me. That's it.

CHAIRMAN EWASUTYN: Comments from Board Members?

MR. GALLI: It's a little dark.

MR. BROWN: Steakhouses are supposed to be dark.

MR. GALLI: What happened to the one on 9W?

MR. BROWN: I haven't been in it. Has it even opened?

MR. GALLI: It's hard to picture because I ride by it three or four times a day and you see a house.

MR. BROWN: The brick is going to remain. We're leaving the brick. It has to be cleaned. The stucco color is very close to the existing brick color.

CHAIRMAN EWASUTYN: Cliff?

MR. BROWNE: I'm good.

CHAIRMAN EWASUTYN: Ken?

MR. MENNERICH: I'm okay.

CHAIRMAN EWASUTYN: Tom Fogarty?

MR. FOGARTY: I was just curious, what

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kind of condition is the inside?

MR. BROWN: We actually got a demolition permit. We've got it down to the studs. The back porch, which is facing the former Joanne's Fabric property, the walls on that and the roof -- it's a flat roof that was added after the original building. Those walls we have to redo and that piece of roof we have to redo. That's one of the reasons -- this is a flat roof right now. That's one of the reasons we changed this to a reverse. We did that several months ago. I went through it with Jerry.

Other than that, the building is in great shape. It's got heavy steel girders in the basement. The walls are twelve-inch block. There's actually a bearing wall, block bearing wall down the middle of the basement. Structurally we have to double the joist up to increase the wide-load capacity. When you go from residential to commercial you have higher design loads. We looked at either putting intermediate steel beams in or doubling up the joists. We're doubling up the joists in some

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cases. We're actually sistering the joists with wood laminated beams, an engineered product. The steel beams, we're adding a couple columns in the basement to cut the spans down so we achieve the load required for the restaurant. I did beef up the dead load to 200 pounds to help account for any tiling or anything else he wants to do finish wise.

The roof is in good shape, again other than that back part. I'm actually very happy with it. After we stripped it we were pleased.

MR. FOGARTY: Thank you.

MR. WARD: I have nothing.

CHAIRMAN EWASUTYN: Final comments from Jerry Canfield?

MR. CANFIELD: You said the stucco is going over the brick?

MR. BROWN: No, no, no. The brick is going to remain. The brick is going to be cleaned. The stucco is going to go over the exposed foundation areas and the areas above the brick, which right now are the siding.

MR. CANFIELD: The brick is going to be cleaned?

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MR. BROWN: Cleaned, yes.

MR. CANFIELD: And remain?

MR. BROWN: Yup.

CHAIRMAN EWASUTYN: Pat Hines?

MR. HINES: We have nothing
outstanding.

CHAIRMAN EWASUTYN: Bryant Cocks?

MR. COCKS: I have no further comments.

CHAIRMAN EWASUTYN: All right. Mike
Donnelly, would you offer us conditions for
approval for both the site plan and ARB for the
restaurant before us this evening?

MR. DONNELLY: The only sign-off letter
we will need is from Ken Wersted at Creighton,
Manning for the few items in his letter. We'll
need a highway superintendent sign off on the
Stone Street driveway utilization. We'll need a
grease trap approval from the Orange County
Health Department. We have the flow acceptance
letter. There's a need for a cross grading
easement, and that will have to be reviewed and
approved by me before the plans are signed. We
will need to see the final agreement and recorded
instrument that provides for the parking easement

1 onto the other land. I know you had discussions,
2 I assume you reached an agreement, but we're
3 going to have to have a mechanism to make sure
4 that's recorded before the plans are signed.
5

6 MR. BROWN: It's been drafted. Tom
7 Murphy is working on that with my client. Mental
8 block.

9 MR. DONNELLY: I'm sure you'll get it
10 done.

11 MR. BROWN: Yes, we will. They're
12 working it out now, the liability language
13 protection.

14 MR. DONNELLY: There are a number of
15 off-site improvements. We're talking about
16 showing the plans, paving, curbing, landscaping,
17 et cetera. We need a construction timing plan
18 for the installation of those improvements
19 satisfactory to Jerry's office. The plan for the
20 long-term maintenance of those improvements and
21 that agreement will have to be satisfactory to
22 the Town attorney. We'll make mention of the
23 approval granted by the Zoning Board of Appeals
24 in April. The standard condition for
25 Architectural Review Board approval. You had

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provided a narrative describing the nature of the use and the number of patrons. We're going to attach that to the resolution that will be the limit of the use that's approved. If there's any increase in the intensity you'll need to return to the Planning Board for an amended approval. We'll need a landscape security and inspection fee. The inspection fee will be in the amount of \$2,000. Finally, our standard condition that says you may not build any outdoor fixtures or amenities not shown on the plans without returning to the Planning Board for amended approval.

CHAIRMAN EWASUTYN: Any additions or comments from our consultants?

(No response.)

CHAIRMAN EWASUTYN: Planning Board Members?

MR. BROWNE: No.

CHAIRMAN EWASUTYN: Then we'll move for a motion to approve the site plan and ARB subject to the conditions presented by the Planning Board Attorney, Mike Donnelly, for the Valon and Vatan Restaurant.

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MR. FOGARTY: So moved.

MR. WARD: Second.

CHAIRMAN EWASUTYN: I have a motion by Tom Fogarty. I have a second by John Ward. 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. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: And myself.

Congratulations.

MR. BROWN: Mike, did you say the landscape, you said estimate, not a bond?

MR. DONNELLY: There will be a bond required as well as an inspection fee. The inspection fee is --

MR. BROWN: \$2,000. Got it.

CHAIRMAN EWASUTYN: All said and done, when do you hope to be open by?

MR. VALON: By August this year. It's

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going to take time because it's a lot of work.
Almost like starting from scratch.

MR. BROWN: It's working out very well.
I have the contractor putting the sewer line in
Stone Street. We're going to go right in with
his schedule.

They did remove the gas line that was
running down that part of Stone Street between
North Plank Tavern and this? It was very, very
old and apparently they don't need it. It turns
out our service is adequate for both the eating
and the kitchen, and we were happy to hear that.
Our service comes from Plank Road so we were okay
on that. They took out that gas main, archived
it to setup for the sewer line that's going in.

CHAIRMAN EWASUTYN: Congratulations.

MR. BROWN: Thank you very much.

CHAIRMAN EWASUTYN: I wish you all a
happy July Fourth.

(Time noted: 7:15 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: July 8, 2013

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

----- X

In the Matter of

DISCUSSION BY MICHAEL DONNELLY, ESQ.

Re: Request from the Zoning Board of Appeals -
interpretation of a use variance to install a large
side yard solar array.

----- X

BOARD BUSINESS

Date: June 20, 2013
Time: 7:15 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
THOMAS P. FOGARTY
JOHN A. WARD

ALSO PRESENT: MICHAEL H. DONNELLY, ESQ.
BRYANT COCKS
PATRICK HINES
GERALD CANFIELD

----- X

MICHELLE L. CONERO
10 Westview Drive
Wallkill, New York 12589
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MR. DONNELLY: You received a letter from the attorney for the Zoning Board. They have an application before them that's in the nature of an interpretation, in the alternative a use variance to install a large side yard solar array. The issue before the Zoning Board is whether that use is permitted under the existing code. The letter to you asks if you have any comments at all on the application. I said to you quickly during the work session that I think you should, if you wish to comment, stay away from the issue of whether it's permissible because that's for the building inspector and/or the Zoning Board to decide.

Logically the piece that might need to be tended to here is legislation by the Town Board to regulate the use, if regulation is indeed appropriate. Where you fit in that mix, it's not generally a Planning Board issue, but if you're inclined to give some kind of comment or recommendation to the Board, you can feel free to do so. You certainly don't have to.

CHAIRMAN EWASUTYN: Board Members?

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BOARD BUSINESS

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Frank?

MR. GALLI: No comment. It's fine.

CHAIRMAN EWASUTYN: Cliff Browne?

MR. BROWNE: I think we owe some kind of response. I would just respond saying as a Board we don't have any -- what's the way to say it? Any reason to make -- kind of what you said but I think we owe a comment back to them just because they asked the question. However, in general we would recommend that the Town take up the issue and for future -- I don't know how you want to say it. Future regulation as this is a growing -- as we see this as a growing trend. Something like that.

MR. DONNELLY: Yup.

MR. BROWNE: Just because we were asked the question, I don't think we can ignore it. We need to give some kind of response.

CHAIRMAN EWASUTYN: Okay.

MR. BROWNE: Again, like Mike suggested, staying away from giving an opinion on the specific issue because it is a code compliance and zoning interpretation issue at this point.

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BOARD BUSINESS

CHAIRMAN EWASUTYN: Okay.

MR. DONNELLY: I will do that.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: That sounds good to me.

MR. FOGARTY: I agree. I think Jerry mentioned it before, what's needed here is for the Town to look into some type of guidelines when it comes to this area. I think that's all we have to say.

MR. BROWNE: We may also fold in the idea of the wind turbines, too. That's also a growing trend. We could throw in some language, too.

CHAIRMAN EWASUTYN: Jerry, these are all energy-related fields, are they not?

MR. CANFIELD: Yes.

MR. MENNERICH: Renewable energy.

CHAIRMAN EWASUTYN: Thank you. John Ward?

MR. WARD: That's it.

CHAIRMAN EWASUTYN: All right. Anything else then?

(No response.)

CHAIRMAN EWASUTYN: I'll move to close

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BOARD BUSINESS

the meeting of the 20th of June.

MR. GALLI: So moved.

MR. WARD: Second.

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

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Aye.

(Time noted: 7:20 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: July 8, 2013