

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

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

----- X  
In the Matter of

CURALEAF - NEWBURGH  
(2021-34)

8 North Plank Road  
Section 80; Block 5; Lot 15  
B Zone

----- X

AMENDED SITE PLAN

Date: October 19, 2023  
Time: 7:00 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

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

ALSO PRESENT: STEPHEN GABA, ESQ.  
PATRICK HINES  
KAREN ARENT  
JAMES CAMPBELL  
KENNETH WERSTED

APPLICANT'S REPRESENTATIVE: KATE CROWTHER  
and PETER D'AGOSTINO

----- X

MICHELLE L. CONERO  
Post Office Box 816  
Dover Plains, New York 12522  
(845) 541-4163

2 CHAIRMAN EWASUTYN: Good  
3 evening, ladies and gentlemen. The  
4 Town of Newburgh Planning Board would  
5 like to welcome you to the meeting of  
6 the 19th of October 2023. We have  
7 three agenda items and two Board  
8 business items.

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

12 MS. DeLUCA: Present.

13 MR. DOMINICK: Present.

14 MR. MENNERICH: Present.

15 CHAIRMAN EWASUTYN: Present.

16 MR. BROWNE: Present.

17 MR. WARD: Present.

18 MR. GABA: Stephen Gaba,  
19 Planning Board Attorney.

20 MR. HINES: Pat Hines with MHE  
21 Engineers.

22 MS. CONERO: Michelle Conero,  
23 Stenographer.

24 MR. CAMPBELL: Jim Campbell,  
25 Town of Newburgh Code Compliance.

2 MS. ARENT: Karen Arent,  
3 Landscape Architectural Consultant.

4 MR. WERSTED: Ken Wersted,  
5 Creighton Manning Engineering,  
6 Traffic Consultant.

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

10 MR. WARD: Please stand to say  
11 the Pledge.

12 (Pledge of Allegiance.)

13 MR. WARD: Please turn off your  
14 phones or put them on vibrate. Thank  
15 you.

16 CHAIRMAN EWASUTYN: Our first  
17 item this evening is Curaleaf -  
18 Newburgh, project number 21-34. It's  
19 an amended site plan located on North  
20 Plank Road in a B Zone.

21 It's being represented by?

22 MS. CROWTHER: My name is Kate  
23 Crowther, I'm with Tenax Strategies,  
24 100 Franklin Street, Boston.

25 CHAIRMAN EWASUTYN: Do you want

2 to give your presentation?

3 MS. CROWTHER: Sure. Thank  
4 you. I am here with my colleague,  
5 Pete D'Agostino.

6 CHAIRMAN EWASUTYN: Do you have  
7 a business card for the benefit of  
8 the stenographer?

9 MR. D'AGOSTINO: I can get you  
10 one.

11 MS. CROWTHER: Also here is  
12 Vilene Travelle from Curaleaf.

13 We are here tonight before you  
14 to request a special permit for the  
15 use of adult retail cannabis.

16 We had previously received  
17 approvals for our site plan as well  
18 as a building permit to expand the  
19 footprint of the building. This is a  
20 request specific just to the use.

21 The site is at 8 North Plank  
22 Road in Newburgh, New York and is  
23 currently operating as a medical  
24 cannabis dispensary.

25 In September of 2023 the

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

building permit was granted for the store expansion. The site plan for the store expansion was issued in April of 2022. The medical dispensary has been open and operating since April of 2018.

As it relates to lighting and major points of consideration as outlined in the zoning bylaw, the lighting is appropriate for security for the cameras and also for the safety of the customers and patients. It does not exceed any guidelines presently within the city. I believe that the site plans have reflected what the lumens are. Nothing is changing related to the lighting with the expansion.

Waste disposal. Cannabis waste will be as it has been, continue to be handled with security in mind and rendered unusable prior to disposal. The applicant will continue to use the onsite dumpster. Waste disposal

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

procedures will be the same as they have been under the current medical dispensary.

Exterior maintenance. There are existing contracts that will continue relating to landscaping, garbage, anything like that.

Product visibility. There are blinds that are drawn during business hours so there is not a clear line of sight into the dispensary for the dispensing of any cannabis products, not at the register, or anywhere in the facility.

Additionally, the store has limited access. You have to be 21 to enter as a consumer of adult use cannabis.

Outdoor sound. There are no speakers. There is no outdoor entertainment of any kind. That will be consistent with the current medical operating dispensary.

That's about it for us, unless

2 you have questions.

3 CHAIRMAN EWASUTYN: I'll poll  
4 the Board Members for questions.  
5 Stephanie DeLuca.

6 MS. DeLUCA: You can come back.

7 CHAIRMAN EWASUTYN: Dave Dominick.

8 MR. DOMINICK: We talked at  
9 workshop, and it's one of Pat's  
10 comments, number 7, about the  
11 dumpster and dumpster enclosure. Can  
12 you elaborate more on the location of  
13 the dumpster enclosure?

14 MS. CROWTHER: So the dumpster  
15 is located in between the two parcels  
16 that have shared ownership. The  
17 owner of the parcel where the  
18 dispensary currently is located is  
19 also the owner of the diner, and so  
20 the dumpster is located in between  
21 the two parcels.

22 MR. DOMINICK: You share it  
23 with the diner is what you're saying?

24 MS. CROWTHER: Correct. That  
25 has been the case for the past five

2 years.

3 MR. DOMINICK: That's all I  
4 have, John.

5 CHAIRMAN EWASUTYN: Ken Mennerich.

6 MR. MENNERICH: Could you address  
7 the parking, since I would expect  
8 you're going to have an increased  
9 volume of traffic through? Do you  
10 foresee any problems with the parking,  
11 the amount of parking compared to now?

12 MS. CROWTHER: I don't think  
13 so. I don't believe that's going to  
14 be an issue. On the site -- on the  
15 aerial shot that I just provided,  
16 this parking in between the two sites  
17 has not been designated to one tenant  
18 or the other and has since been  
19 designated exclusively for Curaleaf's  
20 use. When the expansion is complete,  
21 the construction fencing is down,  
22 that parking will be -- both rows  
23 will be exclusive to Curaleaf, in  
24 addition to the parking along the  
25 side as you enter into the facility



2 through the more northern driveway, I  
3 believe. So there is parking along  
4 that wall. There's parking in front  
5 of the dispensary. The parking in  
6 the rear of the building will be  
7 removed, but this actually puts back  
8 into circulation more spots.

9 CHAIRMAN EWASUTYN: How many  
10 stalls make up that?

11 MS. CROWTHER: I believe that's  
12 an accessible spot, so I think we're  
13 looking at about twenty spots.

14 MR. HINES: There's twenty-one  
15 on the approved site plan. That is  
16 the required parking for the size of  
17 the building with the addition, the  
18 3,424 square feet. That does not  
19 include any shared parking.

20 I'd have a concern if you said  
21 there's parking to be removed,  
22 because then this site does not have  
23 adequate parking.

24 MS. CROWTHER: It's twenty-five.  
25 So on the previous site plan --

2 MR. HINES: Which I have in  
3 front of me.

4 MR. D'AGOSTINO: There's no  
5 change to what he has. We're not  
6 proposing any change to what he has  
7 in front of him.

8 MS. CROWTHER: No.

9 MR. D'AGOSTINO: There are no  
10 proposed changes.

11 MR. HINES: I thought I heard  
12 you say the parking in the rear was  
13 to be eliminated.

14 MS. CROWTHER: I believe this  
15 parking, yes, because you won't be  
16 able to go around the building, I  
17 don't believe, the same way.

18 MR. HINES: The approved site  
19 plan shows an access drive, a one-way  
20 access around the building.

21 CHAIRMAN EWASUTYN: It's a  
22 tight circulation, but it's shown  
23 that it works.

24 MS. CROWTHER: I apologize.

25 May I --

2 MR. HINES: Sure. All the  
3 directional arrows --

4 MS. CROWTHER: Yes. Three  
5 spaces. I apologize. It will be  
6 those three spaces, but on the aerial  
7 map, and this is my point of  
8 confusion --

9 MR. HINES: That's the old one.

10 MS. CROWTHER: Exactly right.  
11 Yes. My apologies.

12 MR. HINES: Those need to be  
13 shown, because you have to provide  
14 the required parking.

15 MS. CROWTHER: Right. So there  
16 are no changes. The only change,  
17 technically I guess, but not to the  
18 site, is that this is now exclusive  
19 parking for Curaleaf.

20 MR. HINES: When we approved  
21 this, we thought it was as well.

22 MS. CROWTHER: Apologies. So  
23 this was something that was in  
24 conversation at the time that the  
25 site plan application was submitted,

2 and then even when the building  
3 permit application was submitted,  
4 this was not something that was  
5 finalized, nor was it when I  
6 submitted the permit application.  
7 There were discussions, but there  
8 wasn't an agreement.

9 CHAIRMAN EWASUTYN: Any more  
10 questions?

11 MR. MENNERICH: No.

12 MR. DOMINICK: How are you  
13 going to make that parking exclusive  
14 to Curaleaf?

15 MS. CROWTHER: Signage.

16 MR. DOMINICK: Are you going to  
17 paint the pavement?

18 MS. CROWTHER: I don't believe  
19 they're painting the pavement. There  
20 will be signage that will be posted  
21 down the middle of the row so it says  
22 on both sides Curaleaf customer  
23 parking. Potentially there will also  
24 be, especially during the early days  
25 when they open, there will be a

2 parking attendant.

3 MR. DOMINICK: That's going to  
4 mess up your snow clearing, putting  
5 signs like that.

6 MR. D'AGOSTINO: I think they  
7 can still snowplow. They can plow.  
8 It's still a clear path. They have a  
9 clear path right down the row.

10 I think the important thing for  
11 the Board is there are no proposed  
12 changes before the Board tonight as  
13 it relates to the approved site plan.  
14 This is simply a use permit.

15 When the expansion was done,  
16 they contemplated the additional  
17 customer traffic at that time.  
18 That's why we went to the twenty-one  
19 spaces. The Board isn't considering  
20 any amendments from the prior  
21 approval, if that's helpful.

22 MR. GABA: What about  
23 installation of the sign?

24 MS. CROWTHER: They would need  
25 to submit for approval for that.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

MR. GABA: You're here for both, the site plan and SEP. Amended site plan, that would be -- it isn't a very big change to indicate where the sign would be. You draw a little circle and say this is the sign. There is some change, isn't there?

MR. D'AGOSTINO: I mean, you're the Board's Counsel. I think that it was really just -- you know, there's signage in the way of -- like outwardly signs. I think they are just intending to show it's Curaleaf parking. I don't know how you interpret that. From a site plan perspective, I'm not sure. I would defer to you if you think that's a change.

MR. GABA: That's the only thing you're doing is placing the sign? There are no other changes?

MR. D'AGOSTINO: Correct. There are no changes.

CHAIRMAN EWASUTYN: Cliff Browne.

2 MR. BROWNE: A couple things.  
3 You referenced the disposal is the  
4 same -- will be the same as it is  
5 currently. You have an additional  
6 use. My understanding is that there  
7 is some fairly strict state code on  
8 how you dispose of whatever material  
9 that you're not using or whatever.

10 MS. CROWTHER: Right.

11 MR. BROWNE: When you refer to  
12 that, I would appreciate it if you  
13 would specify the state code that  
14 you're referencing so that it can be  
15 recorded in our minutes and we know  
16 exactly what you're talking about.  
17 Just a reference, the same as it is  
18 now. It's a different use, so there  
19 has to be something very specific to  
20 what you're going to be doing.

21 Another one is with this  
22 dumpster, I'm finding it a little  
23 difficult to accept that you're  
24 sharing a dumpster with the diner.  
25 That doesn't seem appropriate for

2 your business, to be sharing a  
3 dumpster with a diner. It just  
4 doesn't seem appropriate to me.  
5 Maybe we could have Code Compliance  
6 weigh in on that and have their  
7 opinion on if it's appropriate or not  
8 appropriate.

9 MR. CAMPBELL: I would think  
10 that's more of a licensing agreement  
11 as far as -- not an agreement, but  
12 the license requirements.

13 MR. BROWNE: Licensing for  
14 their type of business?

15 MR. CAMPBELL: For their type  
16 of business. I don't know what the  
17 special requirements are.

18 MR. BROWNE: That would be  
19 different from the diner?

20 MR. CAMPBELL: I would assume  
21 so. I don't know. I don't know the  
22 cannabis rules.

23 MR. BROWNE: That needs to be  
24 cleared up, because I'm thinking,  
25 from what we're seeing, normally a



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

business like this has their own disposal, their own dumpster or whatever. To share that with a diner with your type of business, it doesn't seem appropriate.

MS. CROWTHER: No cannabis waste ever goes into a shared dumpster.

First, every item that goes into the dispensary is prepacked. There's nothing happening in terms of production or packaging onsite. Product comes into the dispensary, it's delivered securely from the cultivation facility. It is dispensed currently, as it has been for the past five years, to medical patients with an appropriate identification card. The waste typically that's generated from the facility is from the break room, from snacks, from recycling and things like that. There is no cannabis product --

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

MR. BROWNE: When you're going forward, what you're going to be doing on the property is different from that?

MS. CROWTHER: No. It's actually exactly the same. The medical program and the adult use program, it's essentially -- the only difference is that one person has a medical card and is authorized to purchase a certain quantity. Certain products are customized for medical patients, either through THC content or specific delivery methods, like Forsythia oil, which is something that people use for appetite if they are going through chemotherapy or something like that. Not every product that is available to a medical patient is available to an adult use patient. That's really the only difference.

The product, the cannabis -- so the cannabis that is not specific for

2 -- specifically designated for  
3 medical patients is the exact same  
4 product that adult use customers  
5 purchase. The same flower, the same  
6 distillate, the same everything. The  
7 only difference is one is regulated  
8 differently to a certain medical  
9 patient and the other is for the  
10 public.

11 MR. BROWNE: From what you're  
12 saying, there will be no consumption  
13 onsite?

14 MS. CROWTHER: No.

15 MR. BROWNE: No consumption  
16 whatsoever?

17 MS. CROWTHER: I apologize. I  
18 didn't realize that was your question.

19 MR. BROWNE: That was a follow-  
20 up question.

21 MS. CROWTHER: Okay. Yes. No  
22 consumption onsite, no.

23 So say something were to come  
24 in damaged to the facility, it is  
25 destroyed through a mechanism. You

2 either grind it with kitty litter or  
3 coffee grounds. Something that does  
4 truly render it usable, unpalatable.  
5 Often is the case, it actually goes  
6 back to the cultivation facility and  
7 it's destroyed, disposed of there.  
8 The amount of waste that's generated  
9 from the dispensary is minimal.

10 MR. BROWNE: Thank you. I was  
11 under the assumption that it was  
12 onsite use.

13 MS. CROWTHER: No. Everything,  
14 again, comes into the facility  
15 prepackaged. There's no loose  
16 products of any kind.

17 MR. BROWNE: Thank you.

18 MR. WARD: I remember when you  
19 originally came in front of us, the  
20 owner of the diner was here, he was  
21 your landlord. I mentioned about the  
22 parking and future parking. He  
23 mentioned about what you're doing.  
24 I'd like to see a note on the plan  
25 documenting that and him signing it

2 so it's an agreement-type thing.

3 MS. CROWTHER: I think that's  
4 fair. We can provide that.

5 MR. WARD: Like Steve mentioned  
6 in reference to the signs, just mark  
7 out you're going to have a sign so  
8 they know what it is.

9 The dumpster, you're talking  
10 your own dumpster next to the diner's  
11 dumpster?

12 MS. CROWTHER: No. It's a  
13 shared dumpster.

14 MR. WARD: It's all one. Very  
15 good. Thank you.

16 CHAIRMAN EWASUTYN: Do you have  
17 a valid license now?

18 MS. CROWTHER: No. So the  
19 license that currently exists for the  
20 facility is for the medical use.  
21 Licensing for adult use is not yet  
22 available, but one of the steps to  
23 get there is by moving forward with  
24 the local process. When the license  
25 is available, then we would, of

2 course, present it to the Town.  
3 You're not allowed to commence adult  
4 use sales of any kind before you have  
5 a valid license with the state.

6 CHAIRMAN EWASUTYN: Explain to  
7 me your part and parcel to Curaleaf.  
8 Are you a separate entity or are you  
9 part of Curaleaf? You're representing  
10 Curaleaf. In what capacity?

11 MS. CROWTHER: I am a  
12 consultant. I'm a senior vice  
13 president at Tenax Strategies.

14 CHAIRMAN EWASUTYN: Can you  
15 elaborate on that? You're consulting  
16 with Curaleaf as far as this  
17 additional use?

18 MS. CROWTHER: Yes. So in a  
19 way, yes. I do not typically deal  
20 with dispensary operations on a  
21 day-to-day basis, but what we provide  
22 -- our service is to obtain local  
23 permits, local approvals, we help  
24 manage projects under construction  
25 and things like that to make sure

2 that they remain compliant. We work  
3 with our clients as they are moving  
4 toward final licensure or if they are  
5 doing any change of ownership, change  
6 of location. Anything like that. So  
7 it's really about titlements, permits  
8 and licenses for us.

9 MS. DeLUCA: Where do the  
10 products come from?

11 MS. CROWTHER: From the  
12 cultivation facility.

13 MS. DeLUCA: Located where?

14 MR. D'AGOSTINO: Ravina.

15 MS. DeLUCA: I don't know where  
16 that is.

17 CHAIRMAN EWASUTYN: It's in New  
18 York.

19 MR. D'AGOSTINO: Definitely New  
20 York.

21 MS. CROWTHER: No product is  
22 allowed to cross state lines. I  
23 would say we're still a little ways  
24 off from that, I would hope.

25 CHAIRMAN EWASUTYN: Jim

2 Campbell, Code Compliance.

3 MR. CAMPBELL: No additional  
4 comments.

5 CHAIRMAN EWASUTYN: Pat Hines  
6 with MH&E.

7 MR. HINES: Unfortunately you  
8 didn't get the comments. I sent them  
9 to the engineer that did the site  
10 plan.

11 MS. CROWTHER: I was wondering.

12 MR. HINES: There's not a lot  
13 of heavy lifting.

14 The first comment is just that  
15 you're here before Zoning Section  
16 185-49, which was adopted, and Local  
17 Law 1 of 2023. It identifies the  
18 parameters for the Planning Board to  
19 review cannabis-related uses.

20 The project is a special use in  
21 the B Zone. Special uses require  
22 public hearings.

23 The application identified that  
24 no external changes to the approved  
25 site plan dated May of '22 are



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

proposed.

My fourth comment identifies each of the five factors that appear in the local law that you have touched on, the lighting, the trash disposal, the exterior maintenance of the buildings and grounds.

No display of sales, product, paraphernalia related to the consumption shall be visible.

The outdoor sound production.

I noted that you provided a narrative to the Board for each of those.

Section 48.9(d) requires a valid license prior to approving the special permit or that would have to be a condition.

The project is a Type 2 action under SEQRA as it's commercial, less than 4,000 square feet.

I noted there was no dumpster enclosure on the site, and we've discussed that.

2 The Planning Board has a  
3 process where, after your first  
4 appearance at the Planning Board here  
5 tonight, you'll need to send an  
6 adjoiners' notice to all properties  
7 within 500 feet. Because this is an  
8 amended site plan/special use on a  
9 state highway, we need to submit to  
10 County Planning which has a  
11 thirty-day review process, as well,  
12 once they receive it.

13 The only action the Board can  
14 take tonight would be authorizing the  
15 adjoiners' notice and the County  
16 Planning submission.

17 CHAIRMAN EWASUTYN: Here's a  
18 copy of Pat's comments.

19 MS. CROWTHER: Thank you.

20 CHAIRMAN EWASUTYN: Do you have  
21 any additional questions or comments?

22 MS. CROWTHER: No.

23 CHAIRMAN EWASUTYN: Pat, would  
24 you explain how the adjoiners' notice  
25 will be done.

2 MR. HINES: I will write up the  
3 adjoiners' notice describing the  
4 project. We have a boilerplate with  
5 a little information about what the  
6 project is. I will provide that to  
7 you along with the mailing list.

8 MS. CROWTHER: Perfect. Thank  
9 you.

10 MR. HINES: The mailings will  
11 be addressed, stamped, stuffed with  
12 that notice and delivered to the Town  
13 Hall. We actually -- the Town Hall  
14 will do the mailing to save from the  
15 certified mailing cost. It's  
16 first-class stamps. I have your  
17 e-mail.

18 MS. CROWTHER: Thank you.

19 MR. HINES: I'll work with you  
20 on that.

21 MS. CROWTHER: Perfect.

22 MR. D'AGOSTINO: Maybe just for  
23 coming back to the Board at the next  
24 meeting, you would like to see the  
25 annotation of the parking signs?

2 MS. CROWTHER: The parking  
3 designated.

4 MR. D'AGOSTINO: The dots or  
5 the circles. I heard Mr. Ward's  
6 comments. We'll address that as  
7 well.

8 Was there anything else, Mr.  
9 Chairman, from the Board?

10 CHAIRMAN EWASUTYN: You can ask  
11 the Board Members.

12 Ken Wersted with Creighton  
13 Manning. Ken.

14 MR. WERSTED: The previous  
15 application had some modifications to  
16 the site. Have those all been taken  
17 care of or has it been constructed in  
18 that fashion, according to the site  
19 plan that was previously approved?

20 MR. D'AGOSTINO: What is the  
21 question?

22 MR. WERSTED: The application  
23 from two years ago had site plan  
24 modifications on it.

25 MS. CROWTHER: Yes. The site

2 is currently under construction. Is  
3 that what you're asking? Yes. The  
4 building permit that was just  
5 received in September, they are  
6 underway with construction.

7 MR. WERSTED: That's what I was  
8 trying to understand. The site plan  
9 had modifications to, say, the  
10 entrances, but it didn't appear, at  
11 least in Google Maps, that those had  
12 taken place. That's under  
13 construction right now?

14 MS. CROWTHER: Just right now.  
15 Currently all operations are --  
16 they've remained the same. The same  
17 entry point, the same exit point.  
18 Everything is the same currently  
19 until the expansion is complete.

20 MR. WERSTED: Thank you.

21 MS. CROWTHER: Thank you. The  
22 applicant would not commence adult  
23 use sales until, of course, the final  
24 license, but also until the expansion  
25 is complete, because that's what

2 allows for the flow.

3 CHAIRMAN EWASUTYN: Are there  
4 any additional requirements that you  
5 would like to have the applicant  
6 present at the next meeting?

7 MR. HINES: I think Mr. Browne  
8 had some notes that he --

9 MR. BROWNE: No. We took care  
10 of that. Thank you.

11 MS. DeLUCA: I'm sorry. I'm  
12 just trying to remember the picture.  
13 Was the dumpster in an enclosed area?

14 MR. D'AGOSTINO: Yes.

15 MS. DeLUCA: It is. Okay.  
16 Just clarifying. Thank you.

17 CHAIRMAN EWASUTYN: Steve Gaba  
18 with Drake, Loeb, Planning Board  
19 Attorney, has a question.

20 MR. GABA: When do you suppose  
21 the license will be issued for adult  
22 sales?

23 MR. D'AGOSTINO: I don't know.  
24 The state --

25 MS. CROWTHER: I don't know.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

MR. D'AGOSTINO: It's a process.

MS. CROWTHER: If you have monitored the proceedings, we'll call them, at the state level, there is a bit of a different process for registered organizations, which is what this is considered, a medical dispensary, to convert or add adult use to their site. We would anticipate probably within the next six months. The state has their hands full currently with the general applications, having just opened.

MR. D'AGOSTINO: Mr. Chairman, if I could just speak to the question on the license. I think I heard a comment about that, if I may.

CHAIRMAN EWASUTYN: Go ahead.

MR. D'AGOSTINO: Under the bylaw, the bylaw under Section D that Mr. Hines had mentioned, the bylaw contemplates that the special permit would be issued by the municipality, and the risk, if you will, would be

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

on the applicant, and that they couldn't proceed without providing a final license to the municipality, to the Town.

MR. GABA: There are two ways we could go about it, or the Board could go about it I should say. They could either grant you, if you satisfy the requirements of the special use permit, et cetera, conditional upon or they could hold off granting it until you have a license. Six months I would think, of course it's up to the Board, that they would want to grant it subject to the condition that you provide the license. Sooner I might sing a different song. Six months is long enough. That's the Board's decision, of course.

MR. D'AGOSTINO: Of course. Absolutely. We can certainly follow up. Just in reviewing the bylaw, it seemed as though the bylaw almost



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

required --

MR. GABA: When you say bylaw, do you mean the Town code?

MR. D'AGOSTINO: Yes, the Town code. I apologize. The Town code. It says an applicant who receives a special permit, who decides to proceed with the special use, does so realize the special permit and all rights to continue shall terminate provided herein -- I guess we're just acknowledging to the Board that we understand that that would be a condition of the special permit and that we would, you know, certainly adhere to submitting that to the Town prior to beginning the operation. I guess we're just acknowledging we've reviewed that and we understand that would be a requirement of the Town.

Quite frankly, whether it was a condition or not, the way I read it, we would have to do it in either case.

2 CHAIRMAN EWASUTYN: Okay.

3 Anything else?

4 MR. GABA: No.

5 CHAIRMAN EWASUTYN: Thank you.

6 MR. MENNERICH: Do you want to  
7 vote on sending it to Orange County  
8 Planning?

9 CHAIRMAN EWASUTYN: We can do  
10 that. Do you want to make that  
11 motion?

12 MR. MENNERICH: I'll make a  
13 motion that we send the project to  
14 the Orange County Planning Department.

15 MR. DOMINICK: Second.

16 CHAIRMAN EWASUTYN: I have a  
17 motion to refer to the Orange County  
18 Planning Department by Ken Mennerich.  
19 We have a second by Dave Dominick.  
20 Can I please have a roll call vote  
21 starting with Stephanie DeLuca.

22 MS. DeLUCA: Aye.

23 MR. DOMINICK: Aye.

24 MR. MENNERICH: Aye.

25 CHAIRMAN EWASUTYN: Aye.

2 MR. BROWNE: Aye.

3 MR. WARD: Aye.

4 MR. GABA: John, one other  
5 thing.

6 Pat, in regard to the public  
7 hearing, should the Board consider  
8 scheduling that now or hold off until  
9 you get revised materials?

10 CHAIRMAN EWASUTYN: Generally  
11 we wait until we hear back from the  
12 County.

13 MR. GABA: Very good.

14 MR. WARD: That's thirty days.

15 MR. D'AGOSTINO: Just so I'm  
16 clear, that's for the adjoiners'  
17 notice, for the scheduling?

18 CHAIRMAN EWASUTYN: No. That  
19 will go out.

20 MR. HINES: The adjoiners'  
21 notice is separate. Because this is  
22 a special use, it needs to have a  
23 public hearing. Once the County  
24 Planning referral is back, this Board  
25 will schedule that public hearing at

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

a regular Planning Board meeting in the future. There's a whole separate notice provision. I'll work with you on that.

MS. CROWTHER: Thank you. I will also introduce you to my colleague, Ben, who will help support that effort.

MR. HINES: That's fine. My e-mail is on the comments.

(Time noted: 7:28 p.m.)

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

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 30th day of October 2023.

*Michelle Conero*  
\_\_\_\_\_  
MICHELLE CONERO

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

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

----- X  
In the Matter of

BRITAIN WOODS  
(2022-17)

442 Little Britain Road  
Section 97; Block 1; Lots 32.1, 32.2. 32.3 & 40.1  
R-3 Zone

----- X

DRAFT DEIS

Date: October 19, 2023  
Time: 7:28 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

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

ALSO PRESENT: STEPHEN GABA, ESQ.  
PATRICK HINES  
KAREN ARENT  
JAMES CAMPBELL  
KENNETH WERSTED

APPLICANT'S REPRESENTATIVE: JANE SAMUELSON

----- X

MICHELLE L. CONERO  
Post Office Box 816  
Dover Plains, New York 12522  
(845) 541-4163

2 CHAIRMAN EWASUTYN: The second  
3 item of business this evening is  
4 Britain Woods. It's a draft DEIS.  
5 It's located at 442 Little Britain  
6 Road. It's in an R-3 Zone. It's  
7 being represented by Engineering &  
8 Surveying Properties.

9 MS. SAMUELSON: Jane Samuelson  
10 with Engineering & Surveying  
11 Properties. I'm here with Zach  
12 Grotto, the sign engineer for the  
13 project.

14 The project was reviewed by you  
15 last year. You called a public  
16 scoping session for the DEIS which  
17 was adopted in January of last year.  
18 We've been working preparing that  
19 DEIS since then. We submitted it, I  
20 think the beginning of this month.

21 We're just here tonight for you  
22 to acknowledge receipt of the DEIS  
23 and begin reviewing it.

24 CHAIRMAN EWASUTYN: At this  
25 point, I'll turn to Planning Board

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

Attorney Steve Gaba to discuss this.

MR. GABA: Sure. Where you are in the SEQRA process now is you've received a draft DEIS. You have forty-five days in which to review it and either accept it as complete or vote to reject it as incomplete, or, perhaps better still, work with the applicant to determine what deficiencies there may be, extend the time so they can be remedied.

At this point the Board really can't do much more than vote to acknowledge receipt of the DEIS and begin the review process. The consultants will then undertake the review in coordination with the Board. At the next meeting, or shortly thereafter, reports will be issued to the applicant as to what the Board's feeling is in regard to the DEIS and its completeness.

CHAIRMAN EWASUTYN: Comments from Planning Board Members?



2 MS. DeLUCA: Just that I would  
3 need the forty-five days to review  
4 it. It's quite extensive.

5 MR. DOMINICK: Nothing at this  
6 time.

7 MR. MENNERICH: No.

8 MR. BROWNE: No.

9 MR. WARD: No.

10 CHAIRMAN EWASUTYN: Pat, do you  
11 want to add something?

12 MR. HINES: No. That's exactly  
13 what my comments have. We will begin  
14 that review versus the scope for  
15 completeness and we'll issue comments  
16 accordingly.

17 CHAIRMAN EWASUTYN: Karen,  
18 Landscape Architect.

19 MS. ARENT: I want you to be  
20 aware of the new tree code that needs  
21 to be addressed.

22 MS. SAMUELSON: Yes.

23 CHAIRMAN EWASUTYN: Ken Wersted  
24 with Creighton Manning.

25 MR. WERSTED: Nothing additional.

2 CHAIRMAN EWASUTYN: Jim  
3 Campbell with Code Compliance.

4 MR. CAMPBELL: Nothing additional.

5 CHAIRMAN EWASUTYN: Would  
6 someone make a motion to acknowledge  
7 receipt of the draft DEIS for Britain  
8 Woods?

9 MR. WARD: So moved.

10 MS. DeLUCA: Second.

11 CHAIRMAN EWASUTYN: I have a  
12 motion by John Ward. I have a second  
13 by Stephanie DeLuca. Can I have a  
14 roll call vote starting with  
15 Stephanie DeLuca.

16 MS. DeLUCA: Aye.

17 MR. DOMINICK: Aye.

18 MR. MENNERICH: Aye.

19 CHAIRMAN EWASUTYN: Aye.

20 MR. BROWNE: Aye.

21 MR. WARD: Aye.

22 MS. SAMUELSON: Thank you very  
23 much. Have a good night.

24

25 (Time noted: 7:33 p.m.)

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

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 30th day of October 2023.

*Michelle Conero*  
\_\_\_\_\_  
MICHELLE CONERO

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

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

----- X  
In the Matter of

MATRIX 1-84 DISTRIBUTION CENTER  
(2022-29)

Route 17K  
Section 86; Block 1; Lot 97  
Section 90; Block 1; Lots 66 & 69.1  
IB Zone

----- X

PUBLIC HEARING  
SITE PLAN, LOT LINE CHANGE AND CLEARING & GRADING

Date: October 19, 2023  
Time: 7:33 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

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

ALSO PRESENT: STEPHEN GABA, ESQ.  
PATRICK HINES  
KAREN ARENT  
JAMES CAMPBELL  
KENNETH WERSTED

APPLICANT'S REPRESENTATIVES: CHARLES  
GOTTLIEB, CHARLES UTSCHIG, LAUREN McMAHON,  
RAY AQUINO, KEN GRIFFIN

----- X

MICHELLE L. CONERO  
Post Office Box 816  
Dover Plains, New York 12522  
(845) 541-4163

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

CHAIRMAN EWASUTYN: The third item of business this evening is Matrix I-84 Distribution Center. It's a public hearing on a site plan, lot line change and clearing and grading.

Mr. Mennerich will read the notice of hearing.

MR. MENNERICH: "Notice of hearing, Town of Newburgh Planning Board. Please take notice that the Planning Board of the Town of Newburgh, Orange County, New York will hold a public hearing pursuant to Section 276 of the New York State Town Law and Chapter 83 of the Town of Newburgh Town Code, Clearing & Grading, on the application of Matrix I-84 Distribution Center, project 2022-29. The project involves the proposed construction of a 595,000 square foot warehouse facility on a proposed 59 plus or minus acre parcel of property. The project involves

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

lot line changes to create a combined 59 plus or minus acre parcel of property. The project is located on New York State Route 17K, west of the Manheim Auto Auction, east of Homewood Avenue. The proposed warehouse will be served by connections to the Town of Newburgh municipal water and sewer systems. A fire protection water tank is proposed on the site. Access to the site is via a proposed boulevard entrance off of New York State Route 17K. Emergency access will be provided through an easement on an adjoining parcel. A stormwater pollution prevention plan has been prepared. The project also involves the application for clearing and grading approval in accordance with Chapter 83 of the Town Code. The project is located in the Town's IB Zoning District. The project site is known on the Town of Newburgh tax

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

maps as Section 86; Block 1; Lot 97 and Section 89; Block 1; Lots 66 and 69.11. A public hearing will be held on the 19th day of October 2023 at the Town Hall Meeting Room, 1496 Route 300, Newburgh, New York at 7 p.m. or as soon thereafter as can be heard, 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 28 September 2023."

CHAIRMAN EWASUTYN: Thank you, Mr. Mennerich.

MR. GOTTLIEB: Good evening, Mr. Chairman, Members of the Board. My name is Charles Gottlieb. I'm from the law firm of Whiteman, Osterman & Hanna in Albany, New York, here on behalf of Matrix Route 17K Development, LLC. In furtherance of the proposed warehouse that was just

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

read in the notice that requires site plan, lot consolidation and a clearing and grading permit from this Board.

Here this evening we have Lauren McMahon from Langan Engineering, Chuck Utschig from Langan Engineering, Ken Griffin from Matrix Development, and Ray Aquino from Matrix Development.

We're here this evening for a public hearing on these applications.

We recently submitted some additional information dated October 12th to this Board. That included revised site plans, responses to comments that we had to date, revised EAF and SEQRA information, a clearing and grading permit and a revised stormwater pollution prevention plan.

Our intent this evening is to go through the revised submission with this Board. We can also do a presentation for members of the



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

public, if the Board wishes. I'm not seeing any members of the public, but we certainly would oblige if the Board wants us to.

Specifically, we'd like to also elaborate on one aspect of our most recent submission which was the revision of the net fill export that will be involved for this project. Originally the intent, as it always is, is to seek a balanced site related to cut and fill. Multiple factors had led to our recent submission where the project has now been calculated to have about 160,000 cubic yards of export, which decision and determination was the result of a number of factors that Lauren and Chuck may speak to later, including retaining walls, a recent application from the FAA, entrance grade limitations and discussions with the contractor for the project. We'll dive into this a little bit more, as

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

much as the Board would like us to, but there is no SEQRA impact from this net fill export. There will be no additional traffic from the export that's above the thresholds that were already studied by this Board in the SEQRA negative declaration related to the truck traffic that will be utilizing the site.

In addition, we've supplied a revised stormwater pollution and prevention plan that satisfies all DEC requirements.

Lastly, pending any substantial comments from members of the public, which I do not expect this evening, we would be seeking a closing of the public hearing and an approval of the project with the conditions being those that were in Mr. Hines' memo from MHE. We can certainly go through those comments one by one and discuss those, as well as the landscaping comments that we did

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

receive.

So with that said, we can certainly go through the project or we can answer any questions that you may have.

CHAIRMAN EWASUTYN: Is there anyone here this evening for the public hearing on the Matrix I-84 Distribution Center? It's a public hearing on the site plan, the lot line change and clearing and grading.

(No response.)

CHAIRMAN EWASUTYN: Let the record show that there's no one here this evening from the public to comment on the hearing before us.

Continue with your presentation.

MR. GOTTLIEB: If the Board would like, we can go through the project, it doesn't appear as though there's anyone from the public, or we can answer questions or dive right into the comments.

CHAIRMAN EWASUTYN: I think we

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

ought to dive into what was considered to be a balanced site which is no longer a balanced site. I'm talking about generating 160,000 cubic yards of soil. Maybe we'll consider rescinding the negative declaration to have more answers to questions that we have and weren't prepared for originally. It's rather open ended.

I'll turn to Planning Board Attorney Steve Gaba to give us the possibilities.

MR. GABA: Well, you received an EAF which did not indicate that there would not be a balanced site, and so it was processed up to this point, this application was, with the understanding that there would be a balanced site, there would be no fill taken off or brought in. Determinations were made in regard to traffic in expectation that construction would be limited to the

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

construction work that had been proposed. Now new information has come to light. The applicant has volunteered that 160,000 cubic yards will be brought off the site. I'm not certain exactly where all that fill is going to go. There's information regarding the truck traffic which would be generated while construction is ongoing. I don't have the numbers directly in front of me, but it's quite a few truck trips per day for at least a two-month period. That new information, arguably this is a change in the proposal of the project, would warrant this Board vacating the negative declaration in order to fulfill its obligation to take a hard look at potential significant adverse environmental impacts. I don't know that the Board is obligated to do that legally, but certainly in fulfillment of its SEQRA obligations, if nothing else it will

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

want to reaffirm the negative declaration. In order to do that, I think substantial information regarding exactly how this is going to work will need to be provided by the applicant. That's up to the Board, of course, to determine how deep a dive that needs to be. If not to the Board, I would think at least the consultants, you're going to want to have a rather substantial conversation about how this is going to work.

MR. GOTTLIEB: Yeah. I completely understand what you're saying.

A few things I'll point out. There's no need to rescind the negative declaration. The SEQRA regulations allow for when new information -- SEQRA understands that projects are going to change throughout the year, year and a half that a project goes through

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

permitting. When there is new information, the Board has the ability to -- it may -- it says in the SEQRA regulations, it may amend a negative declaration. In certain circumstances you can rescind a declaration. Here, this is not one of those.

If the Board would like additional information after it hears from our civil engineer, we're certainly willing to provide that. What we'll try to demonstrate for you this evening is related to traffic. It sounds like that's the big question.

MR. GABA: There's an issue regarding noise as well. I mean, I understand that if there's blasting, there will be at least crushing of rock onsite. You have that in addition to all the truck traffic that's going in and out. I mean, there could be a number of issues

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

here besides just the soil and the truck traffic. It's something, like I said, you don't want to have your consultants not present to the Board, at least talk with the Board's consultants. There are a lot of concerns with this.

MR. GOTTLIEB: Sure. Of course.

MR. BROWNE: One more point.

We look to our representative to advise us as to what can be done and not done. We are informed that we can rescind it, we listen to that, not to you.

MR. GABA: I don't think he was saying you can't. I think he was just saying he didn't feel it would be justified.

MR. BROWNE: That's not what I heard.

MR. GOTTLIEB: I would certainly allow this Board to defer to its counsel. I would never step on any toes. That is not what I



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

meant.

Lauren, if you don't mind digging into how many truck trips and how that relates also to the thresholds that were studied, and then any questions.

MS. McMAHON: Sure. As was mentioned, after talking with our contractor and balancing the viability of the site and the FAA application, we did land on this finished floor elevation of 569.5, which also maxed out our slopes on our road. It kind of put us at this point where we do have a net export which we did want to bring to your attention.

90,000 cubic yards of this is topsoil. Topsoil can't really be utilized in the geo-grid backfill area of the walls which are surrounding the entire site or in areas of cut. Even if we could get it a little bit more balanced, we

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

still need to export 90,000 cubic yards of topsoil. We have an additional export over that. Once we kind of zeroed in on this number, we did our best to use some of that fill onsite.

We're not expecting any blasting. The earthwork is the same. We're trying to use some additional fill over here and some additional fill over here. What that did is we eliminated 160 feet of retaining wall, and we also lowered the retaining wall here from up to 40 to 45 feet. We significantly reduced some of the walls on the site, which is positive.

We looked at the stormwater. There were no real significant impacts to the stormwater. The pipes are still sized sufficiently to pass flow. We are doing the grades under 17K, so that was okay. We submitted a revised SWPPP.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

We updated the tree ordinance plan, which we are still under the 75 percent threshold.

We're still complying with the removal timeframe for bats.

In regards to the traffic, there would be 15 trucks estimated doing 8 trips per day for a total of 120 trucks in and out of the site over about a two-month period. This is less than the amount of traffic that would be generated during operation and during the construction of the actual building. After they get the earthwork up to speed and they start building construction, you have a bunch of different crews coming in and out and different types of construction vehicles. That upfront earthwork process of two months, that would be a little bit less traffic impact than what would have been expected.

The other thing is visuals. We

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

still maintained, I believe it was a  
twenty-foot tree buffer in this area.  
You really can't see through here.  
We did look at the visual impact.

I think those were all the  
impacts we covered in the letter that  
was sent to you regarding this.

CHAIRMAN EWASUTYN: You started  
out talking about trips. 160,000  
cubic yards. The vehicles that will  
be hauling the material, will they be  
tri-axles or trailers?

MS. McMAHON: Dump trucks.  
About 15 cubic yards they can hold.

CHAIRMAN EWASUTYN: So if you  
have 160,000 cubic yards, it seems  
like there's going to be 8,000 trips.

MS. McMAHON: Over a two-month  
period.

CHAIRMAN EWASUTYN: 8,000 trips  
is a lot of trips.

MR. UTSCHIG: Mr. Chairman,  
you're correct. The time period with  
the material will extend a little bit

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

longer than two months. It's probably four or five months, depending on exactly how efficient the timing is on the moving of material and the size of the trucks that they have available.

MS. McMAHON: We're not expecting to place the material on other Newburgh sites.

CHAIRMAN EWASUTYN: So let me understand something. Trips are determined by doing rounds. Correct? So if you're not disposing of any material in the Town of Newburgh, then the distance you may be traveling to will either increase the amount of rounds or lessen the amount of rounds. If you're factoring in 8 rounds per day, you figure you'll be going within 8 miles, 10 miles?

MR. UTSCHIG: I'm not sure the contractor has given us exactly what the distance is to his expected disposal sites, but he did provide us

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

with the number of trips that we're using in this analysis. I can verify that we have accounted for an appropriate time to get to the dump site -- to the disposal site and back again. We didn't delve into that timeframe. The contractor did. I'd have to provide that information.

CHAIRMAN EWASUTYN: I think one of the major concerns that we'll have to sit down and iron out is calls that the Town of Newburgh is going to be receiving from residents in the area as far as these trucks that are going to be -- I think the difficulty of that came in with the Amazon site, which I believe, not that it has anything to do with the contractor, the same contractor managed the Amazon site. I don't know this to be a fact. There was a substantial amount of trucks daily that went all over the place, and the Town of Newburgh was one that was impacted by

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

residents saying what's going on here. I don't want to say it's a control issue, but it's a monitoring issue.

MR. UTSCHIG: I understand. I mean, I think one of the things that we could do is provide like a more detailed plan. The intent is to use the interstates, obviously. From a contractor's perspective, that's his best bet. We can try to put together a plan to show the Board where their area is. I don't know that they've selected all of their disposal sites is the difficulty. If we can hone in on some more information, give you length of travel time, how they anticipate going, where we think it might go, as long as the Board is flexible. We're trying to find a place to put two different types of materials. I think we can supplement our submission with some additional information that would

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

help you understand that better.

CHAIRMAN EWASUTYN: I'll turn it over to the Board Members for questions or comments, because maybe we're leading into something where there might have to be a continuation of the public hearing and there might have to be a consultants' meeting to define the activity so when the Board eventually closes the public hearing, I'll make it part of the record, we all know in what direction we're going. Again, it's early in the meeting.

Stephanie DeLuca.

MS. DeLUCA: No additional right now.

CHAIRMAN EWASUTYN: Dave Dominick.

MR. DOMINICK: That's a pretty big number, 160,000 cubic yards. You said 15 trucks, 8 trips per day, 8,000 over the couple months of timeframe.

17K, which is busy, congested



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

and not a safe road as it is now,  
it's dangerous, this needs to be look  
at deeper and in more detail than  
what's presented here tonight.

That's all I have, John.

CHAIRMAN EWASUTYN: Ken Mennerich.

MR. MENNERICH: I concur with  
what Dave said.

Also, the fact that having a  
consultants' meeting would make sense  
to iron out some of this.

MR. DOMINICK: I agree with  
that second comment about the  
consultants' meeting.

CHAIRMAN EWASUTYN: Cliff Browne.

MR. BROWNE: I definitely  
believe it needs to go to a  
consultants' meeting.

One of the things that I'm  
concerned about is out of the Town  
dumping -- the Town disposal, how  
ever you want to phrase it properly.  
I would hope that somehow you would  
have some sort of documentation for

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

whatever town this is being disposed in, that they have approved or will approve this process, whatever site you're going to. I don't personally like to have us be the originator, us being the Town of Newburgh, being the originating site and you dump it in other towns and, oh well, it's their problem. I would hope that's being controlled or monitored or something setup with the other town where it's going that they are receiving it properly and it be done properly in their town. Something like that in your documentation that that's being addressed or being looked at.

CHAIRMAN EWASUTYN: John Ward.

MR. WARD: I'm very surprised that this wasn't picked up on beforehand, showing us the detail of the volume of 160,000 cubic yards.

At the same time, you're talking school traffic, regular traffic. There's a lot of traffic.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

I don't care if you take 84 or not,  
you're going to get stuck on 84, too.  
There's construction on there. There  
could be an accident. So your  
calculation of 8 trips per going,  
it's not going to work that way.  
You're talking heavy trucks going in  
and out. 17K, they have that merge  
there. It's a major speedway. When  
they merge in, they're going down,  
trucks are coming out. Are you going  
to have a flagman out there every  
time for the guy to come out or go  
in? Either/or. It's dangerous. One  
way or another, that's a lot of  
volume to do and a lot of trips.  
You've got to have a consultants'  
meeting, but it's major.

CHAIRMAN EWASUTYN: Ken Wersted  
with Creighton, Manning.

MR. WERSTED: I think  
understanding, as you mentioned, the  
operations, having a better  
understanding of how that's going to

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

work, the duration, what's your truck capacity. You may not know the location of the disposal sites, but if you can give us an idea of the radius that this is all accounting for. If we can get 15 trucks making one roun trip an hour, how far is that going out? You're certainly not shipping the stuff to Pennsylvania. Are we staying in Orange County? Where is the limit on those?

MR. UTSCHIG: Understood.

MR. WERSTED: If there's anything else happening on the site at that time relative to construction, if the retaining walls are being built simultaneously. Just having a better understanding of what other phases of construction are taking place while this spoils operation is underway.

CHAIRMAN EWASUTYN: You made a comment during the work session about the possibility of a temporary

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

traffic light being put at this intersection to actually help trucks coming in and out and to just sort of help create a rhythm.

MR. WERSTED: The DEC, when they were doing the tunnelling project, anticipated shipping off a lot of spoils from the site. They actually went through and constructed a traffic light, which has now become kind of permanent. The original duration of the project was going to call for something to be there and help the trucks coming in and out. That may be applicable here, depending on where the trucks are going. That's an option to relieve the need for a flagger standing out there in the intersection. A temporary traffic signal could be put up on wood poles, they could be trailers. We just discussed that at the work session. Maybe it's applicable here.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

CHAIRMAN EWASUTYN: Jim Campbell,  
Code Compliance.

MR. CAMPBELL: I do believe  
that there should be some sort of  
monitoring system in place. I know  
when Amazon was exporting, it created  
a lot of headaches for us. We  
wouldn't want to do that to somebody  
else.

CHAIRMAN EWASUTYN: Pat Hines  
with MH&E.

MR. HINES: We had issued some  
comments. We were also identifying  
the 1.2 acres of additional  
disturbance which has been addressed  
in the updated SWPPP. The SWPPP was  
addressed pursuant to some of our  
previous comments.

Keeping some of the soil on the  
site reduced that number down to the  
160. It would have been greater if  
the grading modifications that they  
performed weren't incorporated.

The clearing and grading permit

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

that has been applied for. Any authorization for clearing and grading will require a DOT access approval. I think Ken's office could probably loop in the DOT into this clearing and grading and the amount of material to be removed so they're aware.

A DEC construction stormwater permit would have to be established.

The Town has a separate security for clearing and grading, should the Board issue that. That security would need to be there and a clearing and grading permit from the Town of Newburgh.

The lot consolidation should also be completed such that the applicants have the ability to do clearing and grading on what is currently someone else's property in some locations.

Ken had mentioned what other activities are going to be going on.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

The retaining wall. There's thousands of feet of retaining wall on the site. If those are going to be constructed at the same time, those should be addressed in this analysis that's undergoing.

We have technical comments that can be addressed by the applicant's representative.

As the Board is reviewing this clearing and grading change or the volume of material being removed from the site, also as you're addressing the SEQRA issue that has 1.2 acres of additional disturbance that have been placed on the site, it does reduce some retaining walls, so there is some benefit to that.

The cleared areas are identified to be developed as grass. I think Karen's office can comment on whether there's an opportunity to do something other than grass there, replace some trees or something.



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

That's the status of our review right now.

CHAIRMAN EWASUTYN: I have the position that's kind of trying to bring it all together. It's an uncomfortable position. I don't necessarily like having the position, but I think we're moving, again, down the line of having a consultants' meeting on the 31st with the understanding that it would be too soon to put you on the agenda for the meeting of the 2nd of November. I know time is of the essence, too. You would be then on the meeting of the 16th of November. It's not an easy conversation, but I think we're trying to build in safety factors that will help everyone in the long run.

Number one, I'm going to move for a motion to keep the public hearing open until the 16th of November. Part of that motion also

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

is to set this up for a consultants' meeting on the 31st of October. Any additional input from the Members?

(No response.)

CHAIRMAN EWASUTYN: Can that be doable?

MR. DOMINICK: So moved.

MR. WARD: Second.

MR. GRIFFIN: One question.

Would it be possible, between now and the 31st, if we start developing a plan, for us to communicate with the professionals over the phone to try to, you know, work as much out as we could?

CHAIRMAN EWASUTYN: Without a doubt.

I have a motion by Dave Dominick. I have a second by --

MR. WARD: It was me.

CHAIRMAN EWASUTYN: -- John Ward. I'll ask for a roll call vote starting with Stephanie DeLuca.

MS. DeLUCA: Aye.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

MR. DOMINICK: Aye.

MR. MENNERICH: Aye.

CHAIRMAN EWASUTYN: Aye.

MR. BROWNE: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Thank you.

(Time noted: 8:03 p.m.)

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

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 30th day of October 2023.

*Michelle Conero*  
\_\_\_\_\_  
MICHELLE CONERO

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

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

----- X  
In the Matter of

POLO CLUB  
(2018-12)

Request for a Six-Month Extension of  
Conditional Final Approval  
from October 19, 2023 to April 19, 2024

----- X

BOARD BUSINESS

Date: October 19, 2023  
Time: 8:03 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

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

ALSO PRESENT: STEPHEN GABA, ESQ.  
PATRICK HINES  
KAREN ARENT  
JAMES CAMPBELL  
KENNETH WERSTED

----- X

MICHELLE L. CONERO  
Post Office Box 816  
Dover Plains, New York 12522  
(845) 541-4163

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

CHAIRMAN EWASUTYN: We have an item of Board business before us this evening.

Mr. Mennerich will present it, please.

MR. MENNERICH: We have a letter dated October 13th to John Ewasutyn, Chairman, and Planning Board Members regarding Town of Newburgh project 2018-12, Polo Club, approval extension request. "Dear Chairman Ewasutyn and Board Members, Engineering & Surveying Properties, P.C. has been working on finalizing all necessary permits and approvals from the outside agencies. In review of the file, the conditional final approval was filed on November 15, 2021 and is valid for two years with an allowable one-year extension. On behalf of the owner and applicant, Spruce Creek, LLC, we respectfully request a one-year extension of the approval to November 15, 2024. If you have any

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

additional questions and/or comments,  
please do not hesitate to contact this  
Office. Sincerely, Engineering &  
Surveying Properties, Ross Winglovitz, PE,  
Principal."

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

MS. DeLUCA: No.

MR. DOMINICK: No.

MR. MENNERICH: No.

MR. BROWNE: No.

MR. WARD: No.

CHAIRMAN EWASUTYN: Would  
someone move for a motion then to  
grant the extension that Mr.  
Mennerich just read into the minutes?

MR. BROWNE: So moved.

MS. DeLUCA: Second.

CHAIRMAN EWASUTYN: I have a  
motion by Cliff Browne. I have a  
second by Stephanie DeLuca. Can I  
have a roll call vote starting with  
John Ward.

1

2

MR. WARD: Aye.

3

MR. BROWNE: Aye.

4

CHAIRMAN EWASUTYN: Aye.

5

MR. MENNERICH: Aye.

6

MR. DOMINICK: Aye.

7

MS. DeLUCA: Aye .

8

CHAIRMAN EWASUTYN: Would

9

someone make a motion to close the

10

Planning Board meeting of the 19th of

11

October.

12

MS. DeLUCA: So moved.

13

MR. WARD: Second.

14

CHAIRMAN EWASUTYN: I have a

15

motion by Stephanie DeLuca. I have a

16

second by John Ward. Can I have a

17

roll call vote starting with

18

Stephanie DeLuca.

19

MS. DeLUCA: Aye.

20

MR. DOMINICK: Aye.

21

MR. MENNERICH: Aye.

22

CHAIRMAN EWASUTYN: Aye.

23

MR. BROWNE: Aye.

24

MR. WARD: Aye.

25

(Time noted: 8:08 p.m.)



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

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 30th day of October 2023.

*Michelle Conero*  
\_\_\_\_\_  
MICHELLE CONERO