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

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In the Matter of

ATLANTIC BUILDERS
(2006-55)

Gould Place
Section 2; Block 3; Lots 15 & 26.5
RR Zone

- - - - - X

CONTINUED PUBLIC HEARING
THREE-LOT SUBDIVISION

Date: August 30, 2007
Time: 7:00 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman
FRANK S. GALLI
CLIFFORD C. BROWNE
KENNETH MENNERICH
EDWARD T. O'DONNELL, JR.

ALSO PRESENT: DINA HAINES
MICHAEL H. DONNELLY, ESQ.
BRYANT COCKS
JOHN SZAROWSKI
KAREN ARENT
KENNETH WERSTED

APPLICANT'S REPRESENTATIVE: MARK LUKASIK

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

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CHAIRMAN EWASUTYN: Good evening,
ladies and gentlemen. I'd like to welcome
you to the Town of Newburgh Planning Board
meeting of the 30th of August.

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

MR. GALLI: Present.
MR. BROWNE: Present.
MR. MENNERICH: Present.
MR. O'DONNELL: Present.
CHAIRMAN EWASUTYN: And myself present.

14 The Planning Board has experts that
15 provide input and advice to the Planning Board in
16 reaching various SEQRA determinations. I ask at
17 this time that they introduce themselves.
18 MR. DONNELLY: Michael Donnelly,
19 Planning Board Attorney.
20 MR. SZAROWSKI: John Szarowski,
21 Engineer.
22 MR. COCKS: Bryant Cocks, Planning
23 Consultant.
24 MS. ARENT: Karen Arent, Landscape
25 Architectural Consultant.

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2 MR. WERSTED: Ken Wersted, Creighton,
3 Manning Engineering, Traffic Consultant.
4 CHAIRMAN EWASUTYN: Okay. At this time
5 I'd like to turn the meeting over to Frank Galli.
6 MR. GALLI: Please join me in the
7 pledge.
8 (Pledge of Allegiance.)
9 MR. EWASUTYN: The first item of
10 business this evening is Atlantic Builders. It's
11 a continuation of a public hearing for a
12 three-lot subdivision located on Gould Place in
13 an RR Zone. It's being represented by Mark
14 Lukasik.
15 At this time I'll ask Mr. Mennerich to
16 read the notice of hearing.
17 MR. MENNERICH: "Notice of hearing,
18 Town of Newburgh Planning Board. Please take
19 notice that the Planning Board of the Town of
20 Newburgh, Orange County, New York will hold a
21 public hearing pursuant to Section 276 of the
22 Town Law on the application of Atlantic Builders
23 Limited for a three-lot subdivision on premises
24 Gould Place off East Road in the Town of
25 Newburgh, designated on Town tax map as Section

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2 2; Block 3; Lots 15 and 26.5. Said hearing will
3 be held on the 30th day of August at the Town
4 Hall Meeting Room, 1496 Route 300, Newburgh, New
5 York at 7 p.m. at which time all interested
6 persons will be given an opportunity to be heard.
7 By order of the Town of Newburgh Planning Board.
8 John P. Ewasutyn, Chairman, Planning Board Town
9 of Newburgh. Dated July 30, 2007."
10 CHAIRMAN EWASUTYN: Dina Haines,
11 Planning Board Secretary.
12 MS. HAINES: The public hearing notices
13 were published in The Mid-Hudson Times newspaper
14 on August 1st and in The Sentinel on August 3rd.
15 CHAIRMAN EWASUTYN: Before we turn the
16 meeting over to the applicant's representative I

17 would like Planning Board Attorney Mike Donnelly
18 to explain to the public the purpose of a public
19 hearing and also the history of the item on the
20 agenda this evening.

21 Mike Donnelly.

22 MR. DONNELLY: Good evening. The first
23 item on the agenda is a public hearing, as you've
24 heard, on the application of Atlantic Builders.
25 This is a subdivision application. This hearing

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2 actually began on July 19, 2007, and I suspect 5
3 that some of those present were here at that time
4 as well. The notices were mailed as required by
5 the ordinance but the newspaper made an error in
6 not publishing that notice at that time. For
7 that reason, at the end of the hearing that
8 evening we rescheduled the hearing to continue
9 this evening. As has just been recited, the
10 public hearing notice was in fact published in
11 the newspaper.

12 For those of you who did speak at the
13 first hearing, the Board has heard your comments
14 and we have a transcript of that. You don't need
15 to repeat them this evening. Of course anyone
16 that wishes to speak can address the Board.

17 The purpose of the hearing is as was
18 announced at the last hearing, for you to bring
19 to the Board's attention information that the
20 Board may not yet be aware of so that can be
21 factored in to the decision-making process.

22 In terms of procedure, after the
23 applicant gives a description of the project the
24 Chairman will ask those who wish to speak to
25 please raise your hand. In order you will be

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2 recognized. When you speak if you could stand 6
3 up, and please come closer to the front of the
4 room so that we can hear you, that would be a
5 help. Would you state your name, spelling it for
6 our Stenographer so we get it accurately, and
7 would you give us your address so that we can
8 know where you live in relation to the project
9 and what perspective you bring to bear. You
10 should address your comments to the Board. The
11 Board is more interested in your comments,
12 although we will try to accommodate questions you
13 might have by funneling those questions to either
14 members of the Town's consultant team or the
15 applicant as appropriate.

16 CHAIRMAN EWASUTYN: Thank you.

17 Mark.

18 MR. LUKASIK: Good evening. Before I
19 start I just want to thank the Board and your

20 administrative side just for quickly expediting
21 the resumption of the official public hearing
22 this evening.

23 For anyone who may have not been in
24 attendance at the first half of the public
25 hearing, the project that my client proposes is

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2 to subdivide both an existing lot at the end of
3 Gould Place which as stated in the notice is off
4 East Road, the very top of the Town.

5 There's an existing lot in addition to
6 a second lot which is immediately behind the
7 existing lot at the end of Gould Place which was
8 purchased about eighteen to twenty-four months
9 ago as of this evening. The existing two lots
10 would really be re-mapped into three lots. The
11 first lot that would be proposed is immediately
12 adjacent to an existing detention pond which is
13 located at the rear corner of the existing
14 subdivision. A second lot would be provided at
15 the very rear of the available lands through a
16 flag lot, meaning a narrow stem and a long
17 driveway connecting to the existing cul-de-sac,
18 and the third lot would be at the southern
19 portion of the tract and would be accessible
20 again off the existing cul-de-sac.

21 All homes would be served by private
22 wells and private subsurface sanitary disposal
23 systems, septic systems similar to what is in
24 place for all homes currently on the street.

25 There are a number of wetlands on the

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2 property that are of Federal jurisdiction. Those
3 wetlands have been delineated by our office, they
4 have been confirmed in the field and also
5 slightly adjusted in the field by an EPA
6 representative acting on behalf of the United
7 States Army Corp of Engineers who has
8 jurisdiction. The final determination,
9 jurisdictional determination, is to be issued by
10 the Army Corp of Engineers as to whether in fact
11 they agree with the line that we've placed on our
12 map. That still, as of this evening, has not
13 been issued by the New York district.

14 There are a very small finger of State
15 wetlands on the property. The majority of them
16 lie on a parcel to the north. There are buffers
17 that are associated with those State wetlands.
18 Those buffers encroach on our property, limit our
19 development. In all cases this project does not
20 propose to disturb any wetlands.

21 CHAIRMAN EWASUTYN: I would like to
22 receive comments now from the public. For those

23 of you here for the first time, we would like to
24 entertain your comments first. We did receive an
25 e-mail from the supervisor's office yesterday

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2 from a Jill Bennett I believe who I had spoken to
3 later on last night. I don't know if Jill is
4 here. If not, for the record we have received an
5 e-mail from Jill Bennett.

6 I'll ask Mr. Mennerich to read that
7 e-mail for the record.

8 MR. MENNERICH: "I am concerned about
9 open items regarding a subdivision off of Gould
10 Place. I was not at the last meeting as I was on
11 vacation but did read the -- did read the minute
12 meeting -- meeting minutes. I do live on Gould
13 Place but was not notified because I understand
14 that I was just over the distance for
15 notification. I did see a copy of the
16 notification which listed discussing two lots
17 being subdivided to three lots. At the meeting
18 it appears there was a discussion of a fifty-foot
19 strip for a future potential street stub. This
20 was brought up as a minor impact but I have
21 concerns on how this change will impact the
22 future. My top concerns are the drainage system
23 and through traffic. The testing that has been
24 done was for the new lots but is there an impact
25 if a road were to be there? We are responsible

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2 for the swale that runs along my back lawn to a
3 pond on this property. What will happen to this
4 pond and swale if there is not proper drainage?
5 If the street stub were added what would happen
6 to our street with the potential for an increase
7 of traffic from the connecting development and
8 Route 32? With these future concerns I am asking
9 if the public hearing process can be kept open
10 after the Planning Board meeting on August 30th.
11 Thank you. Jill Bennett, 14 Gould Place."

12 CHAIRMAN EWASUTYN: Thank you. As I
13 said just earlier, we hadn't heard from Ms.
14 Bennett. We are now reading her e-mail into the
15 record. I don't know if she's here.

16 UNIDENTIFIED SPEAKER: She will be
17 present. She's on her way.

18 CHAIRMAN EWASUTYN: Thank you.
19 Additional comments from those who
20 haven't had an opportunity to speak before, will
21 you please give your name and address and raise
22 your hand. Ma'am.

23 MS. RODRIGUEZ: Madeline Rodriguez, 18
24 Gould Place. I am opposed of the road just like
25 Jill Bennett had said. My understanding when we

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2 purchased the house was it was just three lots 11
3 for sale. They were going to build a house but
4 nothing was ever mentioned about the road. Also
5 the detention ponds which I'm also concerned.
6 CHAIRMAN EWASUTYN: Thank you.
7 Would someone please turn off their
8 cell phone.
9 When you're talking about the road
10 Madeline, which road are you talking about?
11 MS. RODRIGUEZ: They are saying in the
12 future they're going to be connecting our road --
13 from 32 to our road, Gould Place.
14 CHAIRMAN EWASUTYN: Further comments
15 from the public, please. Sir.
16 MR. FURY: I was here last time. I
17 just want to bring up something that was
18 discussed at the last meeting and that was --
19 CHAIRMAN EWASUTYN: Sir, can I please
20 have your name and your address?
21 MR. FURY: My name is Craig Fury.
22 CHAIRMAN EWASUTYN: Thank you.
23 MR. FURY: My address is 17 Gould
24 Place. I live right on the end. I'm looking at
25 the map. May I go up to the map?

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2 CHAIRMAN EWASUTYN: Sure. 12
3 MR. LUKASIK: Immediately adjacent,
4 sir?
5 MR. FURY: I'm sorry?
6 MR. LUKASIK: Are you immediately
7 adjacent?
8 MR. FURY: No. I'm across the street.
9 My home is right here. As I look at it, this
10 home here is just about -- maybe a little
11 forward, but where the detention pond is -- is
12 this the detention pond?
13 MR. LUKASIK: You're correct, sir.
14 MR. FURY: All of us have to -- we are
15 required to maintain this. That's part of our
16 deed. First of all, we would like the -- we have
17 to get that squared away before the development
18 is done.
19 The other issue is I believe this stub
20 road here. Now we've all been aware on the block
21 that Wawayanda, for the last couple of years, has
22 been interested in punching through here. In
23 fact, I spoke with Craig and I think Mr. Harris.
24 Craig is a representative of Wawayanda. I don't
25 know his last name. He told me last year he was

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2 trying to punch through here to get back to his
3 development. Now, he has homes on Route 32.
4 He's built one already and there's a second one
5 going up. It's somewhere over here. If you're
6 familiar with the new homes, if you're going up
7 on Route 32 they're on the right-hand side. What
8 our concern is is that if he punches through
9 here, the traffic to connect to the rest of his
10 seventy some odd acres, the traffic is going to
11 flow through and our cul-de-sac will end up being
12 a shortcut between 32 and East Road out here.

13 Now, I've read the ordinance that
14 speaks about these stub roads. The ordinance is
15 about when different developments abut each
16 other. It's about traffic flows, that they make
17 sense. It's about making sure the fire
18 department has access to the homes. It's not
19 really about one developer selling another
20 developer rights to punch through and basically
21 destroy a cul-de-sac. Further in that ordinance
22 the ordinance requires the Board to encourage
23 cul-de-sacs. So I just hope you would consider
24 that in the future. I think most of us are
25 mostly concerned with the punch through, less

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2 concerned with the homes. I don't want to speak
3 for other people. I'm more concerned with this
4 punch through than the homes.

5 CHAIRMAN EWASUTYN: Thank you.

6 MR. FURY: You're welcome.

7 CHAIRMAN EWASUTYN: Craig, do you want
8 to talk about the maintenance of the detention
9 pond, how you understand it?

10 MR. LUKASIK: Mark.

11 CHAIRMAN EWASUTYN: Mark. Excuse me.

12 MR. LUKASIK: Sure. There had been
13 some question raised at the last -- well frankly
14 there's been questions raised throughout this
15 hearing process as to precisely what are the
16 maintenance responsibilities regarding the
17 detention facility and any swales that may lead
18 to it. There was an initial question, I believe
19 it was raised by Garling Associates, as to
20 whether in fact this might have been a Town
21 stormwater drainage district even though it would
22 have preempted some of the laws that govern that.
23 After some additional questioning at the last
24 meeting I had conversations with our client and
25 he was able to produce the agreement which we

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2 have provided copies of to this Board and their
3 professionals for your review. Essentially what
4 that agreement states is that there is an

5 association -- I'm not an attorney. You have an
6 association amongst all the property owners.
7 There are a number of lots spelled out but
8 essentially everyone that's on Gould Place would
9 pay into a community pot so to speak and
10 ultimately be responsible for contracting and
11 performing the maintenance from those collected
12 funds. Any maintenance that would have to be
13 performed would be done with those monies and
14 under the direction of a single -- I don't know
15 what the proper term would be. Essentially a
16 leader of that group which was elected amongst
17 all those who participate within the association.
18 Probably a concern for this Board, it
19 would appear to me that the subdivision of the
20 last lot on this cul-de-sac gets split into
21 various pieces, into all the new lots. I would
22 presume that all three new lots would now also
23 join that association by subdivision. The
24 attorney can confirm whether he would agree that
25 that would be so. If not, we would be happy to

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2 amend the agreement in any way that this Board
3 finds acceptable such that the properties become
4 all part of the association. Essentially it
5 would add, let's see, two lots to the total
6 association responsible for maintaining that
7 basin.

8 CHAIRMAN EWASUTYN: Mike Donnelly, have
9 you had the opportunity to review that agreement?

10 MR. DONNELLY: Yes. In June of 1997 a
11 detention pond maintenance declaration was
12 recorded. The agreement was intended to cover
13 both the four existing lots that were part of the
14 original subdivision as well as any additional
15 lots that were created in the future. The
16 essential provisions are twofold. First, any lot
17 owner who has a swale or pipe across its own
18 lands is required to maintain those pipes and
19 those swales at their sole cost and expense. The
20 cost of maintenance of the detention pond itself
21 is to be borne by all of the lot owners in the
22 subdivision. It clearly covers this additional
23 land. However, it might, to make sure that there
24 is no uncertainty on that score, be a good idea
25 to have a supplemental declaration recorded that

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2 references this declaration and states with
3 certainty that the new lot owners shall also be
4 required to share equally in the cost of
5 maintenance of that detention facility. I would
6 recommend to the Board that at the time they take
7 action they include such a condition in their

8 resolution. The agreement exists and it does
9 cover these lands.
10 CHAIRMAN EWASUTYN: Thank you.
11 MR. LUKASIK: We would have no
12 objection.
13 CHAIRMAN EWASUTYN: Additional comments
14 from the public?
15 Craig, you've had the opportunity to
16 speak at this point, so I'd like to have the
17 floor available to others who haven't had the
18 opportunity. Thank you.
19 This gentleman.
20 MR. STARACE: Mike Starace, 3 Gould
21 Place. Is this the time to address this stub
22 road or is that a separate --
23 CHAIRMAN EWASUTYN: Your name again
24 was?
25 MR. STARACE: Mike Starace.

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2 CHAIRMAN EWASUTYN: Mike, I think what
3 our attorney had said earlier, Mike Donnelly --
4 you had spoken at the earlier public hearing. I
5 think we received comments from Craig, we
6 received comments from you, and I think for the
7 benefit of all of us the stub road is a decision
8 that the Planning Board has to make a final
9 decision on. I think for the proper use of time
10 it doesn't require that everyone in the audience,
11 and I respect Madeline who wasn't here last time
12 had an opinion on that, and I think the Board now
13 is aware and senses the fact that there is a
14 concern with the public for extending this to a
15 stub road. So if the public would please allow
16 it, we heard that comment and I think it's not
17 necessary for that many more people to stand up
18 and voice their opinion. Give us that benefit of
19 making a decision based upon your concerns.
20 MR. STARACE: We will still have input
21 on it?
22 CHAIRMAN EWASUTYN: Excuse me?
23 MR. STARACE: You're not going to make
24 a decision, we're going to have input?
25 CHAIRMAN EWASUTYN: We will be making a

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2 decision on that tonight as part of the closing
3 of the public hearing. So you will hear our
4 decision on that tonight.
5 MR. STARACE: Has Wawayanda entered
6 into a contract with Atlantic to transfer
7 properties to be able to build this?
8 CHAIRMAN EWASUTYN: Whether or not they
9 have or they haven't -- I'm speaking out of turn
10 because that would be something our attorney

11 would speak of. Knowing Mike Donnelly fairly
12 well, if they did that's a private agreement that
13 has no bearing on the Planning Board at this
14 particular time. That was a risk if they did
15 that they assumed on their own. So it doesn't
16 influence us one way or the other. We're not
17 bound by that.

18 MR. STARACE: Thank you.

19 CHAIRMAN EWASUTYN: Again, anyone here
20 this evening who has not had the opportunity to
21 speak who would like to speak about something
22 that may or may not have been addressed at this
23 point?

24 Your name is.

25 MS. BENNETT: Jill Bennett, 14 Gould

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2 Place. I submitted a note to the Board and I
3 believe -- was it read?

4 CHAIRMAN EWASUTYN: Yes.

5 MS. BENNETT: I was late. One of the
6 questions that I had, and I just came in a few
7 minutes late, I apologize, is if that stub road
8 is put in is it going to affect the drainage?
9 The testing and everything that was done was done
10 without this road in the proposition. I
11 apologize if I missed that. I was just wondering
12 if that is going to affect anything?

13 CHAIRMAN EWASUTYN: Would you care to
14 respond to that first before I would ask John
15 from McGoey, Hauser & Edsall who represents us on
16 drainage to respond to Jill's question?

17 MR. LUKASIK: With respect to the stub
18 road, my client has no intention to pursue it,
19 has no desire to have it extended as part of this
20 application.

21 MS. BENNETT: Thank you.

22 CHAIRMAN EWASUTYN: For the record, has
23 your client entered into agreement with
24 Wawayanda --

25 MR. LUKASIK: No.

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2 CHAIRMAN EWASUTYN: -- for the transfer
3 of properties?

4 MR. LUKASIK: No, sir.

5 CHAIRMAN EWASUTYN: Additional comments
6 from the public for an issue that we haven't
7 heard?

8 Sir, your name and address.

9 MR. AMANOFF: Tom Amanoff, 78 East
10 Road. About the detention pond because I believe
11 it's on our deed also and it was basically one of
12 the points that was just made. The original
13 agreement, according to the attorney, was that

14 the properties that have responsibility, the lots
15 that have responsibility for that and additional
16 lots that might be subdivided; correct? It never
17 says, you know, additional lots. It doesn't
18 indicate -- this is the only reason I bring up
19 the road again. Obviously a road creates
20 different conditions than just, you know, a
21 housing lot. There's drainage, the road is
22 usually higher, you have runoff and stuff like
23 that. I would just like to know, the people like
24 myself and others who have this in their --
25 seeing the original conditions when we signed

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2 that document will change, will we still held by
3 the same liability or will the new developer take
4 all responsibility seeing how if this is passed
5 he's the one changing the conditions?

6 MR. DONNELLY: As you've heard, there
7 is no stub road proposed at this point. If one
8 is proposed or would become part of the plans,
9 the Board could consider shifting the cost of the
10 maintenance in some proportion other than equally
11 if that made sense, and we of course would look
12 to the engineers as to whether or not there's any
13 significant change in the flow or the
14 requirements of maintenance. At present there's
15 no proposal for a stub road.

16 MR. AMANOFF: Thank you.

17 MS. FURY: I have a question for Mr.
18 Donnelly. Christine Fury, 17 Gould Place. If in
19 fact a stub road is proposed we would be notified
20 about that? Are we just going to see trucks
21 working and tree loggers and --

22 MR. DONNELLY: You have the ability to
23 be present and hear the decision-making process.
24 If later on there was an application to include a
25 stub road and the Planning Board felt that that

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2 was a significant enough change, it could
3 re-notice this for a public hearing. All the
4 meetings of the Planning Board are open to the
5 public.

6 CHAIRMAN EWASUTYN: Before I turn the
7 meeting over to our consultants for their final
8 comments, I'll take your comments.

9 MR. PACIONE: I do have some new
10 information, Mr. Chairman. Albert Pacione of
11 counsel to Fabricant & Lipton. The ordinance
12 embraces the application before you from a legal
13 standpoint but it does also have some engineering
14 concerns, and with your permission I'd like to
15 introduce the engineer for Wawayanda Enterprises
16 to speak about the engineering concerns of the

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ordinance, Mr. John Tarolli.

MR. TAROLLI: John Tarolli of Mercurio, Norton & Tarolli. We represented Wawayanda Enterprises when they had their subdivision approved several years ago before this Board. The property of Wawayanda is fairly large, however the reason it was stopped at five lots and a short private road from 32 is because there's a large State wetland between Gould Place

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and Route 32. There is no potential for that short private road -- we had proposed it as a public road but the highway superintendent asked us to make it private, which we accommodated him with. There's no opportunity to extend that through to Gould Place because of the large State wetland intervening. It occupies about half of Wawayanda's property. However, to the east side of that large wetland, to the west of Gould Place, along the west line as we surveyed that boundary several years ago there is a small amount of suitable land for development, similar to the land that surrounds Gould Place. When we were notified of the hearing and Mr. Raja, the owner of Wawayanda, asked us to take a look at any potential for having access to that isolated land, Mr. Lipman's office advised us that there was certainly a very specific section of your code that addresses that issue to provide access where it's possible to lands that don't have any other reasonable access. We have studied, as I've said, the soils map and the physical ground west of this property and there is some land for residential lots. How many we haven't studied.

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Whether it be two lots or four lots I can't say. Those numbers that I just spoke of, you know, should not be held in the future. However, based on your code, which is quite specific as to this situation, we feel it's appropriate to ask your Board not to ask the applicant to provide a strip in fee but to do as I think what is commonly done, that is to put a reservation on the fifty-foot strip for use as a potential future public road, or it could be a private road as your highway superintendent seems to favor in small lot subdivisions. Either a private or public road but it would be fifty feet. If the Planning Board upon an application by Wawayanda or their successors would ask for that to be given, then there should be legal verbiage and deeds filed that indicate that this fifty-foot strip would have to be given up for that development

20 according to your code. It doesn't need to be
21 given up at this point. An offer for dedication
22 if it's called upon again by your Board. If it
23 never happens, the land owner gets to enjoy it
24 but if it does happen they must give it up. The
25 planning is already set up where they set aside

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1 fifty feet so their driveway would convert to a 26
2 private or public road and their frontage would
3 be as it is now, fifty feet.
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5 We'd also ask you to consider if you
6 are going to follow through on that request, that
7 since we haven't studied this plan that
8 carefully, that perhaps you would allow a ten-
9 foot easement on either side of that fifty-foot
10 opening temporarily for grading purposes. We
11 can't suspect what your specifications might be
12 down the road for public or private roads.
13 Again, that would only be temporary. If it never
14 happens, no change, just lines on a piece of
15 paper. If a private or public road extends, we
16 would then have the opportunity to grade outside
17 the fifty feet to make things in compliance with
18 your code for street specifications, and then
19 when that grading is done that easement would
20 extinguish and the property owner would have full
21 rights within that ten foot on either side of
22 that. So it would be just an extension of the
23 straight portion as he's drawn on the plan,
24 extending the one line past the bend in the
25 driveway. That's the area we'd ask you to

ATLANTIC BUILDERS

1 consider, again based on the provisions in your 27
2 code for such a piece of land as my client has.
3 Thank you.
4

5 CHAIRMAN EWASUTYN: I think in simple
6 terms -- I'd like to summarize this in simple
7 terms. I was going to turn it over to our
8 consultants first. We're having a public hearing
9 tonight and we're hearing the concerns of the
10 people who live on Gould Place and the impact
11 this potential either private road or Town road
12 may have on their quality of life. What we're
13 hearing is they're rather concerned and they
14 don't want to give up that quality of life.
15 We're hearing from you that Wawayanda had the
16 opportunity at one time to buy a piece of
17 property, that at the time he purchased it he was
18 very aware it was encumbered with wetlands and
19 that the lots that he could obtain off it may be
20 somewhat unreasonable, but that was the
21 restrictions based upon the wetlands. We approved
22 that subdivision with the understanding that he

23 would have five lots, and that closed that out.
24 So now I turn to the Board and ask them
25 if they want to consider consideration of this

ATLANTIC BUILDERS

1 28
2 stub road or if they want to abide by the
3 concerns of the public and have this subdivision
4 proceed in the manner that it's being represented
5 right now?
6 That is for how many lots?
7 MR. LUKASIK: Three lots.
8 CHAIRMAN EWASUTYN: So I'll poll the
9 Board Members so we can summarize what is the
10 most important issue before us this evening for
11 the sake of all.
12 MR. GALLI: Three lots, no stub road.
13 MR. BROWNE: The same.
14 MR. MENNERICH: The stub road, if it
15 was to occur, would it connect East Road to Route
16 32?
17 MR. TAROLLI: No. It's impossible
18 because of the large intervening State wetland.
19 MR. MENNERICH: But you don't know
20 exactly how many houses you could put on that
21 piece of property?
22 MR. TAROLLI: I do not know at this
23 time. I do know that we would be required to
24 take care of our own drainage on our property.
25 MR. MENNERICH: Is Gould Place a Town

ATLANTIC BUILDERS

1 29
2 road?
3 MR. LUKASIK: Yes, it is.
4 MR. MENNERICH: I'm going to abstain.
5 I don't have an opinion.
6 MR. O'DONNELL: That's not fair. My
7 question would be to this presenter, have you
8 withdrawn from your development package here the
9 stub road?
10 MR. LUKASIK: It's never been a part of
11 our development package. We did not propose it.
12 It's not part of our application.
13 MR. O'DONNELL: Why is it even an issue
14 here?
15 MR. DONNELLY: Because the adjoining
16 property owner at the initial public hearing
17 requested that we require the applicant to
18 provide that access. The applicant has never
19 proposed it.
20 MR. O'DONNELL: And he's not doing it?
21 MR. PACIONE: Can I clarify that?
22 CHAIRMAN EWASUTYN: Go ahead.
23 MR. PACIONE: What we asked for on
24 July 19th was that you require as a condition of
25 approval that the applicant offer for dedication

1
2 irrevocably that strip over lot 2 for a future
3 possible stub street. That's all we asked for.
4 There's no contractual relationship or legal
5 relationship whatsoever between the applicant and
6 Wawayanda Enterprises. We just happen to own
7 abutting land. That's all.

8 MR. O'DONNELL: I'll tell you my
9 opinion. I don't think that I would favor that
10 request.

11 CHAIRMAN EWASUTYN: Okay. And I myself
12 would not favor that request. So having
13 consensus of the majority of the Board, we put
14 that question to rest at this time.

15 At this point I would like to turn to
16 our consultants for their final review of the
17 project. John from McGoey, Hauser & Edsall
18 reviews drainage.

19 MR. SZAROWSKI: All the engineering,
20 not just drainage. There was some -- I'm just
21 going to read off Pat's comments. Mr. Hines is
22 on vacation this week. There was a question
23 about the provisions to an easement on the
24 adjoining property, however it's noted there are
25 a lot of wetlands in that area.

1
2 Also, the Orange County soils map
3 identify a lot of what are considered hydric
4 soils in the vicinity. The provisions for an
5 easement does not allow construction of the
6 extension to the Town roadway. Any Town roadway
7 would have to be dedicated to the Town with a fee
8 ownership and no encumbrances.

9 The adjoining parcel has frontage along
10 Route 32 and as such is not landlocked.

11 Our remaining comments regarding the
12 stormwater maintenance agreement have been
13 stated.

14 CHAIRMAN EWASUTYN: Bryant Cocks,
15 Planning Consultant.

16 MR. COCKS: We reviewed this project
17 and right now all the proposed lots meet all the
18 zoning and subdivision requirements. They have
19 met all our previous comments.

20 The only thing we are waiting for is
21 the response from the Army Corp of Engineers.

22 CHAIRMAN EWASUTYN: Okay. Final
23 comments from Board Members. Frank Galli?

24 MR. GALLI: No additional comments.

25 CHAIRMAN EWASUTYN: Cliff Browne?

2 MR. BROWNE: Nothing more.
3 CHAIRMAN EWASUTYN: Ken Mennerich?
4 MR. MENNERICH: No questions.
5 MR. O'DONNELL: Just a question on the
6 pond maintenance. You did agree to have these
7 three lots be a part of that group of people who
8 are responsible for maintenance of that pond?
9 MR. LUKASIK: That's correct.
10 MR. O'DONNELL: I wanted to make sure.
11 MR. LUKASIK: I believe it is by
12 default but we will also file it.
13 MR. O'DONNELL: This is a yes or no --
14 MR. LUKASIK: Yes.
15 MR. O'DONNELL: That's what I wanted to
16 know. Thank you.
17 CHAIRMAN EWASUTYN: Any further
18 comments from the public before I move to close
19 the public hearing?
20 (No response.)
21 CHAIRMAN EWASUTYN: There being no
22 further comments from the public, I wish to move
23 for a motion to close the public hearing on the
24 three-lot subdivision for Atlantic Builders.
25 MR. GALLI: So moved.

ATLANTIC BUILDERS

1 33
2 MR. O'DONNELL: Second.
3 CHAIRMAN EWASUTYN: I have a motion by
4 Frank Galli. I have a second by Ed O'Donnell.
5 Any discussion of the motion?
6 (No response.)
7 CHAIRMAN EWASUTYN: There being no
8 discussion of the motion, I'll ask for a roll
9 call vote starting with Frank Galli.
10 MR. GALLI: Aye.
11 MR. BROWNE: Aye.
12 MR. MENNERICH: Aye.
13 MR. O'DONNELL: Aye.
14 CHAIRMAN EWASUTYN: And myself yes. So
15 carried.
16 At this time I'll turn to Mike Donnelly
17 to give us conditions of approval which will be
18 memorialized in a resolution for the three-lot
19 subdivision.
20 MR. DONNELLY: First, as was discussed
21 at earlier meetings the clearing limits shall be
22 clearly marked in the field with protective
23 fencing before commencement of site work in order
24 to ensure that no more clearing will be conducted
25 than is necessary. I think this needs either an

ATLANTIC BUILDERS

1 34
2 Army Corp delineation or an actual permit, so
3 it's subject to --
4 MR. LUKASIK: Jurisdictional

5 determination. No permit.
6 MR. DONNELLY: Very good. Has it been
7 received?
8 MR. LUKASIK: Nope. I made more phone
9 calls but it's still in the works.
10 MR. DONNELLY: The supplemental
11 detention maintenance agreement that will make
12 explicit that the additional lots will share in
13 the cost of the pond maintenance needs to be
14 submitted and approved by me before the plat will
15 be signed. In earlier discussions, and I think
16 I'm correct, certain of the houses show
17 construction at or near the edge of the building
18 envelop, therefore the foundation locations shall
19 be staked in the field before the foundations are
20 poured. If I'm wildly incorrect tell me. That
21 was in my notes.
22 MR. LUKASIK: There's a note now on the
23 plans that addresses that. Not a problem.
24 MR. DONNELLY: It's going to be a
25 condition of the approval as well. Certain of

ATLANTIC BUILDERS

1 the lots require cross grading and therefore a 35
2 cross grading easement will be required as well.
3 Finally the payment of parkland fees for the new
4 lots.
5 CHAIRMAN EWASUTYN: Having heard the
6 conditions of approval presented by Attorney Mike
7 Donnelly for the three-lot subdivision for
8 Atlantic Builders, I'll move for a motion for
9 approval.
10 MR. GALLI: So moved.
11 MR. MENNERICH: Second.
12 CHAIRMAN EWASUTYN: I have a motion by
13 Frank Galli. I have a second by Ken Mennerich.
14 Any discussion of the motion?
15 (No response.)
16 CHAIRMAN EWASUTYN: I'll move for a
17 roll call vote starting with Frank Galli.
18 MR. GALLI: Aye.
19 MR. BROWNE: Aye.
20 MR. MENNERICH: Aye.
21 MR. O'DONNELL: Aye.
22 CHAIRMAN EWASUTYN: Myself yes. So
23 carried.
24 I would like to thank everyone for
25

ATLANTIC BUILDERS

1 attending the meeting this evening. 36
2 MR. LUKASIK: Thank you.
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4 (Time noted: 7:38 p.m.)
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7 C E R T I F I C A T I O N

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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: September 6, 2007

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

----- X
In the Matter of

DRISCOLL SUBDIVISION
(2005-46)

Route 300
Section 34; Block 1; Lots 45,46,32.1,32.2,52.1 & 53.5
Section 60; Block 2; Lot 4
R-3 Zone

----- X

PUBLIC HEARING
DRAFT ENVIRONMENTAL IMPACT STATEMENT

Date: August 30, 2007
Time: 7:40 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman
FRANK S. GALLI
CLIFFORD C. BROWNE
KENNETH MENNERICH
EDWARD T. O'DONNELL, JR.

ALSO PRESENT: DINA HAINES
MICHAEL H. DONNELLY, ESQ.
BRYANT COCKS
JOHN SZAROWSKI
KAREN ARENT
KENNETH WERSTED

APPLICANT'S REPRESENTATIVE: ROSS WINGLOVITZ
----- X

24 MICHELLE L. CONERO
10 Westview Drive
Wallkill, New York 12589
25 (845)895-3018

DRISCOLL SUBDIVISION

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2 CHAIRMAN EWASUTYN: The next item of
3 business we have is the Driscoll subdivision.
4 It's a public hearing on a Draft
5 Environmental Impact Statement. It's located
6 on Route 300 in an R-3 Zone. It's being
7 represented by Ross Winglovitz.

8 I'll ask Mr. Mennerich to read the
9 notice of hearing.

10 MR. MENNERICH: "Notice of hearing,
11 Town of Newburgh Planning Board. Please take
12 notice that the Planning Board of the Town of
13 Newburgh, Orange County, New York will hold a
14 public hearing pursuant to the Municipal Code of
15 the Town of Newburgh, Chapter 185-57 Section K,
16 Section 276 and 6 NYCRR Part 617 SEQRA on the
17 application of the Driscoll subdivision for a
18 107-lot residential subdivision and a completed
19 Draft Environmental Impact Statement. The
20 project site is located off of Route 300 and
21 Gardnertown Road in the Town of Newburgh,
22 designated on Town tax map as Section 34; Block
23 1; Lots 31, 45, 46, 52.1 and 53.5. The public
24 hearing will be held on the 30th day of
25 August 2007 at the Town of Newburgh Town Hall,

DRISCOLL SUBDIVISION

39

1 1496 Route 300, Newburgh, New York at 7 p.m. at
2 which time all interested persons will be given
3 an opportunity to be heard regarding the
4 subdivision proposal and the contents of the
5 D.E.I.S. A description of the project is
6 provided below. Project description: The
7 Driscoll subdivision is proposed for development
8 on five parcels of land in the Town of Newburgh,
9 Orange County, New York totaling 72.3 acres. As
10 proposed, the Driscoll subdivision will contain
11 107 single-family dwelling units. There are two
12 existing dwelling units on the property at this
13 time. 105 new dwelling units will be
14 constructed. Public water and sewer service will
15 be used at this site. Copies of the subdivision
16 plans and D.E.I.S. can be reviewed at the
17 Planning Board office, Newburgh Free Library and
18 are available online at www.townofnewburgh.org or
19 www.eppc.cc. The public hearing may be closed or
20 continued at the Planning Board's discretion.
21 Written comments regarding the D.E.I.S. will be
22 received ten days after the close of the hearing.
23 By order of the Planning Board of the Town of
24

25 Newburgh. John P. Ewasutyn, Chairman, Planning

DRISCOLL SUBDIVISION

1 40

2 Board, Town of Newburgh. Dated July 30, 2007."

3 CHAIRMAN EWASUTYN: Dina Haines,
4 Planning Board Secretary.

5 MS. HAINES: The public hearing notices
6 were published in The Mid-Hudson Times on August
7 1st and in The Sentinel on August 3rd.

8 CHAIRMAN EWASUTYN: Thank you, Dina.

9 MS. HAINES: You're welcome.

10 CHAIRMAN EWASUTYN: Mike Donnelly,
11 Planning Board Attorney.

12 MR. DONNELLY: Again this hearing is a
13 little unusual in that it's already been held.
14 On June 7, 2007 a full fledged hearing about the
15 subdivision and the Draft Environmental Impact
16 Statement was held here in this room. It went on
17 for quite some time. A number of issues were
18 brought to the Board by the public including
19 drainage, issues having to do with existing
20 septic systems, traffic, affect on schools, water
21 pressure issues, the possibility of a sewer line
22 to serve the adjoining neighborhood and so forth.
23 The problem is that the State law, the State
24 Environmental Quality Review Act, requires that
25 that public hearing notice be published

DRISCOLL SUBDIVISION

1 41

2 fourteen days before the hearing began. It came
3 to the attention of the consultants after that
4 hearing was closed that we made a mistake and we
5 did not get that hearing notice published in
6 fourteen -- more than fourteen days in advance of
7 the hearing and therefore for our mistake I've
8 recommended to the Board that to handle this
9 properly we re-notice the hearing and hold it yet
10 again.

11 For those of you who spoke the first
12 time, please be assured that your comments have
13 been heard, we have a transcript and they will be
14 considered and as deemed appropriate will need to
15 be addressed in the F.E.I.S. We would ask you
16 therefore knowing that to keep in mind what has
17 already been brought to the attention of the
18 Board.

19 Specifically a SEQRA hearing is
20 somewhat different, and I say the words SEQRA,
21 that's S-E-Q-R-A, the State Environmental Quality
22 Review Act. A document has already been
23 prepared. It's taken some time for that
24 preparation. The Board has been reviewing this
25 application since November of 2005. The document

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addresses the potential environmental impacts that the Planning Board identified as possibly flowing from this project. A public hearing was then held, one in June and again tonight. The applicant will be directed to prepare then a document called an F.E.I.S. or a Final Environmental Impact Statement in which the public comment that has come to the Board is addressed in a fashion that the Planning Board approves as appropriate. Toward that end the Board will hear from you again this evening and will continue to receive written comment from you ten days after the close of the hearing. If the hearing is closed tonight, that would mean September 10th. The F.E.I.S. will then be prepared and when found satisfactory issued by the Board, and the subdivision application which is already before the Board and is also subject to the hearing will be reviewed in conformance with that Environmental Impact Statement and the Findings Statement that the Planning Board will issue after the F.E.I.S. is accepted.

The purpose of the hearing is again for you to bring to the Board's attention comments

DRISCOLL SUBDIVISION

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and concerns that you have that the Board may not yet have become aware of. Again, you will be, after the presentation briefly of the project outline, recognized. When you speak, if you could please come forward, identify yourself, and I must not have said it loud enough the first time, spell your name for our Stenographer if you could so it doesn't get massacred in the transcript, and tell us where you live and direct your comments to the Board.

CHAIRMAN EWASUTYN: Ross Winglovitz.

MR. WINGLOVITZ: Good evening. My name is Ross Winglovitz, I'm a principal of Engineering Properties. We are the civil engineers who have been working on designing the site and on the Environmental Impact Statement. We're here representing Meadow Creek Development for a 107-lot subdivision on 72 acres. This project has been before the Board for approximately two-and-a-half years. It's been the subject of a previous hearing in June, there was a public scoping session approximately a year before that, June of last year, and then there was a public informational session that we held

DRISCOLL SUBDIVISION

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approximately nine months before that when we invited a bunch of the neighbors to come over to

4 the school and provided information about the
5 project and heard concerns. Much of that has
6 been incorporated into what you see this evening.

7 There are 107 lots. There are 105 new
8 homes. The lots range in size from 12,500 square
9 feet to 20,000 square feet approximately. In
10 that area. Although the subdivision looks like
11 it's a cluster because there's a lot of open
12 space around the outside, it's actually a
13 conforming plan. The lots have not been shrunk
14 down below what's permitted. Each lot conforms.
15 Just with the design we were able to preserve
16 significant buffers for the property along the
17 Quassaic Creek.

18 The project's main entrance is on New
19 York State Route 300 just south of the
20 Gardnertown Farm's entry. There's a secondary
21 entrance on Gardnertown Road.

22 Drainage for the project basically goes
23 from west to east to the creek. No water really
24 flows off the property. All water that flows
25 onto the property will be contained on the

DRISCOLL SUBDIVISION

1 45
2 property and directed to one of the detention
3 ponds where the water will be treated for water
4 quality and water quantity before it's discharged
5 into the Quassaic Creek. We're required to
6 provide levels of treatment of the stormwater to
7 protect the receiving waters which in this case
8 is the Quassaic Creek.

9 Water for the project will be provided
10 by two pipe sections. There's a fourteen-inch
11 main on New York State Route 300, there will be a
12 connection here, and there will be an eight- inch
13 main on Gardnertown Road to provide looping of
14 the water to improve not only water on the site
15 but water to adjacent properties by providing
16 different connection points to the system.

17 Sewer for the project is being provided
18 by the Plattekill Turnpike trunk sewer line.
19 There was a sewer project envisioned by the Town
20 Board back in the 1990s. It was actually
21 permitted in the `90s. It has recently been
22 re-permitted. That sewer line runs from south
23 along the Quassaic Creek north I think about
24 4,000 feet to the property and then it will run
25 through the property north and terminate on the

DRISCOLL SUBDIVISION

1 46
2 north end of the property. That project will be
3 paid for by the project sponsors at no cost to
4 the Town. The project will then connect into
5 that sewer main at several locations at the back
6 of these units, one location here and one at the

7 main entrance.

8 A complete traffic analysis was done
9 and was submitted with the D.E.I.S. and the
10 application. The traffic analysis analyzed seven
11 or eight intersections in the area and
12 recommended improvements that are under
13 consideration by the Town. One of the major
14 concerns early on in the project was potential
15 impact to Kroll Acres which is directly west of
16 the project. North is to my right. There's been
17 a buffer of landscaping provided along the rear,
18 fencing, additional landscaping, preservation of
19 existing trees, a combination thereof, that has
20 been used to provide a buffer.

21 I think that's all I've got.

22 CHAIRMAN EWASUTYN: Okay. At this
23 point I would like to open the meeting to public
24 comment. As Mr. Donnelly had said earlier, if
25 you would give your name and address, and please

DRISCOLL SUBDIVISION

1 47
2 spell your last name for the Stenographer. For
3 those of you here for the first time who haven't
4 had the opportunity to speak, I would like to
5 receive your comments first.

6 Sir.

7 MR. BRITE: Thank you. Paul Brite,
8 B-R-I-T-E, 7 Horizons Drive, Newburgh, New York.
9 My primary concern is traffic. Two things, one
10 is when the study for traffic was done, was that
11 before or after the reconfiguration or the no
12 left-turn prohibition on Route 300 coming up
13 towards Union Avenue? There's a lot of traffic
14 now at that light right here at 300 and
15 Gardnertown Road where it seems that a left-turn
16 lane is really necessary. the entrance on Route
17 300 was referred to as a secondary -- a primary
18 entrance and Gardnertown Road as a secondary
19 entrance. How is that designated? The people
20 need to get out of that development somehow.
21 They're going to go the easiest way they can.
22 I'm concerned with Gardnertown Road, which is
23 approximately only a quarter mile long. I've
24 never measured it but it's a very short road. If
25 they make the left onto Gardnertown and get held

DRISCOLL SUBDIVISION

1 48
2 up at the light on Route 300 it will back up
3 beyond that entrance. There are several people
4 on that road, on Gardnertown Road, that have been
5 living there for a long time and they're very
6 concerned about that, when the development is
7 finally completed as well as during the
8 construction phase. If construction vehicles
9 could be prevented from going on Gardnertown,

10 which is a very quiet, small road, and maybe be
11 required to go up Route 300, I think that would
12 be a more appropriate way of going about it.

13 CHAIRMAN EWASUTYN: Ross, would you
14 like to respond to any of the comments made?

15 MR. WINGLOVITZ: The traffic study was
16 conducted after the left-turn prohibition. One
17 of the intersections identified as needing
18 improvements is the Gardnertown Road/Route 300
19 intersection at some point in the future.
20 There's been an offer that there will be a joint
21 agreement with the Town and other developers to
22 make improvements to this intersection. The
23 scope of those improvements talks about left-turn
24 lanes and lights at the intersection.

25 UNIDENTIFIED SPEAKER: What about the

DRISCOLL SUBDIVISION

1 49
2 entrance?

3 MR. BRITE: Could you address the
4 secondary and primary?

5 MR. WINGLOVITZ: The primary entrance,
6 because this is basically where the -- this is
7 the easiest access for anybody to get into. The
8 traffic study addressed both intersections. They
9 don't look at it like I explained it. They look
10 at how many people are going to go on
11 Gardnertown, how many people are going to go on
12 Route 300. They take a look at the project based
13 upon their knowledge of the traffic flow.

14 MR. BRITE: Will the construction
15 entrance be on Gardnertown or on Route 300?

16 MR. WINGLOVITZ: It hasn't been
17 proposed to restrict from either way. There's a
18 significant bridge that's going to be built. I
19 imagine early on the traffic will be in this
20 direction. Once the bridge is constructed my
21 opinion is that most of the traffic will come
22 through here. It has not been restricted.

23 MR. BRITE: When would that be
24 constructed?

25 MR. WINGLOVITZ: Early on. It will be

DRISCOLL SUBDIVISION

1 50
2 part of the beginning of the project. We will
3 not be able to basically get any type of COs for
4 any homes in here with only one entrance. Our
5 first phase is something like that, so we ensure
6 that we have two entrances for proper
7 distribution of traffic and it gives us two ways
8 in and out.

9 MR. BRITE: Thank you.

10 CHAIRMAN EWASUTYN: Additional comments
11 from the public? Sir.

12 MR. VANSPANJE: My name is Eric

13 Vanspanje, V-A-N-S-P-A-N-J-E. I would like to
14 speak again on the traffic. Did I hear you
15 correct, sir, that construction vehicles are
16 coming in from Gardnertown Road?

17 MR. WINGLOVITZ: Yes. We're not
18 proposing to restrict them from either entrance.
19 We'll use both entrances. Obviously the 300
20 entrance being the primary entrance, it's a State
21 highway, will be the most likely entrance to be
22 used. It wouldn't be restricted from either
23 entrance, especially early on until that is
24 constructed. That is going to be constructed in
25 the first phase of the project. It has to be.

DRISCOLL SUBDIVISION

1 51
2 MR. VANSPANJE: That will create quite
3 a lot of fumes, exhaust fumes, pollution.

4 MR. WINGLOVITZ: That's something the
5 Board takes into consideration as part --

6 MR. VANSPANJE: I'm addressing them
7 also to you as well as to the Board. That is
8 kind of objectionable to me because --
9 particularly in the beginning where you will have
10 a lot of dust creation. I do understand they
11 have to have construction. I'm in construction
12 myself so I know that this is required, but most
13 of the construction vehicles most likely will be
14 coming from Route 17K for their supplies. It's
15 easier for them to make a left turn onto
16 Gardnertown Road and then a right onto their
17 proposed access road, and then the people on
18 Gardnertown Road will get, you know, choked to
19 death by those exhaust fumes, and they are big
20 trucks. I would say that they make regulations
21 -- I mean provisions that half of the traffic
22 will come from Gardnertown and half from, you
23 know, Route 300. That's more actually my
24 proposal to the contractor and the developer.
25 Thank you.

DRISCOLL SUBDIVISION

1 52
2 CHAIRMAN EWASUTYN: Ross, will this be
3 a phased development?

4 MR. WINGLOVITZ: Yes.

5 CHAIRMAN EWASUTYN: Can you explain to
6 the public the phases, and how many there are,
7 and how that lays out?

8 MR. WINGLOVITZ: Preliminarily we're
9 looking at three phases, one from Gardnertown
10 Road through the site out to the main entry.
11 This would be set up as probably model homes with
12 a sales trailer. We'll bring the main entry in
13 through here through the site and make this loop
14 out so we have two means of egress for the
15 project. The second phase completing the next

16 loop, the third phase completing that.
17 CHAIRMAN EWASUTYN: The first phase
18 would be building approximately how many units?
19 MR. WINGLOVITZ: That's a good
20 question. Probably 38 units or so. In that
21 ballpark.
22 CHAIRMAN EWASUTYN: Just to repeat,
23 there's a total of 105 new single-family lots.
24 So the first phase would be approximately what
25 percentage?

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2 MR. WINGLOVITZ: Approximately a third.
3 Slightly more I think. Slightly more than a
4 third.
5 CHAIRMAN EWASUTYN: Additional comments
6 from the public? The gentleman in the back.
7 MR. LEDOUX: Paul Ledoux, L-E-D-O-U-X,
8 518 Park Avenue. My question is also with the
9 traffic. That's my concern. The bridge going
10 across that you're going to put in. Your first
11 phase you're saying you're coming off of
12 Gardnertown Road first. So they can get the COs
13 and get in and out of there without that bridge
14 being built if that's the way it's going. So all
15 the heavy equipment and the tractor trailers
16 coming in will be coming in off of Gardnertown.
17 They're not even going to worry about that bridge
18 until the end probably. That's my concern. They
19 don't want all the trucks going over that bridge.
20 CHAIRMAN EWASUTYN: Is that your
21 proposal?
22 MR. WINGLOVITZ: No, that's not our
23 proposal. Both entrances need to be in as part
24 of the first phase.
25 MR. LEDOUX: Yes. What I'm saying is --

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1 54
2 MR. WINGLOVITZ: This will all be built
3 before homes will be occupied in this phase,
4 including the crossing.
5 MR. LEDOUX: I'm saying they're not
6 going to want them trucks going across that
7 bridge first. Gardnertown Road will have most of
8 the traffic.
9 MR. WINGLOVITZ: They may be bringing
10 heavy equipment in to stage it. This bridge will
11 probably be done by the time they bring materials
12 in. That would be my guess. There's no reason
13 that bridge won't be used. It's going to be
14 built to DOT specifications. That will be used
15 for construction vehicles as well as residential
16 vehicles.
17 CHAIRMAN EWASUTYN: Ma'am.
18 MS. RICCI: Stacy Ricci, S-T-A-C-Y,

19 last name R-I-C-C-I. I live at 526 Upper Avenue.
20 There has been rumors, I see it's not on the map,
21 concerned with the connection of this development
22 possibly into the Kroll development on that
23 westerly access. Is there any potential in the
24 future that that may happen?

25 MR. WINGLOVITZ: No, there is not. I

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1 55
2 mean there's none proposed at all. Actually
3 originally there was talk of a connection point.
4 Here's the end of the cul-de-sac right here.
5 Early on we had discussions and we all thought
6 that that was not a good idea. There is, you
7 see, about a fifteen-foot wide right-of-way
8 through there. That's for pedestrian connection.
9 This project will have sidewalks, so we've
10 provided a way for pedestrians to walk around
11 here and connect in and be able to walk through
12 Kroll Acres and vice versa. Only a pedestrian
13 can access them. There's no proposed road
14 connection.

15 MS. RICCI: So you're saying that
16 there's going to be a pedestrian right-of-way
17 from one development --

18 MR. WINGLOVITZ: Correct.

19 MS. RICCI: -- to the other --

20 MR. WINGLOVITZ: Absolutely.

21 MS. RICCI: -- creating potential
22 issues?

23 MR. WINGLOVITZ: We hope potential
24 opportunities. That's the idea, so people can --
25 if they want to jog they can jog over here and

DRISCOLL SUBDIVISION

1 56
2 come back and jog through ours.

3 CHAIRMAN EWASUTYN: The gentleman in
4 the back.

5 MR. BUSH: Gabe Bush, 506 Circle Lane
6 owned by Elizabeth Sturkin. The proposed plot
7 for this foot path is right next to my house.
8 Yes, I have a major concern with this. Who is
9 going to maintain this? Who is going to patrol
10 it? I certainly don't want these people going in
11 and out through my backyard.

12 Issue number two I want to bring up is
13 your environmental impact. Does the construction
14 of this project include the environmental impact?
15 In other words, not so much this land being
16 occupied but how it's going to be occupied during
17 construction. Like some others had mentioned,
18 the construction vehicles in and out, how is that
19 going to affect the environment and the drainage
20 before the drainage is actually put in?

21 CHAIRMAN EWASUTYN: Ross, would you

22 like to address that?
23 MR. WINGLOVITZ: That's addressed in
24 the document as well. That's actually the
25 subject of some of the comments from the

DRISCOLL SUBDIVISION

1 57
2 consultants that needs to be addressed in the
3 F.E.I.S. is the construction of the project.
4 That is addressed as well as the final build out
5 of the project. So both.
6 MR. BUSH: Back to the maintenance of
7 that proposed foot path through my backyard.
8 MR. WINGLOVITZ: There's been
9 discussions with the Town maintaining the
10 sidewalks and that's where we're headed. We're
11 requesting the Town maintain the sidewalks and
12 we're in front of the Town Board discussing that.
13 MR. BUSH: As well as patrolling them?
14 MR. WINGLOVITZ: There will be Town
15 police coverage. This is not in the middle of
16 nowhere. There's two residences on the side of
17 that walkway.
18 MR. BUSH: That big open patch off to
19 your left there --
20 MR. WINGLOVITZ: Pardon me?
21 MR. BUSH: That big open patch --
22 MR. WINGLOVITZ: This is part of one
23 lot.
24 MR. BUSH: We've all been kids before.
25 All the kids in this development, where do you

DRISCOLL SUBDIVISION

1 58
2 think they're going to go and drink beer and hang
3 out? Right in that patch. Right in my backyard.
4 MR. WINGLOVITZ: This is private
5 property. This one lot, this is one large lot.
6 It's kind of different than the rest. This is
7 all owned by the homeowner's association. This
8 is one large lot.
9 MR. BUSH: Yup. And right next to that
10 is going to be a foot path where they're going to
11 hang out.
12 MR. WINGLOVITZ: The foot path is
13 between the two lots.
14 MR. BUSH: Right in my backyard.
15 MR. WINGLOVITZ: I don't know where
16 your residence it. It connects to the existing
17 road directly.
18 MR. BUSH: Why?
19 CHAIRMAN EWASUTYN: Gabe, we've heard
20 your comment and that would be something that
21 would be reviewed in the F.E.I.S.
22 The gentleman here. Sir.
23 MR. ANDERSON: Gordon Anderson, 226
24 Gardnertown Road. I would like to ask the young

25 man where -- if he would put his finger on north

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1 59

2 on the green diagram.

3 MR. WINGLOVITZ: How about this. Does
4 that help? That's north, 300.

5 MR. ANDERSON: Thank you. Now would you
6 put your finger on -- now that you've sat down --
7 the Town Hall where we are right here?

8 MR. WINGLOVITZ: The Town Hall is
9 approximately here. The creek comes through
10 here. We're probably right about here.

11 MR. ANDERSON: Then is your ingress on
12 the left there, on the left of your diagram? On
13 the left.

14 MR. WINGLOVITZ: Gardnertown?

15 MR. ANDERSON: Yes.

16 MR. WINGLOVITZ: Yes.

17 MR. ANDERSON: Where is that -- that
18 comes out at this intersection up here by the
19 light?

20 MR. WINGLOVITZ: No. This comes out
21 about 1,500 feet up from the intersection.

22 MR. ANDERSON: Up being south?

23 MR. WINGLOVITZ: West. West. So
24 uphill from the intersection. If you were at the
25 intersection coming north you would go right past

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1 60

2 the old town hall. If you go right you go up the
3 hill. It's only a few hundred feet from --

4 MR. ANDERSON: Would you put your
5 pencil where that light is right now?

6 MR. WINGLOVITZ: Right here?

7 MR. ANDERSON: The four corner light
8 that's --

9 MR. WINGLOVITZ: Gardnertown and 300 is
10 right about here. This continues down to
11 Gardnertown.

12 MR. ANDERSON: Okay. It's hard for me
13 to picture Gardnertown Road as going in a
14 southwest direction.

15 MR. WINGLOVITZ: North is at the top,
16 so this is -- it's going north.

17 MR. ANDERSON: Northwest?

18 MR. WINGLOVITZ: Northwest primarily.
19 Depending which way you're headed. Or southeast.

20 MR. ANDERSON: It's very difficult for
21 me to picture that.

22 MR. WINGLOVITZ: The intersection of
23 Union Avenue and Gardnertown is right up here to
24 give you an idea. Union Avenue continues --

25 MR. DONNELLY: Do you have an area map

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in that packet that shows this?

MR. WINGLOVITZ: I do on the overall plan. We have one in the E.A.F. We can give you a copy to give you a location.

MR. ANDERSON: I just want to mention before I sit down that there is a lot of traffic that stops for this light up here by the Town Hall. Coming up in the late afternoon it turns left at the light and goes up on Union Avenue through the -- through Union Avenue up towards the Union Avenue bridge. That's the one that they didn't put in over the Thruway immediately. They waited five years to do that. Also, that same -- it's also that same traffic that comes down Union Avenue and then uses Gardnertown Road to get access from Newburgh in a further southerly direction. Thank you.

MR. WINGLOVITZ: Thank you.

CHAIRMAN EWASUTYN: Any additional comments from the public? Someone who hasn't had the opportunity to speak first.

The gentleman in the back.

MR. WISEMAN: I had spoke at the first meeting but I have some additional comments that

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have been made available to me. This comes from the Hudson River Keeper organization. We contacted them. They have proposed seven things that they see wrong with the Environmental Statement itself. One is regarding steep slopes. They said there are 49.13 acres in this parcel that have a slope of between 8 and 15 degrees. The Town has something in their codes regarding the steep slopes. I haven't read all of those codes yet.

They also said part of this is in the hundred-year flood plain. Again I think the lower end of the creek is identified on their plan as the hundred year flood plain. Looking at what happened with Roscoe earlier this year, I would be concerned with it.

Runoff and drainage into the Quassaic Creek. Even though it's not a concern of the DEC, the River Keeper is concerned because they are concerned with the Hudson River, and eventually that will get to the Hudson River.

They are also concerned with construction on more than 5 acres at a time and how that is in fact controlled.

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Also the wetlands, the location and function of those wetlands and how they're going

4 to be protected as part of those.
5 The increased impervious surface of
6 almost 16 acres of additional runoff when they
7 put the blacktop in for the roads and those kinds
8 of things. That becomes an impervious surface
9 therefore you have more runoff. That's also a
10 concern.
11 Also they're concerned with the carbon
12 footprint of the Town of Newburgh and the
13 increased development in the Town of Newburgh and
14 how this is going to impact that carbon
15 footprint.
16 I made copies of this. I'll give this
17 to you and you can pass them out to the Board
18 Members.
19 Also one of the things that I mentioned
20 earlier in my comments was the fire protection.
21 I have a memo that I'm going to give you also
22 from Cronomer Valley Fire Department which
23 provides the coverage for that, that they can not
24 provide daytime service between the hours of
25 07:00 and 15:00. That's military time. That's

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1 7:00 in the morning until 3:00 in the afternoon. 64
2 They have required or asked the City of Newburgh
3 to be the backup for Cronomer Valley, which is a
4 constant. That's a constant thing between all
5 the fire companies. One of the things that the
6 company provided in their statement was a
7 five-minute response time. Five-minute response
8 is one of the white cars from the fire department
9 getting there and saying yes, we have a fire. If
10 you're relying on a volunteer fire company with
11 backup from the City of Newburgh to make that
12 response in five minutes, it's not going to
13 happen. Again I'll provide this.
14 CHAIRMAN EWASUTYN: Ross, would you
15 like to respond to any of those comments?
16 MR. WINGLOVITZ: We'll respond to them
17 in the F.E.I.S.
18 MR. O'DONNELL: Excuse me, sir. Your
19 name?
20 MR. WISEMAN: I'm Bill Wiseman,
21 W-I-S-E-M-A-N. I live at 501 Upper Avenue.
22 MR. WINGLOVITZ: We spoke on the phone.
23 MR. WISEMAN: Yes, we did. And we
24 e-mailed.
25

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1 Here are copies for the Board. Thank 65
2 you very much.
3 CHAIRMAN EWASUTYN: This gentleman.
4 MR. GALLAGHER: John Gallagher,
5 G-A-L-L-A-G-H-E-R. I also live at 526 Upper
6

7 Avenue. Why do we need a walkway between our
8 development and the new development you're
9 proposing where the new development has walkways
10 and everything? Why can't those people stay over
11 there? If there's more homes going in there and
12 there's forty, fifty more kids walking around,
13 why do they need to walk where we have no problem
14 with the kids right now? Then school starting
15 and you're going to start building the
16 development back there. If they're going to come
17 in over here from Gardnertown Road, you've got
18 the buses leaving in the afternoon and coming in
19 the morning. This is a big traffic nightmare
20 over here with all the trucks coming in and out,
21 all the tractor trailers, all the equipment
22 you're going to need to start digging the land
23 and start knocking down timber and stuff like
24 that.

25 CHAIRMAN EWASUTYN: Thank you.

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2 Mr. Brite, I'll be with you in one
3 second. I'm giving the opportunity to those who
4 haven't spoken before.

5 Ma'am.

6 MS. DASILVA: Donna Dasilva,
7 D-A-S-I-L-V-A, 508 Garden Street, Krolls
8 development. I'd like to know this buffer zone
9 that you have over here, exactly how much space
10 do I have behind my home that these trees are
11 going to be remaining? Is that going to be all
12 cleared out? Will there be homes butting up
13 against my backyard? How much is that buffer
14 zone?

15 The walkway that you're proposing,
16 where is that walkway going to come out into
17 Krolls development since I'm butting up against
18 where it seems that this site is going to be.
19 I too am concerned. We don't have sidewalks
20 where we are. Why would those residents need to
21 come into our development to, as you say, jog?
22 There's no jogging spaces for our sidewalks or
23 anything in our particular development.

24 I wasn't here for any of the previous
25 meetings. I'd like to know where I can obtain

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1 the information regarding the items that were
2 addressed as far as possible sewage for the Kroll
3 development, whether it be approved or denied or
4 if there's any hope that we might be able to hook
5 into that because this development is going in?
6 How can I obtain information on that so I can
7 possibly make further comment in the next ten
8 days?
9

10 CHAIRMAN EWASUTYN: Ross, would you
11 like to speak on behalf of that?
12 MR. WINGLOVITZ: I'll take your last
13 comment first. Concerns for sewer were voiced by
14 many of your neighbors at the previous --
15 MS. DASILVA: I'm sure it was. It's
16 one of our biggest concerns.
17 MR. WINGLOVITZ: Obviously there's no
18 sewer service in Kroll. Part of this project
19 will be bringing sewer service to this area.
20 There's no sewer service in the area. We're
21 bringing a twelve-inch sewer line to the area
22 we'll be interconnecting to the site. There's
23 been discussions with the Town to provide
24 potential connection points to Kroll Acres so at
25 some future date a system can be developed here

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1 68
2 and can connect.
3 MS. DASILVA: Can you give me any idea
4 -- a lot of us are on the brink now where we have
5 to invest thousands of dollars to get new septic
6 systems because these are old septic systems. If
7 the sewer is possibly coming in in the next two
8 years, that's going to affect everyone,
9 especially on my street, their decision of
10 whether they're going to hold out for this sewer
11 because that's an additional cost. Can you give
12 us any kind of timeframe when this might come
13 about?
14 MR. WINGLOVITZ: Any sewer beyond our
15 property is not within our control. That's a
16 Town Board action. They would have to actually
17 include you in a sewer district plan for those
18 improvements, get them permitted so they can
19 construct them subsequent to us constructing our
20 sewers.
21 MS. DASILVA: What is the timeframe for
22 your development? That looks like phase II.
23 MR. WINGLOVITZ: That would be
24 potentially phase II. Probably we'll begin
25 construction next year on the project. I think

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1 69
2 we're projecting one phase per year.
3 MS. DASILVA: Okay. And the buffer
4 zone that I asked about as far as the trees --
5 MR. WINGLOVITZ: We contacted --
6 MS. DASILVA: -- it looks like that's
7 right behind Garden Street there where I am, it
8 looks like.
9 MR. WINGLOVITZ: This connects to
10 Circle Lane. That one I can answer. Circle Lane
11 is a cul-de-sac. This would also be a good
12 planning tool. Obviously the Board is going to

13 hear everybody's comments. Whether they think
14 it's a good planning tool is up to them.
15 MR. WINGLOVITZ: I'm off of Third
16 Street which is almost -- it's not a cul-de-sac
17 but it's like a square U. There's nothing behind
18 me but property.
19 MR. WINGLOVITZ: Are you way up by the
20 commercial property that's cleared up here in the
21 back?
22 MS. DASILVA: It's not cleared. It was
23 tagged some time ago. There's all woods behind
24 us, where we are. It looks like -- Third Street
25 isn't listed on this particular map but it looks

DRISCOLL SUBDIVISION

1 like we're over here. 70
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3 MR. WINGLOVITZ: This is Circle Lane
4 right here.
5 MS. DASILVA: No. Third Street is the
6 -- Garden Street is the dead end of the
7 development. There's no -- everything comes off
8 of us as far as Park Avenue, Center Street.
9 There's nothing behind us. We come off of Third
10 Street. Third Street doesn't seem to be viewed
11 here. I have a hard time picturing where -- the
12 way you've got this map --
13 MR. WINGLOVITZ: I have an aerial photo
14 but that's the same map you have. This is Center
15 Street. Center Street is right here. Upper
16 Avenue is right there.
17 MS. DASILVA: Upper Avenue is the top
18 of the development.
19 MR. WINGLOVITZ: Anybody along here we
20 actually sent individual letters to and met with
21 last fall to discuss -- each one of the owners to
22 discuss where they were in relation to the
23 project and buffers. I would be glad to take
24 your information, confirm where you are and we
25 can talk about what we've done there by your

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1 house. 71
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3 MS. DASILVA: I would appreciate that.
4 MR. WINGLOVITZ: Absolutely.
5 MS. DASILVA: If this is Upper Avenue,
6 we're at the back end of Krolls development.
7 MR. WINGLOVITZ: That's Upper, that's
8 Circle. I don't know if that's Third here.
9 MS. DASILVA: If this is Third Street,
10 I'm here. If this is Third.
11 MR. WINGLOVITZ: You don't back up to
12 us then. You back up over here. You back up to
13 -- I can't think of the gentleman's name.
14 Costa's property.
15 MS. DASILVA: Costa does have property

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back here.

MR. WINGLOVITZ: He's over here, we're over here. We're not behind you. That's probably why you didn't get a letter.

MS. DASILVA: Okay. Still with that --

MR. WINGLOVITZ: I can confirm that. You can call my office.

MS. DASILVA: Okay. Still that walkway that you're proposing is still going to affect me and people entering into our development.

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CHAIRMAN EWASUTYN: I would like to take the opportunity at this time as we did earlier with Atlantic builders, we've heard comments from the public and they'll be addressed in the F.E.I.S. in reference to the proposal as far as connecting both subdivisions. That is on the record. That will be addressed in the F.E.I.S. The Planning Board will have an opportunity to review it also. I ask that at this particular time we consider that issue to be noted. Thank you.

Additional comments. Mr. Brite.

MR. BRITE: Thank you. Just addressing the traffic issue one more time. Gardnertown Road probably wouldn't meet the specs of the Town today if it was built today. I'm willing to bet that the roads that are being built there that are proposed are going to be wider and more secure to hold heavy trucks. Would the developer be willing to voluntarily restrict the construction vehicles from going on Gardnertown Road and trying to make that right turn into their development so they wouldn't disturb the people who have been there for fifty years?

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CHAIRMAN EWASUTYN: I think that's something again that would be addressed in the F.E.I.S. We'll take that comment under consideration.

I'll have Mr. Donnelly one more time explain where we are in the process in reference to the comments that we're receiving tonight and how those comments will be addressed and at what point in time.

Mr. Donnelly.

MR. DONNELLY: Back at an earlier stage in the process we had a public hearing on scoping, which was back in May of 2006. The Planning Board tried to identify the issues that had the greatest potential for adverse environmental impact in a document called a scoping outline that is basically the table of

19 contents of the D.E.I.S. When you address the
20 Board and you elaborate upon or give us a new
21 perspective on issues, the applicant will be
22 directed to now do further study and provide
23 additional information. For instance, the
24 construction vehicle access, the phasing, the
25 adequacy of the roadway to handle that are issues

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1 that the Board could direct the applicant to
2 provide additional information on. When the
3 F.E.I.S. is done the Planning Board will issue
4 Findings. Findings are determinations that the
5 plan must be pursued or can only be approved in a
6 certain way, and if appropriate what are called
7 mitigation measures can be included in the
8 Findings that would require that certain things
9 be done or not done in the construction phase and
10 on a permanent basis. When the Chairman says we
11 understand the issue, it's been addressed, it
12 will require further study. It may or it may not
13 lead to a mitigation measure that could require
14 construction vehicles, either in certain
15 proportions or in certain hours, or the Town
16 Board might require that some bond be posted to
17 ensure repairs to the roadway. There will
18 certainly be requirements that mud and debris and
19 dust are not dragged onto that roadway system to
20 the disadvantage of the public. The issues you
21 brought forward are ones that I'm sure will
22 require some further elaboration and may
23 ultimately require that some kind of Finding or
24 mitigation measure address those concerns.
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2 CHAIRMAN EWASUTYN: Is there anyone
3 here this evening who has a comment that we
4 haven't had the opportunity to hear?
5 (No response.)
6 CHAIRMAN EWASUTYN: I'll turn to the
7 Board Members for their comments. Frank Galli?
8 MR. GALLI: No additional.
9 CHAIRMAN EWASUTYN: Cliff Browne?
10 MR. BROWNE: Nothing more at this time.
11 CHAIRMAN EWASUTYN: Ken Mennerich?
12 MR. MENNERICH: No questions at this
13 time.
14 CHAIRMAN EWASUTYN: Ed O'Donnell?
15 MR. O'DONNELL: Two things. Karen,
16 have you been to this parcel --
17 MS. ARENT: Yes.
18 MR. O'DONNELL: -- to look at the
19 buffer? How significant is it?
20 MS. ARENT: The applicants are
21 proposing a ten-foot strip of existing woodland,

22 and wherever the existing woodland is not able to
23 be saved they're proposing to put in a planting,
24 screen planting. I can't recall exactly what's
25 there but I believe it's three trees and fifteen

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1 shrubs or something.
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3 MR. O'DONNELL: How come it's only ten
4 feet? That's kind of skimpy, ain't it?
5 MS. ARENT: It's a very -- the yards
6 are very tight. The residential developments
7 aren't -- according to our code, they are not
8 required to provide screening between residential
9 developments.
10 MR. O'DONNELL: All right. Maybe we
11 can do a little better. Right, Ross? What do
12 you think?
13 MR. WINGLOVITZ: We can take a look at
14 it.
15 MR. O'DONNELL: Good.
16 MR. BUSH: What about --
17 CHAIRMAN EWASUTYN: Gabe, Gabe.
18 MR. O'DONNELL: It's my turn.
19 CHAIRMAN EWASUTYN: The purpose of the
20 meeting is to keep a sense of order and to
21 recognize those who have the floor. Thank you.
22 MR. O'DONNELL: The foot path, was that
23 our bright idea -- no pun intended, Mr. Brite --
24 or how did that come about?
25 MR. WINGLOVITZ: We talked about there

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1 was only one potential public connection point, I
2 think very early on in the process, and that was
3 to Circle Lane. We talked about did we want to
4 have a through connection for traffic. Everybody
5 agreed that that wasn't a good idea. I think it
6 was the consensus of the applicant and the
7 Planning Board that it was a good planning idea
8 to provide pedestrian interconnection.
9
10 MR. O'DONNELL: I withdraw my --
11 MR. WINGLOVITZ: If nobody likes that
12 idea it doesn't break our heart. It's fine.
13 We'll do what the Board desires.
14 MR. O'DONNELL: It's obvious these
15 people don't want it. It's probably going to be
16 the same for those folks when they move in there.
17 I'm a lone voice but I would tell you I would
18 favor getting rid of it. That's it.
19 CHAIRMAN EWASUTYN: Ken Mennerich?
20 MR. MENNERICH: Could I raise a
21 question? Relative to a possible future
22 connection of sewage to Kroll development, has
23 there been provision left to cross property into
24 that Kroll development?

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MR. WINGLOVITZ: Not at this point. We

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have been trying to set up a meeting with Pat Hines, myself and Jim Osborne to discuss how and where we can do that.

MR. MENNERICH: Thanks.

CHAIRMAN EWASUTYN: Gabe.

MR. BUSH: We had discussed at one point a fence in this buffer zone, not just trees and shrubs.

MS. ARENT: There is fencing. I believe they're proposing fencing wherever anybody --

MR. BUSH: I want to make sure that wasn't left out.

MS. ARENT: I'm sorry. It was either fencing or landscaping. Whoever wanted landscaping they offered landscaping to.

MR. BUSH: I just wanted to make sure the word fence wasn't left out.

MS. ARENT: I'm sorry about that.

CHAIRMAN EWASUTYN: Mike, would you let everyone know where we are now in the process?

MR. DONNELLY: If the hearing is to be closed this evening the written public comment period will remain open for ten days, until

DRISCOLL SUBDIVISION

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September 10th. You can deliver your written comments here to the Town Hall up until that date. The applicant will then be required, with the assistance of the transcript of these two hearings, to address the written comments as well as the comments raised at this hearing in a document called the Final Environmental Impact Statement in a fashion that the Planning Board determines to be satisfactory. That could take a month, it could take a year, it depends upon how long it takes the applicant to accomplish that. I don't think it will really take a year but the ball is back in the applicant's court. They'll have to prepare that document and it will take some period of time. Although there will not likely be another public hearing, all of the meetings of the Planning Board are open to the public and agendas are available at the Town Hall, so you can find out, if you desire, when this matter is to be heard again if you wish to hear or observe the further proceedings.

CHAIRMAN EWASUTYN: Thank you. Having heard from the public, and Ross thank you for taking the opportunity, having continued this

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public hearing from an earlier date, I would move for a motion from the Board to close the public hearing comment for the Draft Environmental Impact Statement for the Driscoll subdivision and to extend the written comment period to September 10th at 4:30 in the afternoon.

MR. O'DONNELL: So moved.

MR. MENNERICH: Second.

CHAIRMAN EWASUTYN: I have a motion by Ed O'Donnell. I have a second by Ken Mennerich. Any discussion of the motion?

(No response.)

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

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. O'DONNELL: Aye.

CHAIRMAN EWASUTYN: Myself yes. So carried.

I would like to thank the public for attending this evening.

(Time noted: 8:25 p.m.)

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

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

DATED: September 6, 2007

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

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In the Matter of

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

----- X

SITE PLAN

Date: August 30, 2007
Time: 8:34 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
EDWARD T. O'DONNELL, JR.

ALSO PRESENT: DINA HAINES
MICHAEL H. DONNELLY, ESQ.
BRYANT COCKS
JOHN SZAROWSKI
KAREN ARENT
KENNETH WERSTED

APPLICANT'S REPRESENTATIVE: DAWN KALISKY

----- X

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

BERLIN, L.L.C.

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

MS. KALISKY: And good evening to the Board. Keith Berlin is not here this evening, Mr. Michael Berlin is here. I'm Dawn Kalisky with Lanc & Tully Engineering. I'm here covering for Mr. John Queenan who unfortunately took a little time off to get married this weekend. He will be back representing the project.

MR. GALLI: Unfortunately?

MS. KALISKY: Fortunately. Unfortunately that you have to deal with me and not Mr. Queenan this evening, but fortunate for him he is getting married.

To refresh the Board's memory, this project hasn't been before you since December of '06 when we got concept sketch plan approval for

22 a 6,000 square foot building on 17K. It's going
23 to house a Dunkin Donut and two retail
24 facilities.

25 During the discussion at the December

BERLIN, L.L.C.

1 meeting we've made the appropriate revisions and 84
2 submitted basically a preliminary plan set that
3 includes the landscaping, the lighting, all the
4 construction details.

5 To address comments that were raised
6 during the December meeting with the conceptual
7 approval, the site plan has been revised to
8 eliminate the drive-through around the building.
9 It still has the single entrance in, a turnaround
10 for a dumpster location, sidewalks along the back
11 side of the building and the front side of the
12 building. It does accommodate now a
13 perpendicular approach to the refuse area and
14 provides for a loading and unloading area.

15 The existing stonewalls, where they are
16 shall remain and where they need to be removed
17 will be for the entrance only. Where they need
18 to be built up they will be. The proposed new
19 stonewalls are at a height of thirty-six inch
20 minimum, not two foot. I know our plan
21 conflicts. We do acknowledge it is thirty-six
22 inches.

23 We have the sight distance on the plan
24 set now for the sight distance table.
25

BERLIN, L.L.C.

1 We do acknowledge we have to go to the 85
2 State Department of Transportation for a highway
3 permit, not only for the driveway access but for
4 any utility connection if we have to get into
5 their right-of-way to connect to the existing
6 water and sewer systems.

7 Skyers Lane is actually a private road
8 owned by a private entity. This parcel has no
9 legal right-of-way or access via Skyer Lane but
10 we were asked to investigate that.

11 The Board was asking for an access
12 easement to the adjoining Pilot property which
13 may or may not come to fruition. We do have
14 annotated here three parking spaces which would
15 accommodate a connection drive should there be
16 one in the future. The placement of these three
17 spaces would be at the Board's recommendation.
18 If you think it would be better at the further
19 end, want them in the middle, down on the end
20 closest to 17K. We can move them wherever the
21 Board really feels it would be best suited for
22 the adjoining parcel.

23 We've done the engineering details and
24

25 completed a stormwater pollution prevention plan

BERLIN, L.L.C.

1 86

2 for the project for review. We have been in
3 communication with Jim Osborne, the town
4 engineer, regarding connection of the sewer for
5 the project. We will of course update that as
6 soon as we get the required information from Jim,
7 and basically from the City of Newburgh as well.

8 As previously said, we did have the
9 sidewalk.

10 We are currently working on the
11 architectural drawings which will include the
12 signage as well. As soon as we get the
13 architectural drawings done we'll get that to the Board
14 for their review and comment.

15 Since this submission we did receive
16 comments from the Planning Board's consultants.
17 We've gone through them here and we don't take
18 exception to anything. We understand what the
19 Board is looking for and we'll make the required
20 revisions and satisfy any comments or concerns.
21 That's what I can tell you for now.

22 CHAIRMAN EWASUTYN: Thank you. I think
23 since you have all the comments, then you know
24 what you have to address.

25 MS. KALISKY: Yes, sir.

BERLIN, L.L.C.

1 87

2 CHAIRMAN EWASUTYN: One of the things
3 that we discussed, Karen Arent brought to our
4 attention during work session and you just
5 commented on that, it would be nice to also begin
6 reviewing the ARB on this. So you read us well
7 on that.

8 The only additional comment that wasn't
9 written in the reviews and we discussed is as far
10 as any future road widening and the fact that you
11 do have to supply some deep test pits for what
12 you're proposing as far as this chamber.

13 John, would you speak to Dawn in
14 reference maybe to consider at this point in time
15 the relocation of that chamber for the project?

16 MR. SZAROWSKI: In looking at the --

17 CHAIRMAN EWASUTYN: Can you speak up
18 because of the air conditioning.

19 MR. SZAROWSKI: One of the things you
20 might want to consider is this large wall,
21 because you have to be exploring underneath it
22 you might want to move it back from the road,
23 slide it down the property a little further just
24 so that it's not impacted if they ever widen --

25 MS. KALISKY: Okay.

BERLIN, L.L.C.

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MR. SZAROWSKI: -- 17K.

MS. KALISKY: They can't widen it too far, they'll take out our stonewalls, Karen. Don't let them do it.

MR. SZAROWSKI: We definitely need to know if it's going to infiltrate.

MS. KALISKY: Our guys are heading out there next week. We do believe it will be based on the soils data we have on the map. That's why we designed this system. We'll of course provide the perk and deep test results to you for that.

MR. SZAROWSKI: Thank you.

MS. KALISKY: Thank you for the relocation. That makes good sense.

CHAIRMAN EWASUTYN: Karen, can you come forward so we can hear you.

MS. ARENT: During work session there was a concern that the stonewall might be too close to the property line should the road ever be widened. Ed O'Donnell thought it might be a good idea and I agreed to measure where the Pilot wall is and try to get the wall in a similar distance from the highway.

MS. KALISKY: Okay.

BERLIN, L.L.C.

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CHAIRMAN EWASUTYN: Is there any other point that any of our consultants would like to take the opportunity to bring to the table now while Dawn is here? Ken Wersted?

MR. WERSTED: Nothing in addition to the comments we already noted in our comment review letter.

CHAIRMAN EWASUTYN: We're clear in understanding where we want this interconnection of the parcels to be?

MR. WERSTED: My understanding is that the applicant is flexible in where it can be located. At this point, not knowing what could happen on the adjacent site, just based on this site it looks like it would be appropriate as the last three spaces to the south because it does join in with the parking aisle at the south end of the building. Should the adjoining applicant come in -- the adjoining property owner come in and propose something, perhaps this applicant would be flexible to adjust where it's located now or where they're proposing it, something that's amenable to both property owners.

MS. KALISKY: I can see how the shift

BERLIN, L.L.C.

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down here would actually allow for a little bit better on the turning radius as well if in fact

4 there ever is an interconnection. We'll make
5 that change and see if we can remain flexible.

6 CHAIRMAN EWASUTYN: Okay. Anything
7 additional?

8 MR. WERSTED: No.

9 CHAIRMAN EWASUTYN: Dawn, one other
10 thing that Bryant had mentioned. It's just an
11 afterthought. Do you think it reasonable to
12 locate some additional handicap parking spaces to
13 the south closer to the retail for those who may
14 find it a greater distance to go from what is the
15 current handicap parking spaces?

16 MS. KALISKY: Right. Currently,
17 although we don't have our little handicap symbol
18 here, we've got the two here. We're currently
19 three over on our required parking spaces in
20 accordance with the code.

21 CHAIRMAN EWASUTYN: Right.

22 MS. KALISKY: Once again, we have these
23 three extra if in case we ever do the
24 interconnection where we would eliminate. We can
25 maybe pull the ramp and have the ramp down in

BERLIN, L.L.C.

1 91

2 this area where it would access both the Dunkin
3 Donut and be closer to the retail. We can do
4 that handicap.

5 CHAIRMAN EWASUTYN: Anything else?
6 (No response.)

7 CHAIRMAN EWASUTYN: Okay. So we'll be
8 interested in receiving your ARB. Speak to Karen
9 as far as what she would recommend as far as
10 sizes that would go to the Planning Board with
11 later submissions on what she would like to have
12 to begin reviewing.

13 MS. KALISKY: Okay.

14 CHAIRMAN EWASUTYN: If you could revise
15 your plans and resubmit.

16 MS. KALISKY: Okay. A work session at
17 this point I don't believe would be necessary.

18 CHAIRMAN EWASUTYN: I don't know. Do
19 you think it would be necessary?

20 MS. KALISKY: I don't think so. As I
21 said, the comments that are here, they're very
22 detailed. Not overly -- nothing we could take
23 exception to or even question the need. We'll
24 get these revisions done, we'll get the ARB in as
25 soon as possible and we'll take it from there.

BERLIN, L.L.C.

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2 CHAIRMAN EWASUTYN: Okay. The only
3 other thing I would take under consideration now
4 is if you'd like to, realizing that there's
5 always this question of timing --

6 MS. KALISKY: Yes.

7 CHAIRMAN EWASUTYN: Okay. I'll poll
8 the Board Members now, because it's
9 discretionary, if they feel they want a public
10 hearing or not. That in itself would entertain
11 an additional meeting. Frank Galli?
12 MR. GALLI: No.
13 CHAIRMAN EWASUTYN: Do you see a need
14 for a public hearing?
15 MR. BROWNE: No.
16 MR. MENNERICH: No.
17 MR. O'DONNELL: No.
18 CHAIRMAN EWASUTYN: And myself no.
19 I'll move for a motion to waive the
20 public hearing for the Berlin site plan.
21 MR. MENNERICH: So moved.
22 MR. GALLI: Second.
23 CHAIRMAN EWASUTYN: I have a motion by
24 Ken Mennerich. I have a second by Frank Galli.
25 I'll ask for a roll call vote starting with Frank

BERLIN, L.L.C.

1 Galli. 93
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3 MR. GALLI: Aye.
4 MR. BROWNE: Aye.
5 MR. MENNERICH: Aye.
6 MR. O'DONNELL: Aye.
7 CHAIRMAN EWASUTYN: And myself yes. So
8 carried.
9 That will help with the scheduling.
10 MS. KALISKY: Okay. I thank you very
11 much. We'll be back to you soon.

(Time noted: 8:47 p.m.)

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3 C E R T I F I C A T I O N
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7 I, Michelle Conero, a Shorthand
8 Reporter and Notary Public within and for
9 the State of New York, do hereby certify
10 that I recorded stenographically the

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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: September 6, 2007

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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

CONCEPTUAL SITE PLAN

Date: August 30, 2007
Time: 8:47 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
EDWARD T. O'DONNELL, JR.

ALSO PRESENT: DINA HAINES
MICHAEL H. DONNELLY, ESQ.
BRYANT COCKS
JOHN SZAROWSKI
KAREN ARENT
KENNETH WERSTED

APPLICANT'S REPRESENTATIVE: LEWIS POWELL

----- X

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

1
2 CHAIRMAN EWASUTYN: The next item on
3 this evening is Central Valley Real Estate.
4 It's a conceptual site plan located on Stony
5 Brook Lane in a B Zone. It's being
6 represented by Lou Powell.

7 MR. POWELL: Good evening. This plan
8 was before you back in May at which time the
9 buffer local law was passed and so we had to
10 revise the parking layout to provide the
11 thirty-foot buffer along this residential zone
12 which was Stony Brook Condominiums.

13 In the consultant's letter there were
14 questions about submitting information for the
15 sewer request from the City. That was done and
16 back to the Town in May and they submitted it to
17 the City in July. We have not heard anything
18 about that yet.

19 The fire company, we did submit plans
20 to them in July. We followed up with a phone
21 call or two but we have not heard anything back
22 from them.

23 We have received the consultants'
24 comments and there is only one that I would like
25 to discuss, which is one of Karen's comments

CENTRAL VALLEY REAL ESTATE

1 about moving the space -- this fourth space and
2 -- the parking lot to the rear of the four
3 spaces. She would like to see if we can move that
4 so she can get more landscaping here. We can not
5 move it across the street. There's actually no
6 place here because of this thirty-foot buffer. I
7 don't know whether the local law would allow us
8 to move it to the east. We could move this to
9 the east but we would be encroaching on the
10 thirty-foot buffer here. We would have to move
11 it like nine feet which would put us like
12 twenty-one feet off of this property line. The
13 buildings on Stony Brook are here. There's no
14 buildings here because this is a continuation
15 actually of the stream and a steep bank.

16 Other than that, the rest of the
17 comments we understand. There's some
18 clarification of some items which I think are
19 shown but the consultant may have overlooked
20 them. That's about it.

21 CHAIRMAN EWASUTYN: Okay. Comments
22 from our consultants. John.

23 MR. SZAROWSKI: He's responded to most
24 of the comments Pat Hines prepared. I don't have
25

CENTRAL VALLEY REAL ESTATE

1 any further.

2 CHAIRMAN EWASUTYN: Bryant Cocks,
3

4 Planning Consultant.
5 MR. COCKS: Lou has our comments. They
6 are just minor in nature. Parking calculation
7 table, seals and signatures, just some adjustment
8 of the bulk table, and also fire department
9 comments.
10 I was concerned about considering the
11 Orange County Choppers site. They had to come in
12 for the amended site plan for having the fire
13 escapes out back. There's very steep slopes back
14 there. We wanted to see if they are going to
15 require something like that before this gets
16 approval.
17 CHAIRMAN EWASUTYN: Lou --
18 MR. POWELL: This building is --
19 CHAIRMAN EWASUTYN: Lou, many times we
20 say -- I'm just bringing it along -- if you would
21 cc us on your correspondence to whomever you send
22 something to, the fire department, it would
23 really help us. What I might say at this
24 particular point in time is I would turn to the
25 Board and ask the Board to refer that

CENTRAL VALLEY REAL ESTATE

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2 responsibility, for the benefit of all of us, to
3 Bryant Cocks who would make every effort to try
4 and contact the person who you originally made
5 contact with. Do you know who that in fact was?
6 MR. POWELL: I don't know. They sent
7 it to the fire company. I don't know if they had
8 a name or not.
9 MR. GALLI: The fire company got it.
10 CHAIRMAN EWASUTYN: They did get it?
11 Can you add anything?
12 MR. GALLI: I know they discussed the
13 fire escapes out the back but they said that it
14 was a Town determination if it was code or not.
15 They were going to get a letter off to -- usually
16 they send it to John. Frank usually sends it to
17 you. They said they were going to get a letter
18 off to you.
19 CHAIRMAN EWASUTYN: For the record,
20 we're awaiting a response from the jurisdictional
21 fire department which I believe at this point
22 is --
23 MR. GALLI: Goodwill.
24 CHAIRMAN EWASUTYN: -- Goodwill, and we
25 could possibly be receiving something from Frank

CENTRAL VALLEY REAL ESTATE

1 100
2 Valdina. Is that correct?
3 MR. GALLI: Mm'hm'.
4 CHAIRMAN EWASUTYN: Thank you.
5 Karen, do you have anything to add to
6 this?

7 MS. ARENT: I agree with Bryant that
8 usually these types of units have some kind of
9 deck or some way to get out of the rear part of
10 the building. That should be shown on the
11 drawing.
12 MR. POWELL: That's a building code
13 issue. I have no idea what is required.
14 MS. ARENT: If you're going to put a
15 deck in you have to show it on this plan.
16 MR. POWELL: I will. If it's necessary
17 we will do that. I don't know what the code
18 says.
19 MS. ARENT: That's been a problem in
20 the past. When there's no deck shown and then
21 you want to put them on you'll have to come back
22 here.
23 MR. POWELL: I understand that.
24 MS. ARENT: Okay.
25 MR. POWELL: This building is under

CENTRAL VALLEY REAL ESTATE

1 101
2 5,000 square feet and there's some trigger about
3 that and bigger. I don't know what's required,
4 if there's two accesses out of the building
5 required or not. I have no idea. The architect
6 should know that. Whatever is required we will
7 put on this plan. If there's none then I assume
8 -- there is no basement in this building
9 although there is a nine-foot difference in
10 elevation from the first floor to the ground
11 here. They chose not to have a basement. This
12 is like a slab on grade. It's just, you know,
13 like you have a garage slab on grade when you
14 fill it in. That's what they're going to do, put
15 a foundation, fill it in and put the units on
16 top. If it requires decks or whatever, we will
17 put that on there.
18 MR. GALLI: Is this the same outfit
19 that built the other ones there now?
20 MR. POWELL: Pardon?
21 MR. GALLI: Is it the same person
22 building these that built the other ones?
23 MR. POWELL: I don't think so. This is
24 Central Valley. I don't know who built those
25 other buildings for Kahn. I have no idea.

CENTRAL VALLEY REAL ESTATE

1 102
2 Bryant, I do have one question for you.
3 Number 6, any easement language must be submitted
4 to Mike Donnelly. All the easements on here are
5 existing. We're not proposing any new easement.
6 MR. COCKS: I don't know if Mike needs
7 that or not.
8 MR. DONNELLY: If a lawyer wrote it
9 they would say easements, if any, need to be sent

10 to Mike Donnelly.
11 MR. POWELL: Thank you.
12 CHAIRMAN EWASUTYN: Any additional
13 comments from Board Members. Frank Galli?
14 MR. GALLI: Just on the decks. I think
15 what Karen was getting at, and the Planning
16 Board, if you put a deck on that after you come
17 back and it doesn't meet zoning, --
18 MR. POWELL: Right.
19 MR. GALLI: -- then you're going to be
20 starting back over again.
21 MR. POWELL: The only reason for a deck
22 would be if it required another access out of the
23 building I would think. Other than that they are
24 not planning it. I will confirm with the
25 architect and he's going to check with the

CENTRAL VALLEY REAL ESTATE

1 103
2 building inspector. They must know what the code
3 requires. If it requires that there's a second
4 access and they have to put decks, they'll put
5 them on. If it doesn't require it there will be
6 none. I understand. It's clear.
7 CHAIRMAN EWASUTYN: Cliff Browne?
8 MR. BROWNE: With the parking Karen,
9 are you okay?
10 MS. ARENT: Yeah. That's fine. I was
11 just asking the question if it was possible it
12 would be nice to move it. He answered my
13 question and I wrote a big no next to it.
14 MR. POWELL: I don't know. Does that
15 local law allow for any leeway at all?
16 MS. ARENT: No.
17 MR. POWELL: It's thirty feet and
18 that's it?
19 MS. ARENT: Yeah. I didn't realize
20 that buffer was right there. I put a big no next
21 to that question.
22 MR. BROWNE: Nothing else.
23 CHAIRMAN EWASUTYN: Ken Mennerich?
24 MR. MENNERICH: No questions.
25 CHAIRMAN EWASUTYN: Ed O'Donnell?

CENTRAL VALLEY REAL ESTATE

1 104
2 MR. O'DONNELL: Lou, nice article in
3 the paper.
4 MR. POWELL: Thank you.
5 MR. O'DONNELL: I didn't know you were
6 that young.
7 MR. POWELL: Everybody thinks I started
8 when I was five years old I guess.
9 CHAIRMAN EWASUTYN: At this particular
10 point in time we can't take any -- number one, I
11 would move for a motion from the Board to declare
12 a negative declaration for the Central Valley

13 Real Estate site plan located on Stony Brook
14 Lane.
15 MR. GALLI: So moved.
16 MR. MENNERICH: Second.
17 CHAIRMAN EWASUTYN: I have a motion
18 from Frank Galli. I have a second by Ken
19 Mennerich. Any discussion of the motion?
20 (No response.)
21 CHAIRMAN EWASUTYN: I'll ask for a roll
22 call vote starting with Frank Galli.
23 MR. GALLI: Aye.
24 MR. BROWNE: Aye.
25 MR. MENNERICH: Aye.

CENTRAL VALLEY REAL ESTATE

1 105
2 MR. O'DONNELL: Aye.
3 CHAIRMAN EWASUTYN: Myself. So
4 carried.
5 We can not take any further action
6 until we get a sewer acceptance letter from the
7 City of Newburgh. I guess at this point in time
8 we need for you to supply us with architectural
9 renderings of what you're proposing. Again as I
10 said earlier with Berlin, if you could present
11 those renderings to Karen Arent for her review
12 and Karen will inform me as to what size you
13 could supply to the Planning Board and we'll make
14 that part of your next resubmission.
15 MR. POWELL: Okay.
16 MR. DONNELLY: John, do you want to
17 decide whether or not a public hearing is
18 required?
19 CHAIRMAN EWASUTYN: Thank you. I have
20 a note here. You're a good man.
21 I'll take a poll, a census from the
22 Board as to whether they would like to waive a
23 public hearing for Central Valley Real Estate.
24 MR. GALLI: There's no need for a
25 public hearing.

CENTRAL VALLEY REAL ESTATE

1 106
2 MR. BROWNE: No, none.
3 MR. MENNERICH: Waive it.
4 MR. O'DONNELL: Waive it.
5 CHAIRMAN EWASUTYN: I also agree that
6 it's discretionary on the Planning Board to have
7 public hearings for site plan. The Planning
8 Board was unanimous in waiving the public hearing
9 for this.
10 MR. POWELL: Thank you very much.
11 CHAIRMAN EWASUTYN: Thank you.
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13 (Time noted: 8:58 p.m.)
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C E R T I F I C A T I O N

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

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DATED: September 6, 2007

108

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

----- X
In the Matter of

LANDS OF SMITH
(2006-51)
Old Post Road and Rathmore Road
Section 8; Block 1; Lot 7
AR Zone

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----- X
TWO-LOT SUBDIVISION

Date: August 30, 2007
Time: 9:00 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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BOARD MEMBERS: JOHN P. EWASUTYN, Chairman
FRANK S. GALLI
CLIFFORD C. BROWNE
KENNETH MENNERICH
EDWARD T. O'DONNELL, JR.

ALSO PRESENT: DINA HAINES
MICHAEL H. DONNELLY, ESQ.
BRYANT COCKS
JOHN SZAROWSKI
KAREN ARENT

APPLICANT'S REPRESENTATIVE: KENNETH LYTLE

- - - - - X

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

LANDS OF SMITH

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CHAIRMAN EWASUTYN: The next item of business we have is the lands of Smith. I must apologize that the agenda and the website have conflicting lands of Smith. The lands of Smith before us now, which we should have corrected on this agenda, do you know which one it is?

MS. HAINES: It's 2006-51, Old Post Road and Rathmore Road. The ones out there were corrected. I thought I gave you a corrected one today in the paperwork.

CHAIRMAN EWASUTYN: That's being represented by Ken Lytle of Zen Design.

Thank you, Ken.

MR. LYTLE: Good evening. Since our last presentation, actually, at the last meeting we were directed to go to the Zoning Board. We are proposing to have an accessory apartment above the garage. In looking into doing that we were informed that the accessory apartment -- the main structure had to be in existence for five years prior to doing that. We're back here and we propose the building to be as a two-family which would require site plan approval and architectural review of the building.

LANDS OF SMITH

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At that time also Garling had a couple comments regarding relocating the driveway along the stonewall, which we've done. I know he has a couple new questions regarding the parking. We proposed basically six parking spaces, three of them are in front of the new proposed two-family house, two of them will be used by the main house and one will have a separate garage door for the

10 apartment down below, downstairs. The garage
11 itself has three spaces in front. The client
12 likes his cars and likes extra space, so we
13 propose the extra parking there.

14 Regarding the highway department, the
15 preliminary approval that we have is actually the
16 permit itself. Daryl doesn't give the final
17 approval until the driveway is actually
18 constructed.

19 There was a question regarding the
20 patio. The patio, as you'll see on the
21 architectural plans, is a patio for the lower
22 apartment only. There's a retaining wall on the
23 west side of that with some grading and allowing
24 actually access out of the basement at that
25 point. There's no connection between the floors

LANDS OF SMITH

1 111
2 for that.

3 That's really about it. If the Board
4 has any questions.

5 CHAIRMAN EWASUTYN: The only question I
6 have before we turn to the Board Members; Mike,
7 now that this is a site plan --

8 MR. DONNELLY: It's a subdivision and a
9 site plan.

10 CHAIRMAN EWASUTYN: Okay. Are there
11 any changes necessary as far as the original
12 application now that this is a site plan and -- I
13 think that may require some changes in the formal
14 application.

15 MR. LYTTLE: Okay.

16 CHAIRMAN EWASUTYN: I apologize, Mr.
17 Smith. There is a difference as far as the
18 application. There may be an additional fee
19 associated with it now that it's a site plan.

20 MR. DONNELLY: It will also require ARB
21 on the --

22 MR. LYTTLE: We have the plans ready for
23 that. We wanted to get in tonight first.

24 CHAIRMAN EWASUTYN: If you can make a
25 mention of speaking to Dina tomorrow as far as

LANDS OF SMITH

1 112
2 any adjustments as far as I think we actually
3 have a site plan application.

4 MR. DONNELLY: I think you have to have
5 one.

6 CHAIRMAN EWASUTYN: There will be a
7 number associated with it and the necessary fee
8 associated with that. Again, I apologize but
9 it's the cost of doing business.

10 MR. LYTTLE: It's a change.

11 CHAIRMAN EWASUTYN: I'll turn to our
12 consultants for their comments. John?

13 MR. SZAROWSKI: We have none.
14 CHAIRMAN EWASUTYN: Bryant Cocks?
15 MR. COCKS: Ken went through the
16 comments. I spoke with him today and he knows
17 everything that we have.
18 CHAIRMAN EWASUTYN: Karen, any comment?
19 MS. ARENT: I didn't look at it because
20 I thought it was a two-lot subdivision.
21 CHAIRMAN EWASUTYN: Okay. I
22 understand. I erred in this as far as listing
23 it.
24 MS. ARENT: I'll be happy to look at
25 it.

LANDS OF SMITH

1 113
2 CHAIRMAN EWASUTYN: Thank you.
3 Frank Galli?
4 MR. GALLI: No additional comment.
5 CHAIRMAN EWASUTYN: Cliff Browne?
6 MR. BROWNE: No questions.
7 MR. MENNERICH: No.
8 MR. O'DONNELL: Nothing.
9 CHAIRMAN EWASUTYN: Mike, can we, at
10 this particular point in time before we have the
11 application before us, declare a negative
12 declaration on the two-lot subdivision and site
13 plan?
14 MR. DONNELLY: I think if you have the
15 information you need and nothing has been raised
16 by your consultants; yes, you can.
17 CHAIRMAN EWASUTYN: I'll move for a
18 motion to declare a negative declaration for the
19 two-lot subdivision and site plan for the lands
20 of Smith.
21 MR. MENNERICH: So moved.
22 MR. O'DONNELL: Second.
23 CHAIRMAN EWASUTYN: I have a motion by
24 Ken Mennerich. I have a second by Ed O'Donnell.
25 Any discussion of the motion?

LANDS OF SMITH

1 114
2 (No response.)
3 CHAIRMAN EWASUTYN: I'll move for a
4 roll call vote starting with Frank Galli.
5 MR. GALLI: Yes.
6 MR. BROWNE: Aye.
7 MR. MENNERICH: Aye.
8 MR. O'DONNELL: Aye.
9 CHAIRMAN EWASUTYN: Myself yes.
10 I'll move for a motion to set this up
11 for the next available agenda for a public
12 hearing.
13 MR. MENNERICH: So moved.
14 MR. O'DONNELL: Second.
15 CHAIRMAN EWASUTYN: I have a motion by

16 Ken Mennerich. I have a second by Ed O'Donnell.
17 Any discussion of the motion?
18 (No response.)
19 CHAIRMAN EWASUTYN: I'll move for a
20 roll call vote starting with Frank Galli.
21 MR. GALLI: Aye.
22 MR. BROWNE: Aye.
23 MR. MENNERICH: Aye.
24 MR. O'DONNELL: Aye.
25 CHAIRMAN EWASUTYN: Myself. So

LANDS OF SMITH

1 115
2 carried.
3 Give us some time next week and we'll
4 notify you as far as a date for the public
5 hearing, and then speak to Karen as far as --
6 MR. LYTTLE: Drop off the revised site
7 plan application to Dina?
8 CHAIRMAN EWASUTYN: Yes.
9 MR. LYTTLE: Should I call you first or
10 just drop that off?
11 CHAIRMAN EWASUTYN: Arrange your time
12 with Dina.
13 MR. LYTTLE: Thank you very much.
14 CHAIRMAN EWASUTYN: Again I apologize
15 for any delays.
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17 (Time noted: 9:05 p.m.)
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1 116
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3 C E R T I F I C A T I O N
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7 I, Michelle Conero, a Shorthand
8 Reporter and Notary Public within and for
9 the State of New York, do hereby certify
10 that I recorded stenographically the
11 proceedings herein at the time and place
12 noted in the heading hereof, and that the
13 foregoing is an accurate and complete
14 transcript of same to the best of my
15 knowledge and belief.
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DATED: September 6, 2007

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117

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

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In the Matter of

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STEWART AVENUE SENIOR HOUSING
(1999-07)

8

Request for amended conditional final approval

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BOARD BUSINESS

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Date: August 30, 2007
Time: 9:05 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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BOARD MEMBERS: JOHN P. EWASUTYN, Chairman
FRANK S. GALLI
CLIFFORD C. BROWNE
KENNETH MENNERICH
EDWARD T. O'DONNELL, JR.

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ALSO PRESENT: DINA HAINES
MICHAEL H. DONNELLY, ESQ.
BRYANT COCKS
JOHN SZAROWSKI
KAREN ARENT

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

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STEWART AVENUE SENIOR HOUSING

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CHAIRMAN EWASUTYN: We received a letter from Anthony Coppola dated August 16, 2007 in reference to the Stewart Avenue Senior Housing project as far as a condition of the building permit. Also I received a letter from Harry Lipstein dated August 24, 2007 as it also relates

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8 to the Stewart Avenue Senior Housing project.
9 I'll ask Mike Donnelly, Planning Board
10 Attorney, to summarize both of those letters and
11 then to poll the Board Members as to how they
12 would like to act on that.
13 MR. DONNELLY: In essence, although one
14 letter corrects the other, the letters together
15 ask the Planning Board to modify the condition of
16 its resolution of approval so as to modify the
17 condition that required Health Department
18 approval before the plans were signed and
19 building permits can be issued. To substitute
20 for building permits and plan signing, the
21 issuance of a certificate of occupancy. The
22 delay has been in getting the Health Department's
23 approval for the water main extension. As I said
24 to you in work session, I do not believe you have
25 the authority to allow a developer to move

STEWART AVENUE SENIOR HOUSING

1 119
2 forward with building permits before the
3 conditions of an approval are satisfied, however
4 I believe that you could modify your condition in
5 a fashion that would allow the Town Board and the
6 Code Compliance Department, if there were written
7 agreement and the posting of financial security,
8 to accomplish that result.
9 As an alternative, and I point out that
10 under that first option that it would have a
11 significant precedential impact, and if you were
12 to allow this applicant to pursue such a course
13 with the Building Department and with the Town
14 Board you would be hard pressed not to also allow
15 other developers that wanted that same
16 opportunity to follow that same process.
17 Moreover, the ordinance itself in Chapter 83
18 recognizes that there may be occasions where if
19 appropriate conditions are satisfied and
20 financial security is put in place, that an
21 applicant can be authorized through issuance of a
22 clearing and grading permit to begin site work
23 before the conditions of an approval are fully
24 satisfied.
25 So I think you have three options. One

STEWART AVENUE SENIOR HOUSING

1 120
2 is deny the request because lots of applicants
3 face delays and there's nothing unique or
4 different about this and because the precedential
5 impact would be great. Option number two would
6 be to modify your resolution in a fashion that
7 would allow the developer to pursue entering into
8 an agreement with the Town Board. The third
9 option of course would be to point the applicant
10 in the direction of a clearing and grading permit

11 if that's what he wishes to do.
12 The letter doesn't make clear whether
13 he wants to construct buildings or simply begin
14 site preparation work. I think you should
15 recognize that whatever action you take in regard
16 to this applicant, that it may have impact on
17 other applicants that would ask for similar
18 consideration.
19 CHAIRMAN EWASUTYN: Frank Galli?
20 MR. GALLI: He mentioned in the one
21 letter here about the Lynn Warren building. I
22 don't remember us doing it for Lynn Warren. I
23 guess we did it for Lynn Warren.
24 CHAIRMAN EWASUTYN: Thank you. You're
25 well read. No one sitting here this evening

STEWART AVENUE SENIOR HOUSING

1 121
2 remembers a history like that.
3 MR. GALLI: I wouldn't want to open up
4 Pandora's box and start doing this like Mike
5 says. If we did it for Lynn I can see now where
6 he wants it because Lynn got it. If we didn't do
7 it for Lynn I don't think we should start doing
8 it for anybody personally. If they need the
9 grading and clearing permit -- we're in September
10 already. He's worrying about wintertime. By the
11 time he gets rocking and rolling it's October
12 anyway, November. If he gets it cleared and
13 graded in that sense, hopefully the Board of
14 Health will come through for him.
15 CHAIRMAN EWASUTYN: So at this point in
16 time you would like to deny his request?
17 MR. GALLI: Yes.
18 CHAIRMAN EWASUTYN: Thank you. Cliff
19 Browne?
20 MR. BROWNE: I would be in favor of
21 denying the request because I do not want to see
22 us get into setting a precedent for this kind of
23 thing. I think it's the wrong thing to do.
24 CHAIRMAN EWASUTYN: Ken Mennerich?
25 MR. MENNERICH: I think we should deny

STEWART AVENUE SENIOR HOUSING

1 122
2 his request and tell him why. I think we should
3 also tell him he does have the option of pursuing
4 the clearing and grading.
5 CHAIRMAN EWASUTYN: Ed O'Donnell?
6 MR. O'DONNELL: Yeah, deny it.
7 CHAIRMAN EWASUTYN: I myself would want
8 to deny the request made by Harry Lipstein with
9 the concern that we would be setting a precedent
10 that would be not in the best interest of the
11 Town, and most especially not in the best
12 interest of the Building Department we do work
13 for.

14 I'll poll the Board Members as far as a
15 consensus. Would the Board like to advise the
16 applicant that it's our understanding under the
17 letter of the law that with site plan approval he
18 can -- will we modify our original resolution?

19 MR. DONNELLY: I think in the case of
20 the Palmerone matter, which I think is similar to
21 the posture here, you issued a separate
22 resolution for the clearing and grading permit.
23 Using that as a form, it required compliance with
24 Chapter 83, particularly 83-10, and I think there
25 was also a requirement under that chapter for

STEWART AVENUE SENIOR HOUSING

1 123
2 financial security, that it had to go to the Town
3 Board. So I would recommend that you follow that
4 same procedure. If the applicant made that
5 request, that you act on it with a separate
6 resolution.

7 CHAIRMAN EWASUTYN: Okay. Cliff
8 Browne?

9 MR. BROWNE: From what I understand
10 it's not clear what he wants to do. Based on
11 that I would say not tell him anything. Let him
12 tell us what he wants to do.

13 CHAIRMAN EWASUTYN: Ken Mennerich?

14 MR. MENNERICH: Well, I think we should
15 inform the applicant he does have that option
16 available because it is part of our process and
17 we've done it before.

18 CHAIRMAN EWASUTYN: Ed O'Donnell?

19 MR. O'DONNELL: I abstain.

20 CHAIRMAN EWASUTYN: At this point I
21 would be in favor of it. I don't think we have a
22 majority.

23 MR. DONNELLY: Actually you need --
24 it's not really an action you're taking but
25 you're just giving an applicant information. I

STEWART AVENUE SENIOR HOUSING

1 124
2 think a majority vote -- you have an abstention.
3 Two to two. No, you don't have enough votes.

4 CHAIRMAN EWASUTYN: So at this point
5 who will be notifying Harry Lipstein?

6 MR. COCKS: Do you want me to write a
7 letter or just call him and let him know? A
8 letter would be more formal.

9 CHAIRMAN EWASUTYN: I think if you
10 could speak with him tomorrow.

11 Do you want to prepare the letter?

12 MR. DONNELLY: I know I can't get it
13 out until next week and I know he'll be torturing
14 one of us. A phone call is the best way to go.

15 CHAIRMAN EWASUTYN: If he would like a
16 letter, explain to him when Mike Donnelly returns

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from vacation, at his earliest possible
convenience he'll supply him with a letter.

(Time noted: 9:10 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: September 6, 2007

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126

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

- - - - - X
In the Matter of

PINNACLE SUBDIVISION
(2003-62)

Site visit

- - - - - X

BOARD BUSINESS

Date: August 30, 2007
Time: 9:10 p.m.
Place: Town of Newburgh
Town Hall

1496 Route 300
Newburgh, NY 12550

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BOARD MEMBERS: JOHN P. EWASUTYN, Chairman
FRANK S. GALLI
CLIFFORD C. BROWNE
KENNETH MENNERICH
EDWARD T. O'DONNELL, JR.

ALSO PRESENT: DINA HAINES
MICHAEL H. DONNELLY, ESQ.
BRYANT COCKS
JOHN SZAROWSKI
KAREN ARENT

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

PINNACLE SUBDIVISION

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CHAIRMAN EWASUTYN: I would like to just discuss for the Board that Ken Mennerich, Ed O'Donnell, Karen Arent visited the Pinnacle subdivision this week. If you could give us a follow up on that, please.
MS. ARENT: We visited the site and we walked along, there's like a logging road as far as we could because it was covered with brush already. We observed the cutting of trees in addition to what they were supposed to have cut, but then we rode on Ken's boat along the river and noticed that there are still a lot of trees that will help screen the development. We figured that if -- in the first condition we had we gave the developer the ability to come back and ask for more trees to be cut down after he puts his house in. Now on these lots, with the exception of two experimental lots where there's a lot more trees, if we take away the condition to allow the developer to cut down more trees there would be enough trees left to screen the property from the river.
Instead of asking for additional trees that won't do anything for a long time, we felt

PINNACLE SUBDIVISION

128

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that it was a good idea just to ask the developer not to cut down any more trees with the exception of the first two experimental lots because there's a lot of trees there. Once they put the house in they'll probably want to cut four or five trees so then he can get views to the river there.

9 MR. MENNERICH: Any trees that would be
10 cut -- isn't the recommendation going to be any
11 trees that would be cut would be cut after there
12 was a meeting between --

13 MS. ARENT: Right, after a meeting.
14 There are a couple trees that are in bad shape
15 that are left on these. If they wanted to cut
16 those down they would have to ask permission.
17 Any tree that they want to cut down on the slope
18 they would have to ask permission from here on in
19 to make sure that there's no more cutting. If
20 they leave what they have we'll get screening.
21 If they cut any more down it's going to take away
22 from the screening --

23 MR. BROWNE: Who would they ask.

24 MS. ARENT: -- with the exception of
25 the two experimental lots.

PINNACLE SUBDIVISION

1 129

2 MR. MENNERICH: They have to meet with
3 Karen.

4 MS. ARENT: What they can do is -- they
5 can ask me directly, they have in the past, or
6 they can go through Jerry. Since I've been
7 inspecting that project they can just ask
8 directly. Is that okay with the procedure? They
9 did ask us in the past to come out. Actually,
10 Jerry will ask us to come out if they ask Jerry.
11 There's different avenues. I don't mind if they
12 called me directly or they called Jerry.
13 Whatever is your preference.

14 MR. DONNELLY: The resolution already
15 provides the applicant has agreement to limit
16 removal of trees larger than ten inches. Should
17 any trees in excess of six inches be proposed to
18 be cleared, then the applicant shall be required
19 to contact Town of Newburgh Building Department
20 which office shall schedule a meeting in the
21 field among the applicant's professionals,
22 Planning Board engineers, Town landscape
23 architect and up to two members of the Planning
24 Board to report to the full Board and seek
25 authorization for such changes.

PINNACLE SUBDIVISION

1 130

2 MS. ARENT: That's perfect.

3 MR. DONNELLY: It didn't work.
4 Hopefully it will work. I don't know that it
5 needs any change in the resolution.

6 MS. ARENT: That's perfect. That's
7 perfect. There should be no more cutting.

8 The only other issue that I thought was
9 an issue was that I thought maybe they should
10 chop some of the debris on the hill more so that
11 the future land owners would have an easier time

12 keeping the hills cleared because now that a lot
13 more light is getting through a lot of the
14 underbrush is growing up.

15 MR. BROWNE: I have a question.
16 They've already violated the agreement. Why do
17 we think they're going to honor this now?

18 MS. ARENT: That was what I'm concerned
19 with. I think that -- it's very hard to tag
20 those trees because they're on such a steep
21 slope. They could be tagged and numbered. I
22 mean that's a possibility.

23 MR. BROWNE: To me they have --

24 MS. ARENT: I don't think photographs
25 give you enough documentation.

PINNACLE SUBDIVISION

1 131

2 MR. DONNELLY: If you tag a number of
3 them and you cut them down, then there's no tag.

4 MS. ARENT: You have an inventory and
5 you would know then.

6 MR. O'DONNELL: What we talked about
7 when we were on the site was that in view of what
8 they did it doesn't look that bad. Even though
9 they took down more trees than they were supposed
10 to, they didn't damage the site to the extent
11 where when you went on the river you can see it
12 and it looks atrocious. I guess we kind of
13 collectively said what they've done they've done.
14 However, before they do anything else, because
15 they were talking about certain locations of
16 certain houses may need to have trees removed, we
17 told them that we would look at that and if we
18 agreed they could take them down. That's
19 basically what we said and that's how we felt.
20 If they get to a point where there's a site and
21 they think that these trees are really hindering
22 the view, they're going to contact us and we're
23 going to either agree or disagree.

24 MR. BROWNE: My point is that's what
25 they were supposed to do in the first place.

PINNACLE SUBDIVISION

1 132

2 MR. O'DONNELL: How are you going to
3 control it?

4 MR. BROWNE: That's my question.

5 MR. O'DONNELL: There's no way to
6 control it.

7 MR. BROWNE: So what's the point of the
8 whole thing?

9 MR. O'DONNELL: If we didn't get
10 involved in it there wouldn't be a God damn tree.

11 MR. DONNELLY: Cliff, I think you can
12 because the resolution could have required they
13 replace plantings with equivalent basal area. I
14 think what the suggestion is is let's retain that

15 power but it isn't worth doing that here provided
16 that the trade off is -- let me correct what I
17 said before. The resolution currently says you
18 can't cut down any tree more than ten, and if
19 they want to cut a tree larger than six inches in
20 diameter, then they have to have the meeting. I
21 think what I'm hearing now is before they cut
22 down any tree they have to have a meeting.
23 MS. ARENT: You can keep it over six
24 inches. There's nothing left under six.
25 MR. DONNELLY: I think what the guys in

PINNACLE SUBDIVISION

1 133
2 the field are saying is it really -- as severe as
3 the violation was, it would be silly to make them
4 put new plantings in because not enough damage
5 was done.
6 MR. BROWNE: If they violate this
7 agreement, which I suspect they will, what do we
8 do?
9 MR. O'DONNELL: If they don't do it the
10 people that buy the houses will. It's going to
11 happen. You can drive yourself nuts with this.
12 MS. ARENT: There were a lot of houses
13 with trees all around it. I think this
14 development is going to look the same way,
15 including yours. There were a lot of houses that
16 were tucked into the trees and they were there
17 for a long time. Hopefully that will be the same
18 for these people. You know, hopefully they'll
19 want to leave the trees too. There is also an
20 encumbrance on the land that says they can't cut
21 these trees down.
22 MR. DONNELLY: That doesn't address
23 Cliff's inquiry, which is what happens if they
24 do. The option remains that they could be
25 required to replace those trees with an

PINNACLE SUBDIVISION

1 134
2 equivalent basil area.
3 MS. ARENT: Should we write them a
4 letter and let them know if additional trees are
5 cut down then we would require them to --
6 MR. O'DONNELL: Absolutely.
7 MR. DONNELLY: I think it should come
8 from Code Compliance with your recommendation
9 that an inspection was made in the plan, the
10 Planning Board considered it. The Town isn't
11 going to insist upon the new planting, however
12 the condition remains and the Town will, you
13 know, consider further violations.
14 MR. MENNERICH: Right now they're under
15 a stop work for those lots.
16 MS. ARENT: Yes.
17 MR. DONNELLY: It should be closed out

18 with a letter saying what you discussed this
19 evening, that the condition remains and further
20 violations may subject you to a replanting
21 requirement. Remind them what condition 6 says.
22 MS. ARENT: I'll let them know how
23 extensive that planting could be and that way
24 it's a strong warning.
25 MR. DONNELLY: Sure. Why not.

PINNACLE SUBDIVISION

135

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2 CHAIRMAN EWASUTYN: Any additional
3 comments?
4 MR. BROWNE: No.
5 MR. MENNERICH: Frank was mentioning
6 the rock on River Road. They're putting the
7 water line in there. They hit some real hard
8 rock, blasting type stuff.
9 MR. GALLI: Ed, if your house shakes
10 you know what happened.
11 CHAIRMAN EWASUTYN: Okay. I would like
12 to thank Ken Mennerich, Ed O'Donnell and Karen
13 Arent for participating in the whole process with
14 the Pinnacle subdivision.

(Time noted: 9:21 p.m.)

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3 C E R T I F I C A T I O N
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6
7 I, Michelle Conero, a Shorthand
8 Reporter and Notary Public within and for
9 the State of New York, do hereby certify
10 that I recorded stenographically the
11 proceedings herein at the time and place
12 noted in the heading hereof, and that the
13 foregoing is an accurate and complete
14 transcript of same to the best of my
15 knowledge and belief.
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DATED: September 6, 2007

137

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

3
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In the Matter of

5
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SODANO SUBDIVISION
(2007-25)

7
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Board of Health review

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----- X

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BOARD BUSINESS

13
14

Date: August 30, 2007
Time: 9:22 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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BOARD MEMBERS: JOHN P. EWASUTYN, Chairman
FRANK S. GALLI
CLIFFORD C. BROWNE
KENNETH MENNERICH
EDWARD T. O'DONNELL, JR.

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ALSO PRESENT: DINA HAINES
MICHAEL H. DONNELLY, ESQ.
BRYANT COCKS
JOHN SZAROWSKI
KAREN ARENT

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

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SODANO SUBDIVISION

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138

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CHAIRMAN EWASUTYN: Mike, I'm not going to take the time to talk about the Sodano Board of Health because on your closure you talk about the Town Board's issue as far as what may constitute a requirement to go to the Board of Health. I was always under the understanding that the way the Town looked at it is you come up with five lots, if you create any more lots

10 within a three-year period it has to go to the
11 Board of Health. When they really wrote that law
12 it was for creeping subdivisions.

13 MR. DONNELLY: The provisions that
14 mandate Health Department approval are State law
15 provisions. Those are the ones I quoted in the
16 ordinance. You always have the option to send
17 any application you want to the Health Department
18 for review in lieu of having McGoey, Hauser &
19 Edsall do the witnessing of the perk tests. I
20 think by the book the major and minor subdivision
21 distinction is not one that can create a mandated
22 Health Department approval. That's a State law
23 provision. If you feel that this is an
24 application that warrants it, you can always
25 require it to go to the Health Department. That

SODANO SUBDIVISION

1 139
2 does not invoke the requirement, however, that
3 the earlier subdivided lots be reviewed unless
4 and until you exceed the five lots under
5 five acres within a three-year period. That's a
6 State law provision.

7 CHAIRMAN EWASUTYN: I think we'll take
8 that up. We got a resubmittal on the revised
9 plans. John Tarolli acknowledged your letter
10 being a point of fact.

11 (Time noted: 9:24 p.m.)
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1 140
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3 C E R T I F I C A T I O N
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7 I, Michelle Conero, a Shorthand
8 Reporter and Notary Public within and for
9 the State of New York, do hereby certify
10 that I recorded stenographically the
11 proceedings herein at the time and place
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transcript of same to the best of my
knowledge and belief.

DATED: September 6, 2007

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141

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

----- X

In the Matter of

THE MARKET PLACE
(2004-54)

----- X

BOARD BUSINESS

Date: August 30, 2007
Time: 9:25 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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BOARD MEMBERS: JOHN P. EWASUTYN, Chairman
FRANK S. GALLI
CLIFFORD C. BROWNE
KENNETH MENNERICH
EDWARD T. O'DONNELL, JR.

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ALSO PRESENT: DINA HAINES
MICHAEL H. DONNELLY, ESQ.
BRYANT COCKS
JOHN SZAROWSKI
KAREN ARENT

----- X

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

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THE MARKET PLACE

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142

CHAIRMAN EWASUTYN: A summary of the

3 work session. Primarily anything outstanding
4 that you want to speak to the Board about
5 while we have the opportunity? If not, we'll
6 close the consultant's meeting.

7 MR. COCKS: The Market Place brought in
8 all the architectural stuff for preliminary. It
9 looked pretty good. I gave you guys that example
10 up there from what Ed had in Connecticut and it
11 looked pretty similar to the same themes, a lot
12 of landscaping, the boulevard looks like it's
13 going to be really nice. Karen has some issues
14 with the tree types or whatever it is. It looks
15 like it's going to look good from 300 and it's
16 going to look -- you know, everything we thought
17 it was going to be. That's pretty much what they
18 came in with.

19 CHAIRMAN EWASUTYN: So the site plan
20 really is back to being within what we reviewed
21 during the SEQRA process as far as the lifestyle
22 center and --

23 MR. COCKS: Mm'hm'.

24 CHAIRMAN EWASUTYN: -- it's in harmony?
25 In reference to the issues associated

THE MARKET PLACE

1 143
2 with Cosco and the retaining walls and the
3 location of pumps, that's been addressed in the
4 revised site plan?

5 MR. COCKS: Yeah. The slope on the
6 back of Cosco was going to be terraced, so it's
7 going to look a lot better from 84 and wherever
8 else. They'll put landscaping on top of the
9 terrace and stuff. I think they addressed
10 everything.

11 I think when the ARBs come back in --
12 they pretty much knew what Cosco gave them. They
13 have a little ARB submission that was a piece of
14 crap. They know it's going back and that it's
15 going to need major revisions. They acknowledge
16 that. The lifestyle center looks really good. I
17 think with the boulevard and village green in
18 front it's actually an improvement when you're
19 driving down on 300. Now you're going to have
20 corridor landscaping kind of breaking up where
21 these two buildings are going to be. I think
22 it's even an improvement from the original site
23 plan that came in that just had the parking in
24 front.

25 CHAIRMAN EWASUTYN: Karen, would you

THE MARKET PLACE

1 144
2 like to add to that?

3 MS. ARENT: I agree totally with
4 Bryant. There's one item that I do need to find
5 out from the Board, how you feel about it. I had

6 in the F.E.I.S., in the Findings Statement that
7 you will consider the addition of trees planted
8 in the large parking lots of the big box retail
9 stores because the lots have fifteen to twenty to
10 twenty-five spaces with no trees at all in it.
11 One of the ways you can put more trees in these
12 lots is to put a diamond shaped planter in the
13 corner of the four spaces without taking up any
14 parking spaces. They're doing it in a couple of
15 other towns and using plants like Ginko biloba
16 trees that are urban park tolerant. So I left
17 that in the Findings in the F.E.I.S. for you to
18 consider if we wanted to get a little bit more
19 tree cover on these parking areas. I just needed
20 clarification. If that's something the Board is
21 interested in I will keep addressing that with
22 them. They would prefer not to do it of course
23 but if you want it done we have the ability to
24 ask them to do it. I was thinking if you wanted
25 it we should keep it a little bit further away

THE MARKET PLACE

1 145
2 from the entrance where everybody usually used
3 it. You know, the trees won't be in that area,
4 they'll be in the areas further away from the
5 entrance so they will be less likely to have
6 damage to the trunks.

7 MR. MENNERICH: The applicant
8 referenced someplace where that was done and the
9 trees weren't surviving or something. Is it
10 because of a different type of tree, the wrong
11 type of tree?

12 MS. ARENT: One of the problems with
13 that type of planting is it depends on where they
14 are the trunks get damaged, if a car pulls too
15 close to the tree and hits the trunk or there's
16 like carts that are pushed onto it. That's why I
17 think that if we keep it further away from the
18 main entrance it would help to protect them.
19 It's usually in the first couple years where this
20 is a problem, the bark is thin and the tree is
21 small that people feel like they can hit it.
22 When they get a little bit larger it's not such a
23 problem. That is a concern, if we require this
24 will they live, how will they do. That is a
25 concern in every parking area. For example

THE MARKET PLACE

1 146
2 Lowe's where they piled all the snow around all
3 the trees near Pier One, they didn't do well
4 because of that. In this area I don't see them
5 snow plowing because they have to go around it.
6 It would be the cars that would pull up too close
7 to it that would be a problem. It is being
8 requested in more and more towns to try to get

9 more cover over these large areas without taking
10 out parking spaces. It's not really used to that
11 much of an extent to really know how well it will
12 work.

13 One of the things you could do is ask
14 for the snow guards like they have in New York
15 City to help protect the trunk. That's an
16 expense. It is expensive.

17 MR. BROWNE: I have one concern with
18 trees in a place like this. I was at a couple of
19 places and I was trying to find a store. I
20 couldn't see the stores because of the trees. I
21 had to get out of the car to walk the sidewalks.
22 Once they start getting mature they're blocking
23 the whole front of the buildings and you can't
24 see what's there. I love trees but in the
25 planning if you can do things so that when the

THE MARKET PLACE

1 147
2 trees are mature you can still kind of see
3 through different areas. I found that very
4 annoying. I was trying to find a Radio Shack. I
5 couldn't see the stupid store. It was like right
6 in front of me.

7 CHAIRMAN EWASUTYN: In reference to the
8 species of the trees Karen is talking about,
9 Ginko biloba which is commonly a plant in New
10 York City, the structure of the tree is such that
11 it's not what you would call a multi-branch tree,
12 it has a single trunk. Considering the mature
13 height, a nominal amount of branching, that their
14 characteristic is sort of somewhat arching so it
15 has a lighter canopy, it has a very interesting
16 fall foliage that is yellow in color. The
17 character of the leaf is unusual in its shape and
18 the leaf itself has a tendency to decompose
19 rather fast so you don't have that maintenance
20 and liability associated with it. I think the
21 selection of tree is important.

22 MR. BROWNE: I just wanted to mention
23 that. Other than that, you know, I like trees.

24 MR. COCKS: They do the diamond tree
25 plantings in the Commons.

THE MARKET PLACE

1 148
2 CHAIRMAN EWASUTYN: I've seen that.
3 MR. COCKS: It's literally every five
4 parking spots and every row of trees they have a
5 diamond in there. I haven't seen too many dead
6 trees there. Every time I pass by -- it's in the
7 middle of the summer when you drive by it really
8 is like kind of a cover over all the cars because
9 it's like terraced down. When you're on the one
10 side of 32 you look down and it's just rows of
11 trees. They're no more than seven feet, six feet

12 in height. They kind of contain themselves in
13 that.
14 CHAIRMAN EWASUTYN: In that particular
15 case they did select a variety of Malus. That's
16 why --
17 MS. ARENT: In the parking lot?
18 CHAIRMAN EWASUTYN: -- when you do
19 reference the height as being what it is, it is a
20 variety of Malus.
21 MS. ARENT: It doesn't drop apples?
22 They must be an apple-free Malus.
23 MR. BROWNE: Would you say that again
24 in layman's terms?
25 CHAIRMAN EWASUTYN: Malus is a variety

THE MARKET PLACE

1 149
2 of Ginko biloba, an ornamental crab apple. Mike
3 would know better than I.
4 MS. ARENT: I never go that way. I'm
5 going there to check it out.
6 CHAIRMAN EWASUTYN: Back to what Karen
7 is suggesting. Would the Board like to see some
8 of those used which was agreed upon in the
9 F.E.I.S? I think you quoted page 35.
10 MS. ARENT: Yes. I specifically put
11 that in because I felt, and I thought I had
12 feedback from some of you, that these parking
13 lots are huge and there's not enough trees. I
14 thought there was a little bit of feedback.
15 MR. GALLI: That's fine.
16 CHAIRMAN EWASUTYN: Cliff?
17 MR. BROWNE: This is the only shot we
18 get at it. Yes.
19 MR. MENNERICH: The same.
20 MR. O'DONNELL: Yes.
21 MR. DONNELLY: If I could, on The
22 Market place, I'm going to move forward and start
23 to prepare a preliminary site plan resolution.
24 I'm going to work with the other consultants to
25 see if we can have a lot of that language done in

THE MARKET PLACE

1 150
2 advance of the October 4th meeting. Should I
3 prepare it as if ARB will be deferred until the
4 time of final approval?
5 CHAIRMAN EWASUTYN: It's my
6 understanding -- Karen, it's my understanding
7 that you spoke with John Bernardi in reference to
8 ARB. For the comfort of the Planning Board and
9 consideration of preliminary approval, the
10 Planning Board will have an opportunity to do a
11 summary review of ARB but not a final action. We
12 would defer that to final site plan approval.
13 MS. ARENT: I also asked him to speak
14 about the architecture in terms of mitigating the

15 visual impacts from the road and to speak
16 about --
17 MR. DONNELLY: Maybe we'll recite that
18 we received preliminary architectural and the
19 final approval will be subject to submission and
20 approval of renditions that are substantially in
21 conformance with those. Something along those
22 lines. Does that seem to be the direction?
23 Obviously ARB is going to come in many ways. As
24 the new stores come in each one will have an ARB
25 component. I think the landscaping in particular

THE MARKET PLACE

1 151
2 will have to be consistent with the building,
3 where the sign is and so on and so forth, just
4 like we have cohesive sign plans, and we did
5 spend some time talking about how to handle that.
6 I want to have an idea how to handle it. We'll
7 reflect that we've looked at the concept drawings
8 and the final site plan and the individual site
9 plans will have to present architectural that
10 are consistent in theme and presentation.
11 MS. ARENT: The lifestyle center, not
12 the big boxes.
13 MR. DONNELLY: Right.
14 MR. BROWNE: Not the big boxes?
15 CHAIRMAN EWASUTYN: We're working on
16 the lifestyle center.
17 MR. BROWNE: One other thing, John. I
18 I thought at one of the meetings there was a
19 reference to a water feature.
20 MS. ARENT: They're still working out
21 details of what is going to be in the water
22 feature. I don't know if that's still in or not.
23 They still have to work out this little urban
24 plaza area. They haven't --
25 MR. BROWNE: I've seen a lot of places

THE MARKET PLACE

1 152
2 with water features and if it's done right it's
3 great.
4 MS. ARENT: That's something that could
5 be talked about during the meeting. Let them
6 know what kind of amenities you like. They do
7 have an urban type plaza. Not the boulevard
8 area, the village green area but there's another
9 urban plaza where there would be possibly cafe
10 tables and things. That might be a perfect place
11 for something like that.
12 MR. BROWNE: I didn't hear you guys
13 mention it before. I thought I heard it from the
14 applicant.
15 MS. ARENT: We can tell him we're
16 looking for the complete development of the urban
17 plaza, the village green with the amenities such

18 as foundations, flag poles, whatever else. A
19 clock somebody mentioned. They need benches.
20 That's all in the F.E.I.S. and Findings
21 Statement.
22 MR. DONNELLY: I'll make no mention of
23 the subdivision in this resolution. That will
24 come later.
25 CHAIRMAN EWASUTYN: Right. We will be

THE MARKET PLACE

1 153
2 on October 4th reviewing the site plan with
3 consideration to preliminary approval. We'll be
4 doing a review of the ARB as it relates to the
5 lifestyle center. We will be receiving shortly
6 an application and subdivision maps for a
7 four-lot subdivision and lot line changes
8 associated with it. That will also be part of
9 the October 4th agenda.
10 MR. DONNELLY: Just so the Board
11 Members are aware, that needs a number of
12 variances. Early in the process we'll need to
13 identify what those are and send them to the
14 Zoning Board.
15 CHAIRMAN EWASUTYN: My understanding in
16 speaking with John Bernardi, a representative for
17 The Market Place, I had asked him in his
18 submission letter to the Planning Board if he
19 would outline the necessary variances. When you
20 do receive your package along with the maps there
21 should be an A, B, C and so forth, an
22 identification of those.
23 Any additional questions from the
24 Board?
25 (No response.)

THE MARKET PLACE

1 154
2 CHAIRMAN EWASUTYN: Okay. Thank you
3 all for your time. I wish you all a very happy
4 holiday.
5 I would move for a motion that we close
6 the Planning Board meeting of August 30th.
7 MR. GALLI: So moved.
8 MR. MENNERICH: Second.
9 CHAIRMAN EWASUTYN: I have a motion by
10 Frank Galli. I have a second by Ken Mennerich.
11 I'll ask for a roll call vote starting with Frank
12 Galli.
13 MR. GALLI: Aye.
14 MR. BROWNE: Aye.
15 MR. MENNERICH: Aye.
16 MR. O'DONNELL: Aye.
17 CHAIRMAN EWASUTYN: Myself. So
18 carried.
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20 (Time noted: 9:36 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: September 6, 2007