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

- - - - - X
In the Matter of

MATRIX LOGISTICS CENTER
(2020-17)

Route 300/I-84/I-87 Interchange
Multiple Sections, Blocks and Lots
IB Zone

- - - - - X

PUBLIC HEARING

Date: September 16, 2021
Time: 7:00 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, New York

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman
FRANK S. GALLI
CLIFFORD C. BROWNE
STEPHANIE DeLUCA
KENNETH MENNERICH
DAVID DOMINICK
JOHN A. WARD

ALSO PRESENT: DOMINIC CORDISCO, ESQ.
PATRICK HINES
JAMES CAMPBELL
STARKE HIPPI

APPLICANT'S REPRESENTATIVE: CHARLES UTSCHIG,
DAVID EVERETT & KENNETH GRIFFIN

- - - - - X

MICHELLE L. CONERO
3 Francis Street
Newburgh, New York 12550
(845) 541-4163

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2 CHAIRMAN EWASUTYN: Good evening,
3 ladies and gentlemen. The Planning Board
4 of the Town of Newburgh would like to
5 welcome you to their meeting of
6 September 16, 2021. This evening we have
7 four items on our agenda, the first one
8 being a public hearing.

9 At this time we'd like to call
10 the meeting to order with a roll call
11 vote.

12 MR. GALLI: Present.

13 MS. DeLUCA: Present.

14 MR. MENNERICH: Present.

15 CHAIRMAN EWASUTYN: Present.

16 MR. BROWNE: Present.

17 MR. DOMINICK: Present.

18 MR. WARD: Present.

19 MR. CORDISCO: Dominic Cordisco,
20 Planning Board Attorney.

21 MS. CONERO: Michelle Conero,
22 Stenographer.

23 MR. HINES: Pat Hines with MHE
24 Engineering.

25 MR. CAMPBELL: Jim Campbell

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representing Code Compliance.

MR. HIPPE: Starke Hipp with
Creighton, Manning Engineering.

CHAIRMAN EWASUTYN: At this point
we'll turn the meeting over to John Ward.

MR. WARD: Please stand to say
the Pledge of Allegiance.

(Pledge of Allegiance.)

MR. WARD: Please turn down your
phones or turn them off. Thank you.

CHAIRMAN EWASUTYN: In a minute
Ken Mennerich will read the notice of the
public hearing. At this time we'll turn
to Planning Board Attorney Dominic
Cordisco to speak on the public hearing
that's before us tonight.

MR. CORDISCO: There is a public
hearing tonight for a combined application
for clearing and grading as well as for
site plan and subdivision approval for the
proposed Matrix project.

CHAIRMAN EWASUTYN: Thank you.

Mr. Mennerich, will you please
read the hearing notice.

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2 MR. MENNERICH: "Notice of
3 hearing, Town of Newburgh Planning Board.
4 Please take notice that the Planning Board
5 of the Town of Newburgh, Orange County,
6 New York will hold a public hearing
7 pursuant to Section 185-57(K) of the Town
8 of Newburgh Code, Section 276 of the Town
9 Law and Chapter 83 of the Town of Newburgh
10 Code on the application of Matrix
11 Logistics Center, project 2020-17. The
12 proposed project consists of two new
13 warehouse distribution centers identified
14 as e-commerce centers. The distribution
15 centers include a 927,000 square foot
16 structure proposed on the eastern portion
17 of the site and a 215,200 square foot
18 distribution center on the westerly
19 portion of the site. The project will
20 involve a lot consolidation resulting in
21 two separate lots. Lot A is proposed to
22 be a 107.4 acre parcel and lot B is
23 proposed to be a 12.6 acre parcel. Lot A
24 will provide 470 passenger vehicle parking
25 spaces, 310 trailer parking spaces and 173

1 loading docks. Lot B will provide 105
2 passenger vehicle parking spaces, 50
3 trailer parking spaces and 31 loading dock
4 spaces. The project site has frontage on
5 New York State Route 300 and New York
6 State Route 52. The site is located in
7 the northeast quadrant of the New York
8 State Route 300/Route 84 Interchange. The
9 project is located in the Town's IB,
10 Interchange Business, Zoning District. The
11 project is proposed to be served by the
12 Town of Newburgh municipal water and sewer
13 systems. The project site encompasses
14 numerous tax lots including Section 97,
15 Block 1, Lots 20.3 and 13.3; Section 60,
16 Block 3, Lots 56, 41.3, 49.22, 48.9.1 and
17 41.4; as well as Section 71, Block 4, Lots
18 8, 9, 10, 11, 12, 13 and 14. The project
19 site has been subject to numerous retail
20 development proposals over the past
21 decade, formerly known as The Marketplace,
22 Loop and Ridge developments. The
23 application includes a proposal to clear
24 and grade approximately 84 plus or minus
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acres of the 120 plus or minus acre parcel. Clearing and grading will be performed in accordance with a stormwater pollution prevention plan. A public hearing will be held on the 16th day of September 2021 at the Town Hall Meeting Room, 1496 Route 300, Newburgh, New York at 7 p.m. at which time all interested persons will be given an opportunity to be heard. By order of the Town of Newburgh Planning Board. John P. Ewasutyn, Chairman, Planning Board Town of Newburgh. Dated 2 September 2021."

CHAIRMAN EWASUTYN: Ken, thank you.

The presentation will be made now by the applicant's representative and the applicant himself, and then those of you that might have any questions or comments, we ask that you please raise your hand, give your name and address. If you have a second question, first I'd like to go through the first round, giving everyone the opportunity to speak.

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2 So at this time we'll call the
3 meeting to order by introducing the Matrix
4 Logistics Center, Planning Board number
5 20-17. It's a public hearing, as Mr.
6 Mennerich has just read. It's in the IB
7 Zone. It's being represented by Langan
8 Engineers.

9 Please.

10 MR. UTSCHIG: Thank you, Mr.
11 Chairman, Members of the Board.

12 For the public, my name is Chuck
13 Utschig, I'm with the firm of Langan
14 Engineering. We're responsible for
15 developing the site civil aspects of this
16 project.

17 The site is approximately 120
18 acres in size. It's been the subject of
19 prior applications for a retail
20 development. Our proposal is for a
21 warehouse development which is consistent
22 with the IB Zone.

23 The parcel has frontage on Route
24 300, which is in the bottom left corner of
25 the drawing. We also back up to

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Interstate 84. We have a small access point that goes out to South Plank Road, which I'll describe a little bit more as we go on.

The proposal includes two buildings, one is 297,000 square feet. It includes 442 parking spaces which are located at both ends, 173 loading docks which are located on both sides of the building, and then an additional 108 trailer storage spaces which are again distributed on both sides of the building.

The smaller building, which is closer to Route 300, is 215,200 square feet. It has a little less parking, about 173 spaces. It's a little smaller in size with 31 loading docks and 20 trailer storage spaces.

Primary access to the site is to Route 300. Unlike the prior applications which had full access points out to other areas, including some of the neighborhoods to the northeast, we have a single access point that goes out to Route 300. That

1 includes a new signal and improvements to
2 not only our driveway but to the mall
3 driveway which is directly across. We're
4 in the middle of a review with DOT. We
5 believe that the configuration that we
6 show, which includes a signal and turn
7 lanes, will be consistent with what DOT
8 will recommend and approve.

10 At the Board's direction we spent
11 a lot of time and effort trying to make
12 sure that the entrance to this facility
13 was more than just a warehouse face. The
14 Planning Board directed us and encouraged
15 us, and we went along with that, to really
16 add significant landscaping, stonewalls
17 and to improve the aesthetic appearance of
18 the front warehouse so that as you come
19 into Town it's not just a stark building
20 but it's a pretty impressive entrance. I
21 think to this point we've satisfied the
22 Board and their concerns relative to that.

23 The secondary access that I
24 mentioned is only an emergency access.
25 All our traffic goes out to Route 300.

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There is a secondary emergency access that goes out to South Plank Road. It will only be used for emergency vehicles, and it will be gated and controlled so it can't be used by the public.

We also have extensive landscaping that's been proposed, not only along the front entrance on Route 300 but being sensitive to the residential neighborhood, the Hilltop neighborhood. We have proposed a significant amount of landscaping in supplementing what's already there. There's about 200 to 250 foot of trees that will remain. We're going to supplement that with an understory of evergreen type plantings so that we're screening our building from those residential areas.

What's also interesting about this site is that the relationship between the top of this building and the grade here are about equal, that being we have actually cut the building into the hillside. Residential properties to the

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northeast will actually look over -- out over the top of the building.

There are no additional wetland impacts proposed as part of this project. There was some wetland activity that was performed on the prior application with appropriate mitigation constructed, and we're simply following that same permit.

We do have a very extensive stormwater management program which complies with the most current New York State DEC requirements. That includes water quality and stormwater volume control. So we've got a very healthy stormwater management plan proposed as part of this project.

Utilities we've taken from Route 300 and primarily run through to the end of the cul-de-sac where they service both of the buildings. There is a water tower proposed as part of the system. In a large building the fire sprinkler demand is such that water towers are not unusual for this type of a use.

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Mr. Chairman, that's my overview presentation. I don't know if you want to answer questions on this. I do need to go through the clearing and grading proposal, which the Board has not seen yet, as part of what we submitted.

CHAIRMAN EWASUTYN: Let's put it all forward and that way everyone will be familiar with what we're discussing in its totality.

MR. UTSCHIG: As you know, one of the provisions you have in your code allows applicants to apply for a clearing and grading permit along with site plan approval. We have made that application. Tonight's public hearing is both for site plan approval and the clearing and grading permit.

What we're proposing is about 49 to 50 acres worth of activity to allow us to get started with the earthwork. You can imagine there's a lot of earthwork that goes with this kind of a project. We've broken that down into two phases.

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Phase 1 will involve about 39 acres of disturbance broken into two sections. Really what we're trying to accomplish is we're trying to accomplish taking the cut out of the hillside and getting it placed in the building footprint and stabilized so that as we go through the rest of the project, the building can be under construction and we can be working on the rest of the site work around it. So that's the objective. By starting out this way we get a jump on that earthwork.

The second phase is just an additional cut into the hillside, and that material will be processed -- most of this is going to be rock, will be processed and then used on the project as subbase for the pavement, the gravel underneath the building footprint and the like. So the total disturbance is about 49 acres.

We are asking for a waiver from the 5-acre limitation that currently exists. We presented, we think, a logic and a rationale to that 5-acre waiver.

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2 With these size buildings it's
3 impossible to manage them in 5-acre
4 chunks. So what we've done, and on other
5 projects we were very successful, is we've
6 used about that 20-acre threshold. It
7 allows us to move the cuts and fills to
8 create the footprint, and then from that
9 point, again we can do the rest of the
10 earthwork around the building pad.

11 As part of our submission we
12 included detailed grading plans. I know
13 they're a little hard to see. Basically
14 the heavier lines that you see at the top
15 are the cut into the hillside, and that
16 dirt gets moved to create the building pad
17 for the building.

18 This represents phase 1. It
19 includes sediment and erosion control,
20 diversion ditches to direct stormwater to
21 temporary sediment basins, and other
22 provisions that the consulting engineer
23 has asked to make sure that we include.
24 So this is phase 1.

25 Again phase 2, it pushes that cut

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up to the limit. So this is the limit on the northeast side where the final grading would go. We'll take this excess material, process it and stockpile it for future use.

It's a pretty simple -- they're big pieces but the process is pretty simple. The way the dirt gets managed is pretty simple. It literally comes from the hillside to the pad, from the hillside to the pad.

That's the basis for our -- oh, I should also mention as part of this -- I'm sorry. I should have mentioned this first. We do have about 5 acres of treed area that we need to take the trees down. The majority of the rest of the site was cleared at some point in the past. There's some secondary growth coming back. Basically the regulated tree areas, we have about 5 acres. One is located here, down the hillside as you go through the original stormwater management basin, one area is here, one area -- there's a small

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area here.

So the other important part about getting the clearing and grading permit is that it allows us to take the trees down within the permitted window, considering the habitat and the sensitivity to it. So we've included those areas to be cleared.

Those that we don't need to grade, the stumps will stay. Only the area that we're going to grade, which is this one, will be actually completely de-stumped and graded. This area here, we'll take the trees down but we'll leave the stumps so that it reduces the chance of significant erosion. When the time comes to actually grade that area, we will then take the stumps out, remove the topsoil and do the grading.

That's my presentation.

CHAIRMAN EWASUTYN: Thank you.

As I said earlier, anyone here this evening who has questions or comments, can you please raise your hand and give your name and your address.

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We'll try and keep the meeting in a polite and orderly manner, please.

The gentleman in the back.

MR. HARRISON: Good evening, Chairman, Members of the Board. My name is Chris Harrison, I work for Advanced Testing. We're a construction inspection firm based out of Campbell Hall with deep ties to Newburgh. Our office is on Shay Road.

I'm here to voice our support for the project. It's in an area that you guys have known that's been underutilized for quite some time.

The plans Matrix has presented for the site will allow the creation of not only construction jobs that is, as you know, recovering from the effects of the pandemic at this point, but also many full-time positions.

I have been following the project through the duration. I've seen the iterations and I've been very impressed with the team and how they presented

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themselves and the due diligence that they've shown, especially the commitment to noise mitigation and the site access.

We ask the Planning Board consider approving the clearing and grading permit so this project can proceed. Thank you.

CHAIRMAN EWASUTYN: Chris, thank you.

The gentleman whose hand is up, please.

MR. GAYDOS: Good evening. Michael Gaydos, Town of Newburgh resident lifetime and business manager for Local 417 Ironworkers.

As a former IDA member, Matrix has not applied for any IDA benefits, so therefore Town of Newburgh receives its fair share of taxes, unlike other entities that have come to the Town.

Matrix, I've worked with the owner and developer securing work for approximately 45 ironworkers plus throughout the project, which couldn't

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come at a better time. We have a void at the time this project will be coming, so it's local jobs for local ironworkers, and other trades of course. Matrix has shown support for local labor. Like I said, it couldn't have come at a better time.

We would also ask for the Board's support and approval of all permitting to allow this project to move forward. Thank you.

CHAIRMAN EWASUTYN: Michael, thank you for your time.

The gentleman here.

MR. DIORIO: Todd Diorio. I'm going to be a Town of Newburgh resident shortly, on Conway Road in the Town of Newburgh.

I am the president of the Hudson Valley Building and Construction Trades Council. It's an umbrella organization of 28 trade locals from ironworkers, carpenters, laborers, teamsters, operating engineers.

We've been working -- I have to

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say, we've been working closely with Joe Taylor from Matrix. I personally developed a very good relationship building trades wise with him. He is committed to us with local labor. He was actually very receptive and we shared a lot of conversations about which contractors and contractor he was going to pick for this site. We know which guys are labor friendly, which guys are going to hire local labor. He chose a contractor that we recently have worked with that has built both the Amazon project in Montgomery and in Dutchess County. So that project is going about 90 percent union. So from warehouse construction work to go 90 percent union, that's pretty good. We're always fighting a lot of times with these warehouse developers. He's made a commitment to us.

 You know, I've had questions. We have a lot of members. I actually pulled up our zip code. I was surprised how many members we have from the Town of Newburgh

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in the building trades. There's a lot of Town of Newburgh residents. My union hall is located there. Mike Gaydos is there. Several of the other union halls. We've seemed, over time, to gather a lot of Town of Newburgh residents. A lot of them are here.

Even some of our members that live in the neighborhood had some concerns. We spoke with Joe and Joe addressed all the concerns. I know there were some concerns about the drilling and blasting, which has been taken care of. There was some rumors floating around about toxic waste on the site. I spoke to Joe today. He assures me he's not buying a piece of property that has toxic waste and it's a clean site. Regardless of what rumors were floating out there, I've seen some of the flyers, he's committed to local labor.

The site work, we already know pretty much who is going to be doing the site work. We're going to have laborers

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and operators hopefully as early -- if you guys approve this, as early as this fall getting started.

So the big important thing, not that I'm against -- I believe in certain situations the IDA benefits work. This company is not coming to the Town for any tax breaks, so the school districts and the Town of Newburgh will see full taxes on that.

They were also -- I have to commend the Board. I like the idea of the entranceway coming in, because a lot of people actually, you know, said we're going to see this warehouse, we're going to see the entrances, they're always ugly. I like the idea. I know Joe said it's going to cost him. For me it's good because there's a lot of labor in building that wall in the front.

You know, they've addressed every issue. Even the site contractors already have our guys refreshing on the DEC erosion control. They're sending all

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their guys for refreshers. I know that's a very important aspect here on this project. I'm asking the Board to approve this. We actually -- as good as everybody thinks it is, many of the trades are slow right now. This whole COVID thing has pushed some things back. I know I have about 65, 70 laborers alone unemployed. We're talking about hundreds of construction guys right now within the trades that are unemployed in the peak of the season.

I ask the Board to approve the approvals that they need for this project. Thank you.

CHAIRMAN EWASUTYN: Todd, thanks for your comments.

Additional comments? The gentleman here.

MR. ELIETTA: I am Patrick Elietta, I am a Newburgh resident my whole life. I'm 64 years old. I guess I qualify as a senior citizen.

I'm for this project. It will

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create jobs, a tax base with no money out of pocket for the Town or County or State.

I think the entrance is terrific because it's on Route 300 which has access to the New York State Thruway and Route 84.

It will put a lot of local people to work. I think it's a good thing when you get that.

The builder has a good reference, two large projects and other projects in other states, and they've always been successful.

Hiring local labor is important and it's important to me as a senior citizen.

CHAIRMAN EWASUTYN: Patrick, thank you.

The lady in the front.

MS. HALAHAN: Good evening, Mr. Chairman. Good evening, Planning Board Members. My name is Maureen Halahan, I'm the president and CEO of the Orange County Partnership.

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On behalf of our board of directors I'm here to support the Matrix Logistics Center and their request for a clearing and grading permit.

The Partnership has had a long working relationship with Matrix. We've worked with them on projects like wineshipping.com in the Town of Wawayanda, as well as the Amscan and Amerisource Bergen project in the Town of Newburgh. Both are stellar and beautiful projects and embraced by the communities.

Matrix is well known for building quality products while also taking their surroundings into consideration. Their plans for this site are no different.

With close proximity to the two interstate highways, the parcel is in a prime location for this logistics center.

The proposed development will generate a significant number of construction jobs for local guys and gals who are here supporting the project this evening.

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If the clearing and grading permit is approved, it will allow for an expedited construction. People can get working right away and the job creation can start in the very near future.

Longer term, this project will provide full-time employment for hundreds of workers and generate much needed tax revenue for the Town of Newburgh.

So on behalf of our board of directors, the Orange County Partnership strongly supports the proposed Matrix Logistics Center at Newburgh. We encourage the Board to approve this appropriately zoned site plan and proposed clearing and grading permit tonight.

Thank you so much.

CHAIRMAN EWASUTYN: Maureen, thank you for your comments.

Additional comments from the public? The gentleman here.

MR. TAMBURRI: Thank you. My name is Dean Tamburri, I'm on Holmes Road in the Town of Newburgh. I've served on

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the school board for nine years and I know a project of this size, what it does for the tax base and for the municipalities. It's very important. I know it will be better our communities.

I'm also a field rep with Local 17. I'm going to repeat what the guys had said. For this time of the year we're typically going strong. We do have some people that are out of work, so we are still struggling along.

The only other thing I wanted to add is that I'm also on the IDA, recently appointed, and they are not going for tax bases which everybody -- it's very important that they're not looking for an incentive or any discount on their taxes.

I also wanted to say that I typically call guys to come out to these meetings. We have so many people in the Town of Newburgh, they overwhelmingly wanted to come to this meeting and support this project. It was very easy to get the guys to come out. I appreciate everybody

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who responded. I hope you would approve it so we can get the construction as soon as possible.

CHAIRMAN EWASUTYN: Dean, thank you.

The gentleman, please.

MR. VON REYES: My name is Kevin Von Reyes, Town of Newburgh resident for quite some time now. I'm also a Local 17 member.

I'm standing in support of this project. Why? Because they're not asking for anything. They've done their layout. They've done their research. They got the approvals that -- they've come to you with their knowledge and know how, the background and experience so they can come here, build something, hire local workers. They're not asking for tax breaks, they're not looking for shortcuts. They want to do the right thing. You heard the young lady with the history, how they built Amscan and different places. They have the experience. We want to go to work.

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We want to stay working. With the COVID pandemic and everybody out of work, a lot of people are suffering and they're losing out. This is supposed to be the peak time for us and we got 65 guys out, as you heard previous. We like to stay working. It takes a lot of money to be a resident here, to pay the taxes, to pay the water, to pay those fees. I've been here for quite some time and I know you guys like your bills paid. You don't want us to be behind on our taxes. So I'm asking please approve this project.

CHAIRMAN EWASUTYN: Kevin, thank you.

The lady in the back.

MS. KISSAM: I'll do my best because you don't have a microphone here this evening. Is there some reason why there isn't one?

CHAIRMAN EWASUTYN: We don't have a microphone this evening.

MS. KISSAM: Pardon me?

CHAIRMAN EWASUTYN: We don't have

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a microphone this evening.

MS. KISSAM: Normally you do. I'm surprised.

Nevertheless, my name is Sandra Kissam and I'm here this evening speaking for myself as a resident of the Town of Newburgh since 1973. I have some questions and some comments. I appreciate you giving the time to do this.

My question is has the Town Board -- I'm not sure, but has the Town Board made a SEQRA determination yet for this project as to whether you will require an environmental impact statement or not?

CHAIRMAN EWASUTYN: Sandra, good question. I'll turn to the Planning Board Attorney, Dominic Cordisco, to answer that question. Dominic.

MR. CORDISCO: Yes, that's correct. The Planning Board has, as lead agency, adopted a negative declaration and a determination of consistency with all the prior environmental review that was undertaken on this site since 2008.

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MS. KISSAM: So for the benefit of everyone who is here, I would just like to say that that means that there will be no hard look at the environmental impacts of this project and we're looking at business as usual.

The only unfortunate problem is that business as usual is not a good thing at this point. We have many warehouse projects that have gone up in the area, more than we require really.

Traffic is building up considerably. Traffic adds to air pollution which adds to global warming.

Although I am involved with several environmental groups, I speak tonight as a private citizen. I don't think that cutting the building into the hillside is a good idea.

May I ask how many stories will this building be?

MR. UTSCHIG: The building is one story with a maximum height of 40 feet as measured by the Town Code.

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MS. KISSAM: And are you putting up only one structure?

MR. UTSCHIG: No. There are two structures as part of the proposal. One is identified as building A, one is identified as building B.

MS. KISSAM: And what will -- that map, is that map showing us Union Avenue, or Route 300?

MR. UTSCHIG: Route 300 at the bottom left, yes.

MS. KISSAM: So that building which is facing 300, how many stories is that building?

MR. UTSCHIG: The same.

MS. KISSAM: One story?

MR. UTSCHIG: One story, a maximum height 40 feet as measured by the Town Code.

MS. KISSAM: All right. Thank you.

And what percentage of the property will be covered by structure? You're speaking of 120 acres. I believe

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you said it's 120 acres or less.

MR. UTSCHIG: The total impervious cover is approximately -- I want to say approximately 60 acres I believe.

MS. KISSAM: 68 what?

MR. UTSCHIG: 60 acres. That's all impervious area, buildings, roads, parking. The buildings themselves, one building is 927,000 square feet, the other one is 215, plus or minus, thousand square feet.

MS. KISSAM: And so the total impervious surface is only 60 percent of the parcel?

MR. UTSCHIG: Just a little bit more than that. That's correct.

MS. KISSAM: I heard 68. Somebody said 68? Well --

MR. UTSCHIG: There's a tremendous amount of green space being not only preserved but recreated as a part of this. So you can see that these are large, green preserved areas that aren't

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being impacted by the development.

MS. KISSAM: Well you said that you're going to clear 5 acres of trees near Route 52. That's partially a wetland and that's -- that portion of the site is near a residential neighborhood. If you clear trees between that building that sits into the hillside, that also is eliminating the buffer between that warehouse and the other part of that residential neighborhood. So I would say that you are creating a noise and heat problem for those areas, particularly a noise problem, because motors run all night long with a warehouse. In fact, truck motors are much louder than any other motors. So there's a noise issue here which should really be studied in an environmental impact study.

There's also an issue with clearing existing vegetation versus planting new vegetation, because new vegetation takes time.

I want to point out that there

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was a study done in The New York Times between areas in communities where there was tree cover and areas where there wasn't. They found that the change in temperature could reach as much as 10 degrees Farenheit between places that had high levels of impervious surface, such as a mall and parking areas, and areas such as Balmville that have tree cover, thick tree cover. Now, what we're doing here is we are heating up the neighborhood. We're heating up the neighborhood because we are increasing the impervious surface. It's conceivable that in the near future we may have climate problems that involve excessive heat and excessive temperatures. As it now stands, this project could very well exacerbate that. The more pavement we have, the hotter it will get.

So I really think that it is very unfortunate that this Board has already done their negative declaration. I think it's terribly inappropriate. I think what you people do not understand is that we

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are in a climate emergency. You are going on with business as usual and you are not giving any consideration to this fact at all.

I want to go on record as opposing the fact that you are not doing an environmental study so that the public cannot really see what the impacts are. I think in that respect you are being irresponsible.

I'm not opposing the project outright but I am definitely in opposition to the fact that you are shortcutting the review. Citizens in the Town of Newburgh may not have an idea of all the impacts that this can create if you do not do this study. And so what you're doing is, I think, trying to run on people being ignorant of the impacts, and I feel that this is not right.

Thank you very much.

CHAIRMAN EWASUTYN: Sandra, in reference to your question, and I think the question goes complete circle, have we

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given this a hard look, are we concerned about the people of the Town of Newburgh. I'll have Dominic Cordisco, Planning Board Attorney, address your sincerity and how we gave the project a hard look.

Dominic, please.

MR. CORDISCO: So --

MS. KISSAM: Before --

CHAIRMAN EWASUTYN: Sandra, Sandra, it's my point now. You had the table. We worked together over the years. It's our Board's turn to respond to your question.

MR. CORDISCO: So the statement was made that, you know --

MS. KISSAM: Could you speak up? Between your mask and --

CHAIRMAN EWASUTYN: Sandra, why don't you come closer also.

MS. KISSAM: I'll be happy to.

CHAIRMAN EWASUTYN: You can come closer. There's a chair right here. Make yourself comfortable. This is your living room, after all. Please sit down.

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MS. KISSAM: Yes, sir.

MR. CORDISCO: The statement was made -- my comments are addressed to the Board.

CHAIRMAN EWASUTYN: Thank you.

MR. CORDISCO: I provide advice to the Board. The statement was made that because you adopted a negative declaration, the implication was that you didn't take a hard look at this project. As I mentioned earlier, there have been environmental studies for this particular site that date back all the way to 2006, and that have been continually updated as this project or this site was evaluated for numerous different commercial developments which never came to pass. So there was an incredible amount of documentation as to potential environmental impacts for a commercial development which still has approval and could have been built today if there was actually a market for it. The fact is that there wasn't a market for it so it

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never got built. But it could have been built.

So what that means is that the environmental studies that were done to date provide a yardstick to compare this particular project against. So this applicant, Matrix, has prepared a number of studies in all the relevant areas of concern and submitted those for the Board's consideration. This Board, over the last year, has been evaluating those studies. It has been part of the public record. It has been part of the public meetings that have been open to the public. And the Board has also hired its own consultants to review those materials as well. So it's not just the applicant's word or the applicant's view on what is being proposed and what the mitigation measures are. So there has been a full review that is required by this Board, because this Board has several different obligations under SEQRA. They have to identify the relevant areas of concern.

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They have to take a hard look at them.
They have to provide a reasoned
elaboration as to the decisions that the
Board is making.

 This Board has adopted a negative
declaration and a determination of
consistency that goes through each area of
impact and it identifies what mitigation
measures are being required of this
applicant. This applicant has agreed to
do all of the mitigation measures that
were previously identified for the
commercial development -- the commercial
retail development that are still relevant
for this particular development. So
nothing has been left off the table as a
result of this project and corners are not
being cut.

 MS. KISSAM: May I respond,
please?

 CHAIRMAN EWASUTYN: Most
certainly.

 MS. KISSAM: Okay. In case
anyone doesn't remember, this project, in

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the first place, was absolutely opposed by its neighbors in the housing development which is adjacent to it. There was an extended, an extended effort to stop the first project because there was in fact a concern about the thoroughness of the environmental review at that time. An entire neighborhood came out against the development of this area, and also was appalled by the wholesale deforestation of the 100 and some odd acres that took place even when that particular company did not even put in any structures. And so the environmental history what you are referring to was a source of debate and concern from the very beginning.

Also, the conditions in 20 -- I believe it was 2008, thereabouts, are different -- were different than they are now and there were not -- that was not the adjacent development that has now become part of the landscape. There was not the nearby warehouses at that time that there are now and the conditions are not

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similar.

So I stand by my request and I stand by my criticism of the Board. But thank you very much for your efforts.

CHAIRMAN EWASUTYN: Sandra, thank you for your time.

MS. KISSAM: You're welcome.

CHAIRMAN EWASUTYN: Additional questions or comments from the public? The gentleman in the back.

MR. BECK: My name is Jeff Beck. I'm a lifelong Newburgh resident, Parr Lake Drive in Newburgh. I'm also the director of Building Beyond the Hudson Valley which is a construction apprentice program targeting minorities and females which was started this year with the help of a grant secured by Senator Skoufis. Last month we graduated our first class, several of them from the Town of Newburgh and the surrounding areas.

Matrix Development project has committed to hire local labor for the project, a perfect opportunity for my

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students to have a job or have a potential opportunity to go to work.

We've also heard from other people around about the tax base and all the jobs that it can possibly bring for construction and for anything else that comes of the project.

As the director of Building Beyond and a Town of Newburgh resident, I support this project and hope this Board gives this project approval to begin construction. Thank you.

CHAIRMAN EWASUTYN: Jeff, thank you.

Additional comments from the public? The lady there, please.

MS. TUCKER: My name is Lisa Tucker. I'm a Hilltop resident. 18 Hilltop.

I just have a question on what the plan was in case there was damage to our wells and septic, because we have no Town water that goes up there?

MR. UTSCHIG: So part of the

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mitigation measures that were approved as part of the prior project and which we've agreed to comply with is a monitoring program that will occur and the commitment that if any problem results from the work on the site, whether it be blasting, grading, whatever it may be, there are provisions in place that would, in essence, replace your well. It's fairly detailed as to how it would happen, and it depends on a couple of specific steps in the process. The Board has required us to have a well monitoring program. So there will be -- wells will be monitored. If there's a problem, Matrix is committed to fixing that problem and fixing it immediately.

CHAIRMAN EWASUTYN: Pat Hines who is with McGoey, Hauser & Edsall represents you, Lisa. He also represents the Planning Board.

Can you speak more clearly on maybe Lisa is part of this program, maybe she would like to be part of the program.

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MR. HINES: So many years ago, during the previous version of this plan, a blasting protocol and well monitoring agreement were entered into with the previous developer that this developer has also adopted. It goes so far as to provide Town water should the impacts to adjoining well sources in your neighborhood be impacted, and the developer has signed on to that agreement.

The well monitoring program has been underway for, I would almost guess five or six years at this point where some of your neighbors' wells have been monitored monthly with data recorders in them to get background data on the wells. That data has been collected monthly and submitted to the Town. We have a large volume of information, years worth of information on the levels of water in those wells.

Because the project has changed and because of the timeframe since that well monitoring program has been

1
2 implemented, the developers are being
3 asked to re-notice the neighbors within
4 500 feet of any blasting activity on the
5 site to see if they would also like to
6 have their wells monitored. Obviously
7 some of the neighbors in the neighborhood
8 have changed over the years since that has
9 occurred, so we want to make sure we reach
10 out to anyone who has recently moved into
11 the area or may have declined the initial
12 well monitoring and wants to participate
13 now. So if you are within the 500 foot
14 area of the proposed blasting on the site,
15 you will be contacted in the near future
16 by the applicants to offer the well
17 monitoring.

18 Again, this project has moved
19 further away from the neighborhood and
20 there are some wells that are being
21 monitored that were previously within 500
22 feet that are no longer being monitored.
23 However, we have suggested that those well
24 monitoring locations remain in place.
25 They're there. They're the baseline data

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that we have. The applicant's representative has -- there are four wells that have now fallen outside of what was being monitored. They're going to continue to be monitored throughout the project and after.

MS. TUCKER: We have the monitoring system.

MR. TUCKER: It's every three months.

MR. HINES: They send it to me but it's continuous throughout those months.

MS. TUCKER: Thank you.

CHAIRMAN EWASUTYN: If there are no further questions or comments from the public, I will turn the meeting over now to the Planning Board Members and then our Consultants. We'll start with Frank Galli.

MR. GALLI: The applicant has done its due diligence. They have been before us numerous times. They've done everything that the Town has asked, the

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Board has asked.

They didn't show you pictures of the actual entrance or the front of what they're doing, but I'm sure a lot of you already saw it by the way you were speaking.

I think they are receptive to what we need, what we want, and they have always done above and beyond what we've asked for.

I think it's a good project for the Town. I think everyone will be happy when the building is up.

CHAIRMAN EWASUTYN: Stephanie DeLuca?

MS. DeLUCA: I would also like to compliment your efforts, both in your presentation and the work you put forth. It's going to be a great place.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: I concur with what Frank and Stephanie said.

CHAIRMAN EWASUTYN: Cliff Browne?

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MR. BROWNE: Thank you. There were several comments, requests made for us to approve the project. Approval occurs once the project is completed, all the I's are dotted, all the T's crossed. We are actually obligated to approve once the codes are met. It will be approved, assuming everything is finished by the applicant and they get everything in place that has to be in place. So from that perspective; yes, it will be approved if the applicant completes their job, which we fully expect they will.

CHAIRMAN EWASUTYN: Thank you.
Dave Dominick?

MR. DOMINICK: I want to first thank the residents and the local tradesmen for coming out here tonight and showing their support and expressing their opinion. The Tucker family's concern for their well.

What better way to get back to normal, especially after all we've been through these past two years. With a

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project like this, get your families back to work, jobs, so forth, and get things rolling.

The applicant has done everything we've asked for.

Chuck, just for the audience's sake, can you just explain how you increased the buffer between the northeast residents? Can you put up on the board there what the entrance is going to look like for the public's sake?

MR. UTSCHIG: So one of the things that we were cognizant of when we developed our plan was the sensitivity to the residential neighborhood. One of the difficult parts of a building this size is, unlike smaller buildings, residential lots, roads that we can allow to follow the topography, this is a very large, flat, footprint.

In tackling this site -- someone commented we shouldn't be cutting into the hillside. One of the things we strived to do as part of this analysis is try to make

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sure the earthwork balances so that the amount of earth we excavate stays on site. What that does is it eliminates a lot of trucking offsite which creates traffic problems and pollution problems and the rest.

So there are a couple components that we looked at when we developed this. Because of that sensitivity, we started with our layout as far down towards the interstate as we could and we worked our way up.

Now, there are some limiting factors. There are some design criteria that we have to live by. We have certain size tractor trailer courts, certain size loading docks areas. We did everything we could to move this down. In fact, we are further away from those properties than the retail development that was proposed on this site.

We're preserving about 250 feet of trees at this point. I believe the prior application had structures that were

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much closer than that. So we've tried to be sensitive to that. We've included vegetation, supplemental planting. We have a sound barrier wall in one location where the topography changes and there's not as much vegetation. So we think we've, to the extent practical we could, we've addressed that concern both from a visual and a noise perspective of those adjacent properties.

MR. DOMINICK: Thank you. Can you just put up on the board there the Route 300 elevation for the folks that aren't aware of what the entrance is going to look like and how detailed and landscape orientated your company did for us to present something very attractive and presentable in an industrial area?

MR. UTSCHIG: For the benefit of the public, this is a perspective as if you were standing in the center line of Route 300 looking into the site, directly across from the driveway to the mall that exists. This is a perspective looking in.

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We've talked about the fact that the Board asked us to create a presence to this driveway, not just an industrial entrance. We did that by working with a decorative stonewall. We did that by creating a berm between Route 300 and our building and by providing and installing significant landscaping.

The landscaping takes two forms. There are fairly substantial trees that we're planting initially. At the direction of the Board's Landscape Consultant, we have a second tier of planting that's smaller with the objective that over time you get a tree appearance. So the goal -- I will be honest with you. This picture is at ten years of growth. So this isn't how we plant it and what it's going to look like when we get done, but this is what it looks like after ten years of growth. So the goal was, to the extent that we could, screen the building. Although, to be honest with you, the architect and Matrix went to great extent

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to try and create a building appearance along Route 300 that was not your flat industrial warehouse look.

So part of what we've presented to the Board included in the record our representations of that much fancier perspective, at least from the Route 300 side.

MR. DOMINICK: Thank you. I appreciate it.

CHAIRMAN EWASUTYN: John Ward?

MR. WARD: I'd like to thank the public, the brothers and sisters and the leaders here.

I'd like to emphasize with the residents around Town, we looked at everything, and we're still looking.

Like they said with the buffer, they extended it from the residents, they put the sound barrier like we wanted with no questions. They're looking to make it right.

I'd like you to explain the lighting in the parking lot with the

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trucks and all.

MR. UTSCHIG: Okay. So the premise on the lighting is to make sure that we keep the poles as short as possible and get the light coverage that we need to keep it safe for not only the people working there but moving of the traffic. So on this site the pole height that's proposed is 37 feet. The full mounted height, including the fixture, gets to 40 feet. If you recall, I said the building height is 40 feet. None of these fixture will extend beyond the building. They're all designed as new LED fixtures. They're dark sky compliant. The whole design has been set up so that there's no spillage beyond the property line. So the goal is to keep the light on our site, to keep it at the right levels for what we need to have to operate this facility safely, and to make sure that we meet the new standard in terms of the type of fixture and the night sky criteria that it's designed for.

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MR. WARD: Thank you.

CHAIRMAN EWASUTYN: For me it's an emotional period. I like hearing from everyone, the sensitivity of the community. I've been on this Board for many, many years.

Brief history. Miron Lumber bought this property in the early '80s and they were going to come forward with what would have been the largest project of its time, a 165,000 square foot K-Mart. That never came into existence.

Board Members could tell you now that the trend right now is warehouses and apartments. That's the lifestyle that we live in. We all realize that everybody feels safe and prefers shopping online. You shop online, you move goods, goods need a place to land before they can be sent to another location. So in many ways we create the world that we live in. It's not the Planning Board that creates it, it's the residents in the Town of Newburgh, it's the nation as a whole.

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We're going through changes. We're all aware of that.

So I wish you all the best of luck.

Pat Hines, comments?

MR. HINES: I had the opportunity to review my comments with the Board at the work session. We have reviewed the project in totality and there are still some I's to dot and T's to cross on the site plan portion of the project.

I've provided the applicant's representative with comments on the interim clearing and grading that they're proposing. It's about 45.3 plus or minus acres to facilitate grading of the larger building on the site. They are seeking that 5-acre disturbance waiver. When buildings are 23 acres in size you can't build them with a 5-acre limit of disturbance. We would propose that 5-acre waiver be granted through the stormwater pollution prevention plan process. That will be via a letter from the Town along

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with a submission with their stormwater pollution prevention plan.

The clearing and grading will eventually require the blasting protocol to be implemented. This initial clearing and grading is staying 500 feet away from any residents to avoid any of those impacts. I've given the applicant's representative some technical comments that we can work through as the plan is further developed.

I had some comments on some interim early on soil and erosion and sediment control sediment basins. The plan we have before us is kind of a finished grade soil and erosion control. I've discussed it with the applicant's representative, some of these suggestions that we have.

There is a developers agreement in place with the Town of Newburgh Town Board that specifies how the project will proceed, the securities that are required for the project, the compliance with the

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blasting protocol, and many other items that the project has. The developers agreement continues to be in place and will protect the Town and the public moving forward.

We're suggesting that the rock processing area be depicted on the interim clearing and grading plans so that the Board knows where that is and can have that on the plans.

We have received the revised stormwater pollution prevention control plan that was updated for the clearing and grading activities of the 43 acres. Again, we discussed these with the Board. The applicant's representative has discussed these comments with me and did not have any significant issues that they couldn't overcome during a future technical review.

CHAIRMAN EWASUTYN: Thank you.

Jim Campbell with Code Compliance, do you have anything you'd like to add at this time?

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MR. CAMPBELL: No comment.

CHAIRMAN EWASUTYN: Starke with Creighton, Manning Engineering who has been involved in the traffic study?

MR. HIPPE: The only question we have that came out of the work session was where the applicant stood with the application for the highway work permit with the State which will be needed given access to the State highway. Where do you stand with the process?

MR. UTSCHIG: We're well into the process. We just made a resubmission to DOT just recently. I think it was the phase 2 submission. So we're well on our way with them. DOT is a little hard to predict. Knowing that they have had a positive reaction to the proposed improvements that are part of our plan, moving forward now is a technical process. We don't perceive there to be any significant change from what we are currently proposing.

CHAIRMAN EWASUTYN: At this point

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I would like to turn the meeting over to Dominic Cordisco, Planning Board Attorney, to lead us through the actions that we need to be making.

MR. CORDISCO: Yes. As I said at the outset of the meeting, this is a combined public hearing. This public hearing is not only on the clearing and grading permit but also the proposed subdivision.

CHAIRMAN EWASUTYN: They're reminding me that we do have to close the public hearing.

MR. CORDISCO: I'll get there.

CHAIRMAN EWASUTYN: I didn't forget that. Let's bring it along. Before we say we're closing the public hearing, let's complete the education process.

I was well aware of that. Thank you.

MR. CORDISCO: Of course. So I was just saying it's a combined public hearing on clearing and grading,

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subdivision, site plan. There is also ARB approval for this project as well.

At this time, if everyone has had a full and fair opportunity to speak, my recommendation to the Board would be to close this combined public hearing on all aspects of the project.

CHAIRMAN EWASUTYN: Before we move for an action as recommended by our Planning Board Attorney Dominic Cordisco, are there any comments that someone would like to make before we move to close the public hearing?

(No response.)

CHAIRMAN EWASUTYN: Okay. That being said, would someone make a motion to close the public hearing on Matrix Logistics Center, project number 20-17, located in an IB Zone on Route 300/ Interstate I-84/Interstate 87?

MR. DOMINICK: I'll make the motion.

CHAIRMAN EWASUTYN: I have a motion by Dave Dominick.

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MR. MENNERICH: Second.

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

(No response.)

CHAIRMAN EWASUTYN: May I please have a roll call vote starting with Frank Galli.

MR. GALLI: Aye.

MS. DeLUCA: Aye.

MR. MENNERICH: Aye.

CHAIRMAN EWASUTYN: Aye.

MR. BROWNE: Aye.

MR. DOMINICK: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Motion carried.

The next procedural step, Dominic?

MR. CORDISCO: Yes. As Mr. Hines had mentioned, the subdivision, site plan and ARB aspects of this project are not quite ready for consideration for approval by the Board as there are some outstanding

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items that the applicant is working on in connection with those. However, the clearing and grading application is, for the most part, complete. There are revisions that need to be made to the clearing and grading materials as identified in Mr. Hines' detailed comments.

I would suggest that the Board consider granting of a clearing and grading permit subject to those revisions being made, as well as subject to the following additional conditions of approval: The applicant will need to obtain the New York State Department of Transportation approval for the construction entrance. The applicant will need to post site security for clearing and grading in the amount of \$3,500 per acre. The applicant will need to comply with the terms of the developers agreement. The applicant will need to comply with the Town's blasting protocol. The applicant will need to comply with the

1 existing well monitoring plan for this
2 project and for the prior projects on this
3 site. The applicant will need to pay an
4 inspection fee of \$4,000 as an initial
5 deposit. The applicant will need to
6 obtain coverage under the New York State
7 Department of Environmental Conservation's
8 construction stormwater permit. The
9 applicant will need to abide by all of the
10 mitigation measures that are relevant in
11 the negative declaration, including but
12 not limited to the restrictions on tree
13 clearing that cannot occur during bat
14 protection times. In this case it means
15 the tree clearing could not occur prior to
16 October 1st nor after April 1st. The
17 applicant will need to comply with, as I
18 said, all of the other mitigation measures
19 identified in the negative declaration.
20 They would also have to demonstrate that
21 they've paid all the fees due to the Town,
22 and also comply with all other
23 requirements of Chapter 83, including
24 restrictions on time that are set forth in
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Chapter 83 whenever clearing activities are taking place within 1,500 feet of the nearest residence which limit the hours of the day that clearing can take place, and that no clearing can take place on Sundays or holidays.

MR. HINES: The only thing I would like to clarify is the blasting and well monitoring are subject to that 500 feet. When they get within 500 feet of a residence, that kicks in.

CHAIRMAN EWASUTYN: Any other comments, Pat Hines?

MR. HINES: No.

CHAIRMAN EWASUTYN: Jim Campbell with Code Compliance, any additions you'd like to make?

MR. CAMPBELL: No additions.

CHAIRMAN EWASUTYN: Starke with Creighton, Manning?

MR. HIPPE: No further comments.

CHAIRMAN EWASUTYN: Okay. Would someone move for a motion to approve the clearing and grading application subject

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to the conditions that were presented by
Planning Board Attorney Dominic Cordisco?

MR. WARD: So moved.

CHAIRMAN EWASUTYN: I have a
motion by John Ward, was that? I have a
motion by John Ward.

MR. GALLI: Second.

CHAIRMAN EWASUTYN: I have a
second by Frank Galli. May I please have
a roll call vote starting with Frank
Galli.

MR. GALLI: Aye.

MS. DeLUCA: Aye.

MR. MENNERICH: Aye.

CHAIRMAN EWASUTYN: Aye.

MR. BROWNE: Aye.

MR. DOMINICK: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Motion
carried.

MR. UTSCHIG: Thank you.

CHAIRMAN EWASUTYN: Thank you all
for coming out.

(Time noted: 7:58 p.m.)

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

I, MICHELLE CONERO, a Notary
Public for and within the State of New York, do
hereby certify:

That hereinbefore set forth is a
true record of the proceedings.

I further certify that I am not
related to any of the parties to this
proceeding by blood or by marriage and that I
am in no way interested in the outcome of this
matter.

IN WITNESS WHEREOF, I have
hereunto set my hand this 26th day of September
2021.

Michelle Conero

MICHELLE CONERO

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

- - - - - X

In the Matter of

MILLER ENVIRONMENTAL
(2019-27)

77 Stewart Avenue
Section 98; Block 1; Lot2 27.2, 20.1 & 18
IB/R-3 Zones

- - - - - X

ARB & FINAL SITE PLAN APPROVAL

Date: September 16, 2021
Time: 8:02 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, New York

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman
FRANK S. GALLI
CLIFFORD C. BROWNE
STEPHANIE DeLUCA
KENNETH MENNERICH
DAVID DOMINICK
JOHN A. WARD

ALSO PRESENT: DOMINIC CORDISCO, ESQ.
PATRICK HINES
JAMES CAMPBELL
STARKE HIPPI

APPLICANT'S REPRESENTATIVE: CHARLES BROWN

- - - - - X

MICHELLE L. CONERO
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CHAIRMAN EWASUTYN: As I mentioned earlier, there are four items on this evening's agenda. The second item is Miller Environmental, project 19-27. It's here for an ARB, final site plan approval. It's located on 77 Stewart Avenue in an IB/R-3 Zone. It's being represented by Talcott Engineering.

Charlie, please.

MR. BROWN: Thank you, John. As you stated, we're here for final site plan approval and ARB. We presented our renderings here.

I did bring the color. I checked and it does match the existing building. For some reason, with the printer the colors were off.

This one here is the front building with the man door facing the street. This is the back building.

We will have containment as required by the DEC permit.

We're here for any input from the Board and any of the Board's Consultants.

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CHAIRMAN EWASUTYN: Pat Hines.

MR. HINES: This was ready for approval, with the exception of the ARB, last meeting. We don't have any outstanding comments on the project.

There needs to be a landscape security. There is no stormwater security as the site is an existing site already graded. The buildings are proposed at grade right now.

We have no outstanding comments. The ARB was the final step in the process.

CHAIRMAN EWASUTYN: Jim Campbell, do you have any questions or comments?

MR. CAMPBELL: No comments.

CHAIRMAN EWASUTYN: Starke, do you have any questions or comments?

MR. HIPPE: No comments.

CHAIRMAN EWASUTYN: Thank you.

MR. BROWN: I might add this is also a lot line change application. We have to approve that with the site plan approval.

CHAIRMAN EWASUTYN: Thank you for

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reminding us.

Dominic Cordisco, can you please go through the conditions of approval for Miller Environmental, the ARB, final site plan and lot line change?

Is that correct, Charlie?

MR. BROWN: Yes.

MR. CORDISCO: That's correct.

The standard conditions would apply. The narrative of use would be as identified in the application. The ARB approval would be conditioned on the structure being built in accordance with the renderings as provided. All fees would have to be paid. A landscape security, as Mr. Hines had noted. I'm not aware of any other conditions.

CHAIRMAN EWASUTYN: Any questions or comments from the Board Members?

(No response.)

CHAIRMAN EWASUTYN: Would someone please make a motion to approve Miller Environmental subject to the conditions presented by Planning Board Attorney

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Dominic Cordisco.

MR. GALLI: So moved.

MS. DeLUCA: Second.

CHAIRMAN EWASUTYN: I have a motion from Frank Galli. I have a second from Stephanie DeLuca. May I please have a roll call vote.

MR. GALLI: Aye.

MS. DeLUCA: Aye.

MR. MENNERICH: Aye.

CHAIRMAN EWASUTYN: Aye.

MR. BROWNE: Aye.

MR. DOMINICK: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Thank you.

MR. BROWN: Thank you.

(Time noted: 8:05 p.m.)

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

I, MICHELLE CONERO, a Notary Public for and within the State of New York, do hereby certify:

That hereinbefore set forth is a true record of the proceedings.

I further certify that I am not related to any of the parties to this proceeding by blood or by marriage and that I am in no way interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set my hand this 26th day of September 2021.

Michelle Conero

MICHELLE CONERO

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

----- X
In the Matter of

SLUSZKA TWO-LOT SUBDIVISION
(2021-22)

2103 NYS Route 300
Section 3; Block 1; Lot 82
AR Zone

----- X

TWO-LOT SUBDIVISION

Date: September 16, 2021
Time: 8:05 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, New York

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman
FRANK S. GALLI
CLIFFORD C. BROWNE
STEPHANIE DeLUCA
KENNETH MENNERICH
DAVID DOMINICK
JOHN A. WARD

ALSO PRESENT: DOMINIC CORDISCO, ESQ.
PATRICK HINES
JAMES CAMPBELL
STARKE HIPPI

APPLICANT'S REPRESENTATIVE: CHARLES BROWN

----- X

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CHAIRMAN EWASUTYN: The third item of business is the Sluszkas, is it pronounced?

MR. BROWN: Yes.

CHAIRMAN EWASUTYN: Sluszkas Two-Lot Subdivision. It's an initial appearance. It's located on Route 300 in an AR Zone. It's also being represented by Talcott Engineering.

MR. BROWN: Thank you, John. This is an existing 24.6 acre parcel. It has a two-family residence.

My client wants to take that residence out. This AR Zone requires 100,000 square feet for a two-family. He would like to sell that. He has more property here and off of another side street. He's looking to get some money together to do a subdivision to put the houses.

We're here for an initial appearance. That's the extent of this project.

CHAIRMAN EWASUTYN: Just for the

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record, it really has no value on what we're discussing, but where his residence is -- where is his residence?

MR. BROWN: He's on the end of -- I don't actually have that.

MR. HINES: Kings Hill, is it?

MR. BROWN: All the way down by Montgomery.

CHAIRMAN EWASUTYN: Jim Campbell, would you know?

MR. CAMPBELL: Kings Hill.

MR. HINES: 34 Kings Hill it's identified as.

CHAIRMAN EWASUTYN: Thank you.

Pat Hines, you've had an opportunity -- Jim Campbell, you had a comment on this. Let's start with Jim Campbell.

MR. CAMPBELL: I was just going through the file. I just got the file. I could not confirm that this was a legal two-family. I'll have to do some more investigation into that.

MR. BROWN: Okay.

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CHAIRMAN EWASUTYN: Would you have any knowledge of --

MR. BROWN: I talked to him today. He gave me the square footage on the apartments, which, by the way, both are 900. We would have to get a variance on that?

MR. HINES: It's smaller than 900?

MR. BROWN: Each apartment is smaller than 900. One is close.

MR. HINES: I believe so. That leads me to believe it may not be a legal two-family. The minimum habitable area in the two-family is 900 square feet per unit.

MR. BROWN: I have not been in the building but I can get in there and measure it and verify it. I'll contact Jim at the Building Department.

MR. HINES: I've never had an existing two-family subdivided off. We've only had new ones in the whole time I've been there. This is unique.

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It requires ARB. Again, the existing building is there. I guess a photo of the building. It has a requirement that it have only one entrance. I don't know what this building looks like.

So there are two-family requirements that I don't know apply to an existing structure or not. It seems like that's a zoning bulk requirement, the 900 square feet. It may need a variance because it's losing that protection.

MR. BROWN: I can get in the building and measure it all up and verify it for the Building Department. I'll get with Jim on the file for this property. It was this way when he bought it.

CHAIRMAN EWASUTYN: Dominic, what do we do procedurally? Table it?

MR. CORDISCO: I think at this point it would be -- first of all, procedurally I think you should do the adjoiners notices because the requirement is that within ten days of their first

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appearance the notices are sent to let them know that an application is pending.

I think it would be premature at this point to refer it to the Zoning Board or take any other further action.

Correct me if I'm wrong, this one has to go to County Planning.

MR. HINES: It does.

MR. CORDISCO: We don't know the scope of the overall project in order to make that referral. I think for the applicant to do his revisions and other research that's going to occur, and then report back to the Board for further action.

CHAIRMAN EWASUTYN: Thank you.

Is the Board in agreement?

MR. GALLI: Yes.

MS. DeLUCA: Yes.

MR. MENNERICH: Yes.

CHAIRMAN EWASUTYN: Yes.

MR. BROWNE: Yes.

MR. DOMINICK: Yes.

MR. WARD: Yes.

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CHAIRMAN EWASUTYN: So Charlie,
you're familiar with working with Pat
Hines as far as the informational letter
that needs to be sent out. You'll work
with Jim Campbell as far as the
information that's needed. Jim Campbell
will advise us on what he has.

MR. BROWN: Yes.

CHAIRMAN EWASUTYN: Thank you.

MR. BROWN: Thank you.

(Time noted: 8:10 p.m.)

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

I, MICHELLE CONERO, a Notary
Public for and within the State of New York, do
hereby certify:

That hereinbefore set forth is a
true record of the proceedings.

I further certify that I am not
related to any of the parties to this
proceeding by blood or by marriage and that I
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matter.

IN WITNESS WHEREOF, I have
hereunto set my hand this 26th day of September
2021.

Michelle Conero

MICHELLE CONERO

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STATE OF NEW YORK : COUNTY OF ORANGE
TOWN OF NEWBURGH PLANNING BOARD
----- X
In the Matter of

ADS PROPERTIES - CAR WASH
(2021-04)

1295 Route 300
Section 95; Block 1; Lot 14.1
IB Zone

----- X

SITE PLAN/CAR WASH

Date: September 16, 2021
Time: 8:10 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, New York

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman
FRANK S. GALLI
CLIFFORD C. BROWNE
STEPHANIE DeLUCA
KENNETH MENNERICH
DAVID DOMINICK
JOHN A. WARD

ALSO PRESENT: DOMINIC CORDISCO, ESQ.
PATRICK HINES
JAMES CAMPBELL
STARKE HIPPI

APPLICANT'S REPRESENTATIVE: NICHOLAS RUGNETTA

----- X

MICHELLE L. CONERO
3 Francis Street
Newburgh, New York 12550
(845) 541-4163

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CHAIRMAN EWASUTYN: The final item of business this evening is ADS Properties - Car Wash. It's a site plan and car wash located on Route 300. It's in an IB Zone. It's being represented by Pietrzak & Pfau.

MR. RUGNETTA: I hope everyone is doing good tonight. My name is Nick Rugnetta from Pietrzak & Pfau. This is the ADS Properties, LLC car wash.

So the property is located on the west side of Union Ave. It's about 1,100 feet north of the intersection with Route 17K which runs down here. The property is identified as Section 95, Block 1, Lot 14.1. The area of the parcel is approximately .62 acres.

The parcel is zoned for Interchange Business and we're proposing a car wash here. It's serviced by central water and sewer facilities.

The project will consist of a new building that's 3,500 square feet. This is the existing Meineke site. There's a

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Meineke car care center in the back and a gas canopy, which I believe used to be a gas station a while ago. So everything is going to be removed as part of the construction of this project.

We've done a whole design, a stormwater design as well as sewer and water for the project.

Really the way this works is cars will come in and they'll cue this way to allow maximum space for cueing, go through the car wash, and then they have the option to get to the vacuum spaces and vacuum their car for free as part of the car wash. There's a gate here because the owner, at some of his other sites have had issues with customers coming in and trying to get the free vacuum. So that's why that's there.

As part of the design for the sewer, which I just mentioned, we've done this at another site, is this cycling system for the car wash water. So there are four 1,500 gallon tanks. Basically

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the ethylene from the car wash goes into the tanks and it's recycled back in before it hits the Town sewer system. On this point you can see we've laid out the drainage, the water and all the utilities for the project.

CHAIRMAN EWASUTYN: Nick, you went before the ZBA for variances?

MR. RUGNETTA: Yes.

CHAIRMAN EWASUTYN: You received those variances. The site plan in front of us now, do they reflect those variances or has there been a tweaking?

MR. RUGNETTA: Yes. So I'll mention that. What we've done -- so we got variances for the rear yard. 60 feet is required. On the variance that we received we got the variance for 10 feet. The project went to design and we're going to need a retaining wall around the back portion of the site here. We pushed the building up a little bit. We still conform to the front yard and we're about 16 feet off the back here. The side yards

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changed a little bit but we're still right around the 71 foot or more required variance that we received.

CHAIRMAN EWASUTYN: Can we take the time now to speak about that. We'll start with Code Compliance. If this were approved, Jim, and you looked at the plans based upon the variances that were approved and a building permit was shown with the new proposed side yards or rear yards, what would that create?

MR. CAMPBELL: I didn't see the resolution but it probably states on there that what's proposed is what's supposed to be built, what was approved. I would think, during the plan review process, if it didn't meet that it would trigger at least comment from the ZBA since it was sent to ZBA for approval or denial.

CHAIRMAN EWASUTYN: Pat Hines, can you speak also on this?

MR. HINES: We've experienced this with the solar farm project where there were variances granted and then

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plans changed and facilities and such were moved. That required resubmission to the ZBA. So the ZBA approvals do contain reference to the plan sheets that were approved along with the dimensional variances that were granted. These are changed. I believe it's the policy of this Board and the Zoning Board to have to resubmit and get the actual relief shown on the plans to be approved rather than what you got previously.

MR. RUGNETTA: So when we got the variance for the 10 foot rear yard, that basically put the setback line along the 10 feet. It pushed it all the way back here. We're more than that. So I think you can -- we have that option to go from obviously meeting the front yard all the way back to 10 feet. We're showing 16 feet. We do meet the variance that we received at the Zoning Board.

CHAIRMAN EWASUTYN: So now we're talking about an interpretation then. When numbers are stated as being those

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numbers, Dominic Cordisco.

MR. CORDISCO: I mean the point is a fair one, but unfortunately it's not up to this Board to decide because the Zoning Board's decisions are particular and conditioned on compliance with a particular plan. I understand the point that you're making, which is that you improved the plan with the current level of engineering that you've done for the site. But nonetheless, the Zoning Board's decision attaches to a particular plan and this is different. In the case of the solar project that Mr. Hines had mentioned, it was similar changes that occurred there to some extent that are the results of additional due diligence that was being done on that particular site and it was re-referred to the Zoning Board. The Zoning Board did confirm that the revised plans still met the variance requirements.

So my advice to this Board is given that clear precedent here, it's not

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for this Board to interpret whether or not this particular plan meets the intention of what the Zoning Board had granted. My suggestion for an action to consider tonight would be to re-refer this project to the Zoning Board for confirmation or further consideration as deemed necessary.

CHAIRMAN EWASUTYN: I think we have to seek the advice of our Attorney on this.

MR. RUGNETTA: I just have one question just to clarify this. So this construction, you know, we have the variance for 10 feet. Let's say it's 12 feet. I'm just curious as to what happens then.

CHAIRMAN EWASUTYN: I assume, Jim, there's eventually an as-built, is there not, with these? Jim Campbell can answer.

MR. CAMPBELL: What exactly was the question?

MR. RUGNETTA: If we received a variance for 10 feet, we're beyond the 10

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foot rear setback variance that we received, showing 16 which is more than what was required, if we go back to the ZBA and we go back to 10 feet, we're not going to change this. I understand from a procedural aspect. Let's say if it becomes, you know, 17 feet instead of 16 feet, it's more just a procedural item of going to the ZBA?

MR. CAMPBELL: I mean during construction, when it gets constructed, when you do your foundations we'll be looking for a foundation location to make sure you are sitting in the right spot. If you're not, you'll have to go back to the Board.

MR. RUGNETTA: So it has to be --

MR. GALLI: Exact.

MR. RUGNETTA: -- strict to the variance? Okay.

MR. BROWNE: The ZBA, what they do there, that's exactly what it has to be. It can't be different from what the

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ZBA grants. It's got to be what they grant, period.

MR. RUGNETTA: In our eyes, when we went to the Zoning Board we weren't designing this yet. We didn't know the extent of the retaining wall we were going to have on the rear part of the property. We had this pushed back 6 feet so it was a 10 foot rear yard. We figured that, you know, if we did have to push it up it would be cleared because of the 10 foot variance. I understand now we have to go to the ZBA for 16 feet exact.

CHAIRMAN EWASUTYN: It's not worth the time and effort to go any further, but do you build like this as a matter of record throughout Orange County, plus or minus the way you're discussing now? Do you take the liberties? I'm just curious.

MR. RUGNETTA: Well in construction, you know, things will change. It's very common for things to change, you know, when the project does go

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to construction. Something like this where this property is only .62 acres, it's pretty tight. I think we're going to be pretty close to what's on here. There's not much room to move.

CHAIRMAN EWASUTYN: So there are two parts that we're going to discuss right now.

Will the Board move for a motion to have Dominic Cordisco prepare a referral letter to the Zoning Board of Appeals based upon what was or what now is as far as the setbacks?

MR. GALLI: So moved.

MR. MENNERICH: Second.

CHAIRMAN EWASUTYN: I have a motion by Frank Galli. I have a second by Ken Mennerich. May I please have a roll call vote.

MR. GALLI: Aye.

MS. DeLUCA: Aye.

MR. MENNERICH: Aye.

CHAIRMAN EWASUTYN: Aye.

MR. BROWNE: Aye.

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MR. DOMINICK: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Now we're going to talk about traffic, because we don't seem to have a foundation. It's not for me. Creighton, Manning is here this evening. They'll discuss with you some uncertainties also. Please.

MR. HIPPE: We had a set of comments that were sent to the Board, and I believe they were transmitted to you, the applicant, and they would then have been transmitted to Colliers who prepared the traffic impact study.

One of the main concerns that we have is the trip generation that they used for the traffic impact study. In their report they list two land use codes. They list 949 and 948. They also state that there is -- I want to say this correctly -- information provided by the car wash operator for a similar type facility was also considered. So they list these three sources. In their trip generation table

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they don't detail which one they use. So if they could specify what trip generation source they're using, that would be helpful.

I think one concern that we have is there's an existing site in Wawayanda that experiences extensive cueing onto the roadway that serves the site. We want to make sure that that same cueing is not going to occur at this site. It might be best to have a discussion with Colliers, between Creighton, Manning and Colliers, to figure out what they are doing for the trip generation and possibly use the existing site in Wawayanda as a source of data for trip generation.

MR. RUGNETTA: Okay.

MR. HIPPE: We discussed that at the work session. I think going forward I would speak with my colleague and come up with the best plan for that data collection effort after we've spoken with Colliers to get their input on the response to these comments.

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CHAIRMAN EWASUTYN: Is the Board
in favor of that?

MR. GALLI: Yes.

MS. DeLUCA: Yes.

MR. MENNERICH: Yes.

CHAIRMAN EWASUTYN: Yes.

MR. BROWNE: Yes.

MR. DOMINICK: Yes.

MR. WARD: Yes.

CHAIRMAN EWASUTYN: You have the
support of the Planning Board.

MR. HIPPE: Understood.

CHAIRMAN EWASUTYN: Anything
else?

MR. HIPPE: I think there was one
other traffic comment that the Board had
brought up in the work session, which was
cueing on Route 300. Correct? Yes, on
Route 300. And we'll discuss that with
Colliers as well. The one concern was
cueing in the two-way left-turn lane for
left turns into the site. I was out there
this evening around 4:50 and there was
cueing back from the intersection towards

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the shopping center. That could obstruct the site driveway.

Then it was also brought up in the work session about conditions regarding how the site will operate if it's reached maximum queuing capacity and whether that would be on -- who would facilitate having vehicles turned away from the site. I think that's a plan that the applicant should come up with, or at least present for review by the Board.

CHAIRMAN EWASUTYN: John Ward, do you have anything to add?

MR. WARD: No comment.

CHAIRMAN EWASUTYN: Dave Dominick?

MR. DOMINICK: No. Everything was covered by Starke.

CHAIRMAN EWASUTYN: Cliff Browne?

MR. BROWNE: Nothing at all. It was covered pretty well. Thank you.

MR. MENNERICH: No.

CHAIRMAN EWASUTYN: Stephanie?

MS. DeLUCA: Nothing more.

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MR. GALLI: Nothing.

CHAIRMAN EWASUTYN: Okay, Nick.

MR. RUGNETTA: As far as I did seek the comment with County Planning. We would have to go to the ZBA before we can circulate?

CHAIRMAN EWASUTYN: Dominic Cordisco?

MR. CORDISCO: Yes.

MR. HINES: After you complete with the ZBA there will be a need to circulate for lead agency because the DEC is an involved agency. I know there's monitoring wells out there. We don't know the status of those. We will circulate to them as an involved agency as well.

MR. HIPPE: DOT will be an involved agency.

MR. RUGNETTA: The DEC, they did do an environmental study because there may be tanks underground. It was an old car wash. They did do that. They do plan on keeping the monitoring wells, obviously. I'll get that report from the

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owner.

With regard to the DOT, do you know -- I tried contacting Siby Zachariah from the permitting department. Do you know which permit would be required for this, because we're closing an access?

MR. HIPPE: If you're doing any work within the State's right-of-way you need to complete a highway work permit which is the PERM 33. You can reach out to Lance Warring who is the head permit coordinator for Region 8. You can also -- I don't know it off the top of my head but you can find the resident engineer. They're usually more accessible than Lance and they can give you better direction. I don't know which residency this is but you should be able to just Google it.

MR. RUGNETTA: I just want a clarification. We are closing one access and rehabilitating the other.

MR. HINES: Siby is your contact for this area.

MR. RUGNETTA: I've been having

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trouble getting in touch with her.

CHAIRMAN EWASUTYN: Thank you.

MR. RUGNETTA: All right. I appreciate you putting us on for this agenda. Have a good night, everyone.

CHAIRMAN EWASUTYN: We had a great meeting.

Would someone move for a motion to close the Planning Board meeting of the 16th of September.

MR. GALLI: So moved.

MR. WARD: Second.

CHAIRMAN EWASUTYN: Motion by Frank Galli. Second by John Ward. Can I please have a roll call vote starting with Frank Galli.

MR. GALLI: Aye.

MS. DeLUCA: Aye.

MR. MENNERICH: Aye.

CHAIRMAN EWASUTYN: Aye.

MR. BROWNE: Aye.

MR. DOMINICK: Aye.

MR. WARD: Aye.

(Time noted: 8:26 p.m.)

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

I, MICHELLE CONERO, a Notary
Public for and within the State of New York, do
hereby certify:

That hereinbefore set forth is a
true record of the proceedings.

I further certify that I am not
related to any of the parties to this
proceeding by blood or by marriage and that I
am in no way interested in the outcome of this
matter.

IN WITNESS WHEREOF, I have
hereunto set my hand this 26th day of September
2021.

Michelle Conero

MICHELLE CONERO