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

----- X

In the Matter of

SCHERR SUBDIVISION  
(2011-18)

24 Sloane Road  
Section 43; Block 5; Lot 13.2  
R-1 Zone

----- X

PUBLIC HEARING  
FOUR-LOT SUBDIVISION

Date: October 6, 2011  
Time: 7:00 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman  
FRANK S. GALLI  
CLIFFORD C. BROWNE  
KENNETH MENNERICH  
JOSEPH E. PROFACI  
THOMAS P. FOGARTY

ALSO PRESENT: MICHAEL H. DONNELLY, ESQ.  
BRYANT COCKS  
JOHN R. SZAROWSKI

APPLICANT'S REPRESENTATIVE: GREGORY SHAW

----- X

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

1  
2 MR. BROWNE: Good evening, gentleman  
3 and ladies. Welcome to the Town of Newburgh  
4 Planning Board meeting of October 6, 2011.

5 At this time I'll call the meeting to  
6 order with a roll call vote starting with Frank  
7 Galli.

8 MR. GALLI: Present.

9 MR. BROWNE: Present.

10 MR. MENNERICH: Present.

11 CHAIRMAN EWASUTYN: Present.

12 MR. PROFACI: Here.

13 MR. FOGARTY: Here.

14 MR. BROWNE: The Planning Board has  
15 professional experts that provide reviews and  
16 input on business that is before us, including  
17 SEQRA determinations as well as code and planning  
18 details. I'd ask them to introduce themselves at  
19 this time.

20 MR. DONNELLY: Michael Donnelly,  
21 Planning Board Attorney.

22 MS. CONERO: Michelle Conero,  
23 Stenographer.

24 MR. SZAROWSKI: John Szarowski,  
25 Planning Board Engineer.

1  
2 MR. COCKS: Bryant Cocks, Planning  
3 Consultant.

4 MR. BROWNE: Thank you. At this time I  
5 will turn the meeting over to Joe Profaci.

6 MR. PROFACI: Please stand and join us  
7 for a salute to the flag.

8 (Pledge of Allegiance.)

9 MR. PROFACI: If you have cell phones  
10 or any other electronic devices, if you could  
11 switch them off, please. Thank you.

12 MR. BROWNE: The first item of business  
13 we have this evening is the Scherr Subdivision.  
14 It's a public hearing, a four-lot parcel. It's  
15 project number 2011-18.

16 Before we start that, I want to ask  
17 Mike Donnelly to give us a brief rundown as far  
18 as what the public hearing is about and its  
19 purpose is.

20 MR. DONNELLY: We have a public hearing  
21 tonight on a subdivision, which is an application  
22 to divide a piece of land into lots. The law  
23 requires before public hearing approval is  
24 granted, the Planning Board hold a public  
25 hearing. The purpose of the hearing is for the

1  
2 members of the public to bring to the attention  
3 of the Planning Board issues that they may not  
4 have thought of or learned of themselves, or  
5 through their consultants, and the belief is that  
6 those who live nearby are the most likely to have  
7 that information. After the applicant gives his  
8 presentation, the Chairman will ask anyone who  
9 wishes to speak to please raise their hand and he  
10 will recognize you. We would ask you to come  
11 forward if you would, say your name and spell it  
12 for the Stenographer so we get it down correctly  
13 in the transcript. If you need to approach the  
14 map, please feel free to do so but direct your  
15 comments to the Board. If you have questions,  
16 the Chairman will either ask one of the Town's  
17 consultants or the applicant's representative to  
18 answer them.

19 MR. BROWNE: Thank you.

20 At this time I'd ask Ken Mennerich to  
21 read the notice of hearing.

22 MR. MENNERICH: "Notice of hearing,  
23 Town of Newburgh Planning Board. Please take  
24 notice that the Planning Board of the Town of  
25 Newburgh, Orange County, New York will hold a

1  
2 public hearing pursuant to Section 276 of the  
3 Town Law on the application of Scherr Subdivision  
4 for a four-lot subdivision on premises 24 Sloane  
5 Road. Said hearing will be held on the 6th day  
6 of October 2011 at the Town Hall Meeting Room,  
7 1496 Route 300, Newburgh, New York at 7 p.m. at  
8 which time all interested persons will be given  
9 an opportunity to be heard. By order of the Town  
10 of Newburgh Planning Board. John P. Ewasutyn,  
11 Chairman, Planning Board Town of Newburgh. Dated  
12 September 13, 2011."

13 MR. BROWNE: I would ask Frank Galli to  
14 give the status of the mailings and the  
15 publications.

16 MR. GALLI: The legal notices were  
17 published in The Mid-Hudson Times and in The  
18 Sentinel. Sixteen notices were sent out,  
19 fourteen were returned signed, two were  
20 undelivered. All the notices and the hearing  
21 mailings are in order.

22 MR. BROWNE: Thank you.

23 John.

24 CHAIRMAN EWASUTYN: Greg, would you --  
25 Mr. Shaw, would you make your presentation.

1  
2 MR. SHAW: Thank you. For the record,  
3 my name a Gregory Shaw, I'm with Shaw Engineering  
4 and I am representing Barbara Scherr tonight who  
5 is the owner of the property located at 24 Sloane  
6 Road.

7 The parcel presently has a house, a  
8 garage and a pool on it. The total parcel  
9 acreage is 13.8 acres. The property is somewhat  
10 unique in that it has frontage both on Sloane  
11 Road and on River Road.

12 All four lots will be accessed off of  
13 Sloane Road due to the steep topography coming  
14 off of River Road which makes it inaccessible  
15 from that street.

16 We're proposing to subdivide the  
17 property into four lots. One of the lots will  
18 contain the house and the garage, and that will  
19 be on the 2.4 acre parcel. The other three lots  
20 will be newly created, and they're going to vary  
21 in size from 1.9 acres, to 3.6 acres, to 5.9  
22 acres. Quite large. Larger than the 40,000  
23 square foot minimum lot size that's required for  
24 the R-1 zoning district in which this property is  
25 located.

1  
2 We are proposing to have two curb cuts  
3 onto Sloane Road. The one to the south is going  
4 to service just one single-family home, while the  
5 other one to the north will be a common driveway.  
6 The reason we did that with respect to the common  
7 driveway is that we wanted to maximize the sight  
8 distance with respect to the crest of the hill.  
9 So with that we are proposing a common drive to  
10 service two lots together, and the most southerly  
11 lot will have its own highway entrance.

12 With respect to utilities, the property  
13 will be connected to the Town of Newburgh water  
14 system. Each will have their own individual  
15 water service from the main in Sloane Road to the  
16 house themselves.

17 And finally, each house will have an  
18 individual sewage disposal system. We have  
19 performed percolation tests and deep pit tests  
20 for each and every lot and have found them to be  
21 satisfactory to have designed a sewage disposal  
22 system accordingly.

23 Thank you, Mr. Chairman.

24 CHAIRMAN EWASUTYN: Thank you. Is  
25 there anyone here this evening that has any

1 questions or comments on the four-lot subdivision  
2 that was just presented by Mr. Shaw? Would you  
3 raise your hand and give your name and your  
4 address, please.  
5

6 (No response.)

7 CHAIRMAN EWASUTYN: Okay. I'll turn to  
8 our consultants for their final comments. Bryant  
9 Cocks, Planning Consultant?

10 MR. COCKS: The applicant has addressed  
11 all of my previous comments. The note on the  
12 deferral of the parkland fees has been removed  
13 and the buildable area requirement has been  
14 shown, including the steep slopes where no homes  
15 can be constructed. All lots are now shown to be  
16 brought into the zoning regulations.

17 I have no additional comments.

18 CHAIRMAN EWASUTYN: Thank you. John  
19 with McGoey, Hauser & Edsall Engineering company?

20 MR. SZAROWSKI: The applicant has  
21 addressed all of our previous comments. They  
22 have prepared a SWPPP.

23 We would ask that the highway  
24 superintendent's comments be received and they  
25 just state the subsurface disposal system has



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been designed according to standard.

CHAIRMAN EWASUTYN: Comments from Board Members. Frank Galli?

MR. GALLI: No additional.

MR. BROWNE: Nothing new.

MR. MENNERICH: No comments.

MR. PROFACI: No.

MR. FOGARTY: I have no further comments.

CHAIRMAN EWASUTYN: We'll address the audience one more time. Is there anyone here that has any questions or comments?

(No response.)

CHAIRMAN EWASUTYN: At this time I'll move for a motion from the Board to close the public hearing.

MR. MENNERICH: So moved.

MR. FOGARTY: Second.

CHAIRMAN EWASUTYN: I have a motion by Ken Mennerich. I have a second by Tom Fogarty. I'll ask for a roll call vote starting with Frank Galli.

MR. GALLI: Aye.

MR. BROWNE: Aye.

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MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. FOGARTY: Aye.

CHAIRMAN EWASUTYN: Myself yes. So  
carried.

We'll turn to Mike Donnelly, Planning  
Board Attorney, to give us the conditions of  
approval and a final resolution.

MR. DONNELLY: This is a resolution for  
final subdivision approval. The applicant will  
need to deliver a letter from the highway  
superintendent with his comments on the driveway  
utilization. You'll need a common driveway  
easement and maintenance agreement. I'll leave  
it in the resolution you provided me with a copy,  
it is acceptable, and I'll give you a letter to  
that effect.

There's an existing pool, deck and  
fence shown on the plans. I didn't check the  
notes. Is that to be removed --

MR. SHAW: Yes.

MR. DONNELLY: -- before the plat is  
signed?

MR. SHAW: Yes.

1  
2 MR. DONNELLY: We'll include that as a  
3 condition. Finally, there were three new  
4 building lots being created, so there will be  
5 parkland fees in the amount of \$6,000 that will  
6 be due.

7 CHAIRMAN EWASUTYN: Any questions from  
8 Board Members on the final resolution by Attorney  
9 Mike Donnelly?

10 MR. GALLI: No.

11 MR. BROWNE: No.

12 MR. MENNERICH: No.

13 MR. PROFACI: No.

14 MR. FOGARTY: No.

15 CHAIRMAN EWASUTYN: At this time I'll  
16 move for a motion to approve the four-lot  
17 subdivision of the Scherr Subdivision subject to  
18 the conditions of the final resolution.

19 MR. FOGARTY: So moved.

20 MR. PROFACI: Second.

21 CHAIRMAN EWASUTYN: I have a motion by  
22 Tom Fogarty. I have a second by Joe Profaci.  
23 Any discussion of the motion?

24 (No response.)

25 CHAIRMAN EWASUTYN: I'll move for a

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roll call vote starting with Frank Galli.

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. FOGARTY: Aye.

CHAIRMAN EWASUTYN: And myself. So  
carried.

MR. SHAW: Mr. Chairman, can I just  
make two points? With respect to the highway  
superintendent, I personally dropped off the  
plans and a letter to him over a week ago, so I  
will follow up with that.

I wasn't sure what Mr. Donnelly said,  
but I did submit to this Board the common  
driveway maintenance agreement.

MR. DONNELLY: It is acceptable.

MR. SHAW: Oh, it is?

MR. DONNELLY: Yes.

MR. SHAW: Fine.

MR. DONNELLY: I'll send on a letter to  
that effect.

MR. SHAW: I didn't know that. Thank  
you.

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(Time noted: 7:10 p.m.)

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

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

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DATED: November 1, 2011

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

----- X

In the Matter of

LANDS OF ELAPUS, LTD  
(2011-20)

Bright Star Drive  
Section 9; Block 3; Lot 48.1  
R-3 Zone

----- X

CONCEPTUAL  
TWO-LOT SUBDIVISION

Date: October 6, 2011  
Time: 7:10 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman  
FRANK S. GALLI  
CLIFFORD C. BROWNE  
KENNETH MENNERICH  
JOSEPH E. PROFACI  
THOMAS P. FOGARTY

ALSO PRESENT: MICHAEL H. DONNELLY, ESQ.  
BRYANT COCKS  
JOHN R. SZAROWSKI

APPLICANT'S REPRESENTATIVE: DARREN DOCE

----- X

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

1  
2 MR. BROWNE: Our next item of business  
3 is Lands of Elapus. This is a conceptual two-lot  
4 subdivision, project number 2011-20. It's being  
5 presented by Doce Associates, Darren Doce.

6 MR. DOCE: My name is Darren Doce, I'm  
7 representing Elapus, Limited for this  
8 application. What we're proposing is a two-lot  
9 subdivision of a 1.86 acre parcel located on  
10 Bright Star Drive, which is a private road off of  
11 Oak Street.

12 There's an existing house on the parcel  
13 and we propose to subdivide it basically in half,  
14 creating two 40,000 square foot lots.

15 The new lot will have an individual  
16 well and sanitary disposal system.

17 Both lots will access off Bright Star  
18 Drive.

19 That's basically it. Not too  
20 complicated.

21 CHAIRMAN EWASUTYN: Comments from Board  
22 Members. Frank Galli?

23 MR. GALLI: None.

24 MR. BROWNE: No comments.

25 MR. MENNERICH: No questions.

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MR. PROFACI: No.

MR. FOGARTY: I just had a question, and I should have asked it during the work session. When it comes to a new well, are there regulations for the drilling of that well? Do you have to have so many gallons per minute?

MR. DOCE: Right. Five gallons per minute minimum. They'd have to go until they got five gallons a minute, the well drillers.

MR. FOGARTY: Thank you.

CHAIRMAN EWASUTYN: I'll turn to our consultants for their comments. Bryant Cocks, Planning Consultant?

MR. COCKS: In regard to zoning, the only addition is the 10,000 square foot buildable area requirement to be shown on each lot. Both lots are big enough, so I don't think that's a problem, it just needs to be shown.

The twenty-foot drainage easement language needs to be submitted to Mike Donnelly.

A stamped and sealed surveyor's sheet will be required for approval. That's it.

CHAIRMAN EWASUTYN: Thank you. John from McGoey, Hauser & Edsall?



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MR. SZAROWSKI: We would only ask for the Elgin system and the details, that you put the specifications for the sand.

Then just a note that this does not disturb the more than an acre such that it doesn't need a SWPPP.

CHAIRMAN EWASUTYN: Bryant Cocks, Planning Consultant, would you recommend to the Board that this project is ready for a negative declaration and set it for a public hearing?

MR. COCKS: I would. I believe the plans have everything that's required under the zoning regulations and there are no environmental impacts to note.

Just one other thing. Bright Star Drive is a private drive, so this new lot is going to have to have a maintenance and access agreement.

CHAIRMAN EWASUTYN: I'll move for a motion to declare a negative declaration -- excuse me. To grant conceptual approval for the two-lot subdivision for the Lands of Elapus.

MR. GALLI: So moved.

MR. MENNERICH: Second.

1  
2 CHAIRMAN EWASUTYN: I have a motion by  
3 Frank Galli. I have a second by Ken Mennerich.  
4 I'll ask for a roll call vote starting with Frank  
5 Galli.

6 MR. GALLI: Aye.

7 MR. BROWNE: Aye.

8 MR. MENNERICH: Aye.

9 MR. PROFACI: Aye.

10 MR. FOGARTY: Aye.

11 CHAIRMAN EWASUTYN: Myself yes. So  
12 carried.

13 I'll move for a motion to declare a  
14 negative declaration -- Bryant, the 3rd of  
15 November --

16 MR. COCKS: The 3rd of November.

17 CHAIRMAN EWASUTYN: -- and to set the  
18 3rd of November for a public hearing.

19 MR. GALLI: So moved.

20 MR. MENNERICH: Second.

21 CHAIRMAN EWASUTYN: I have a motion by  
22 Frank Galli. I have a second by Ken Mennerich.  
23 Any discussion of the motion?

24 (No response.)

25 CHAIRMAN EWASUTYN: I'll move for a

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LANDS OF ELAPUS, LTD

19

roll call vote starting with Frank Galli.

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. FOGARTY: Aye.

CHAIRMAN EWASUTYN: Myself. So  
carried.

If you'll contact Bryant in a couple  
days, we'll circulate to the assessor's office  
for a mailing list.

MR. DOCE: Okay. Thank you.

(Time noted: 7:14 p.m.)

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

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

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DATED: November 1, 2011

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

----- X  
In the Matter of

JPJR HOLDINGS, LLC  
(2011-19)

Rockwood Drive, Route 32 & Chestnut Lane  
Section 75; Block 1; Lot 36.2  
R-3/B Zone

----- X

CONCEPTUAL  
ELEVEN-LOT SUBDIVISION

Date: October 6, 2011  
Time: 7:14 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman  
FRANK S. GALLI  
CLIFFORD C. BROWNE  
KENNETH MENNERICH  
JOSEPH E. PROFACI  
THOMAS P. FOGARTY

ALSO PRESENT: MICHAEL H. DONNELLY, ESQ.  
BRYANT COCKS  
JOHN R. SZAROWSKI

APPLICANT'S REPRESENTATIVE: JOHN BODENDORF

----- X

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

1  
2 MR. BROWNE: The next item of business  
3 is JPJR Holdings, LLC, project number 2011-19.  
4 It's a conceptual eleven-lot subdivision being  
5 represented by Michael Bodendorf.

6 Did I get that close?

7 MR. BODENDORF: Yes. You're exactly  
8 right except I'm John Bodendorf covering for  
9 Michael.

10 The applicant unfortunately couldn't be  
11 here tonight, but the subject parcel is  
12 approximately 8.8 acres. It has frontage on  
13 North Plank Road to the west, Chestnut Lane to  
14 the south and Rockwood Drive to the east.

15 The parcel is located in two different  
16 zoning districts. The zoning line bifurcates the  
17 property in this location. This rectangular area  
18 is about 2.3 acres in size. It's located in the  
19 B, business zoning district, and the balance of  
20 the property is located in the R-3, residential  
21 zoning district.

22 What the applicant is proposing is an  
23 eleven-lot subdivision of the property. Ten of  
24 the lots will provide for construction of new  
25 single-family homes, all located within the R-3,

1 residential zoning district. The eleventh lot  
2 comprises the entire area located in the B zoning  
3 district and would hopefully allow for future  
4 commercial use. The applicant isn't seeking site  
5 plan approval for that commercial use at this  
6 time but the plans depict a generic layout for a  
7 potential future commercial use.  
8

9 All the lots are proposed to gain  
10 access via U driveways from Rockwood Drive, and  
11 there are a total of three common driveways  
12 proposed amongst the eleven lots.

13 For water and sewer service,  
14 connections to the municipal systems along  
15 Rockwood Drive are proposed for each lot.

16 A couple other items to note. There is  
17 a Central Hudson easement that runs along the  
18 northwest boundary of the property, and also a  
19 small unnamed stream which is tributary to  
20 Gidneytown Creek that runs along the northwest  
21 portion of the property. There's no disturbance  
22 proposed within that easement or to the stream.

23 The setting of the project, it's mostly  
24 residential along Rockwood Drive. There is some  
25 commercial along North Plank. Right across

1  
2 Chestnut Lane there is the Shop Rite shopping  
3 plaza.

4 That's essentially the project in a  
5 nutshell. It's a conceptual layout. We have  
6 shown grading, we have shown some potential  
7 stormwater treatment areas. So we're looking for  
8 input from the Board at this point.

9 CHAIRMAN EWASUTYN: Thank you, John.

10 At this point I'll turn to Bryant  
11 Cocks, our Planning Consultant. Bryant?

12 MR. COCKS: Yes. In regards to the  
13 residential lots, they all meet the zoning  
14 requirements.

15 The bulk table should be revised just  
16 to show the exact dimensions and setbacks for  
17 each lot.

18 A signed and sealed survey sheet will  
19 be required.

20 In regard to the business lot, the  
21 business lot isn't able to be accessed from the  
22 residential street on Rockwood Drive. For a  
23 conceptual approval we're going to need to see  
24 the access drive coming off of North Plank Road.  
25 There are also some buffering regulations that



1  
2 are needed in between the residential and the  
3 business lot. To conceptually approve it we  
4 just need to demonstrate something can be built  
5 on that lot. Probably on a separate sheet would  
6 be better instead of having -- if you can just  
7 show the blank lot on this sheet and then on a  
8 separate sheet just demonstrate that something  
9 can go in there and we're not approving a lot  
10 that nothing can go in.

11 MR. BODENDORF: Right. We haven't  
12 investigated access off of North Plank Road but  
13 we anticipate it's going to be difficult if not  
14 impossible. If we are unable to demonstrate a  
15 safe entrance or access from that road, is there  
16 anything we can do with that portion of the  
17 property? Can he propose a residential use?

18 MR. COCKS: You would need to get a use  
19 variance.

20 MR. DONNELLY: Or apply to the Town  
21 Board to see if they might change the map line to  
22 encompass that parcel in the R-3.

23 MR. GALLI: A zoning change.

24 MR. BODENDORF: Right. I would imagine  
25 a use variance might be a quicker avenue to

1  
2 pursue. We're concerned because of the stream  
3 and the easement down here. We haven't looked at  
4 the sight distance but that may be an issue.  
5 It's definitely steep through here. I'm not sure  
6 we're going to be able to show a driveway that  
7 works. We want to know what other options might  
8 be available, if any.

9 MR. COCKS: I think those would be your  
10 two.

11 MR. DONNELLY: Those are the two. It's  
12 hard for us to gauge which is cheaper, faster,  
13 more likely.

14 MR. BODENDORF: Okay.

15 MR. DONNELLY: The third would be to  
16 design it with large backyards for one or more of  
17 the lots.

18 MR. BODENDORF: Right.

19 MR. COCKS: The only other comment I  
20 had was the lots that are utilizing the common  
21 driveways, you need to submit a common driveway  
22 access and maintenance agreement to Mike  
23 Donnelly.

24 In the tree plan that you show, just to  
25 try to save as many trees as possible on the

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site, and just show on the plans which trees are to be saved. Probably a tree protection line of some sort on each lot would probably help.

MR. BODENDORF: Sure.

MR. COCKS: Other than that, I have nothing further.

CHAIRMAN EWASUTYN: John with McGoey, Hauser & Edsall?

MR. SZAROWSKI: This does meet the threshold that requires a SWPPP. I don't know if you expected that.

We had some concern about the eight-foot driveway also coming through the residential lot.

Did you talk about the buffer requirements?

MR. COCKS: Yes.

MR. SZAROWSKI: Okay. We'd like to see the water mains and the sanitary sewer laterals shown on the grading plan just so we can see how they're connected.

The use on the commercial lot probably should not be shown on this. You probably already had that.

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The flow acceptance letter from the City of Newburgh will be required.

Just again, we commented on the surveyor of record.

CHAIRMAN EWASUTYN: John, for matter of comprehension, John may or may not know, how does one receive the City flow acceptance letter? What are the channels that -- what happens with that? How does that begin?

MR. SZAROWSKI: You're asking me?

CHAIRMAN EWASUTYN: Bryant, can you --

MR. COCKS: Absolutely. When the Planning Board declares itself as lead agency we send the initial set of plans and whatever documentation we have, including the EAF, to the City. After that the engineer will make, I guess an estimate of how much sewage flow will be going. You make the submission to the City directly.

CHAIRMAN EWASUTYN: You make that submission to Jim Osborne, --

MR. DONNELLY: Right.

CHAIRMAN EWASUTYN: -- the Town Engineer. Jim Osborne is a liaison between the

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Planning Board and the Town. He'll write a letter and pass it on to the City of Newburgh.

MR. BODENDORF: Okay.

CHAIRMAN EWASUTYN: I think moving further along, you would not be able to get a final approval until you get the City flow acceptance letter.

MR. BODENDORF: Right.

CHAIRMAN EWASUTYN: So that's a --

MR. BODENDORF: We obviously need to figure out what's going to happen with this back portion of the property before. I'd rather not waste their time doing it more than once. Once we get a hold on that, then we'll pursue that.

CHAIRMAN EWASUTYN: Okay. Mike Donnelly, do you have anything to add at this time?

MR. DONNELLY: No.

CHAIRMAN EWASUTYN: Board Members. Frank Galli?

MR. GALLI: No additional.

MR. BROWNE: No.

MR. MENNERICH: John, on lots 2, 3, 5 and 6, the turnaround coming out of the garages

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2 goes in front of the house. Could they go in the  
3 other direction so you have more open front lawn  
4 without just driveway?

5 MR. BODENDORF: The way they're laid  
6 out right now, the turnaround would be right up  
7 against the property line. I don't know if  
8 there's a setback requirement for that. If there  
9 isn't we could show that. If not, we could  
10 probably rework the driveways some so that there  
11 is -- is there a setback requirement for the  
12 turnaround?

13 MR. COCKS: No. The driveway can be in  
14 the setback because the driveway cuts through the  
15 front yard setback anyway.

16 MR. BODENDORF: If we flip this little  
17 turnaround area and it was a couple feet off the  
18 property line, is that going to be an issue?

19 MR. COCKS: No. The driveway access  
20 doesn't violate setbacks.

21 MR. BODENDORF: Then certainly we can  
22 do that.

23 MR. MENNERICH: Okay.

24 CHAIRMAN EWASUTYN: Joe Profaci?

25 MR. PROFACI: Nothing at this time.

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MR. FOGARTY: Can you just talk generally about what type of homes you're looking at building?

MR. BODENDORF: Unfortunately I can't speak for the applicant. He had another commitment tonight. My guess is, you know, in this area of the Town we would probably -- he's not looking to come in here and build monstrous homes. Something that would fit in with the character of the existing neighborhood would be my guess. Right now we're showing 1,500 square foot footprints. They need to fit in for, you know, the purposes of selling and future resale. I expect he'll be at the next appearance before the Board. He can probably speak more to that.

MR. FOGARTY: Thank you.

CHAIRMAN EWASUTYN: Okay?

MR. BODENDORF: Okay. So when we have a better understanding of what we're going to do with this back portion of the property, would that be the appropriate time to request to come back before the Board and --

CHAIRMAN EWASUTYN: What you'll do is you'll call the Planning Board office, let the

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office know that you're ready to resubmit. More than likely I'll call you back and we'll talk about setting a time for receiving the maps and so on.

MR. BODENDORF: Okay. And there's no reason to circulate at this point until we have that?

CHAIRMAN EWASUTYN: Until we conceptually approve it.

MR. BODENDORF: Great. Thank you.

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



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

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

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DATED: November 1, 2011

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

----- X  
In the Matter of

MAGYAR/BUDGET TRUCK RENTAL  
(2011-04)

5465 Route 9W  
Section 9; Block 1; Lot 3  
B Zone

----- X

SITE PLAN

Date: October 6, 2011  
Time: 7:25 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman  
FRANK S. GALLI  
CLIFFORD C. BROWNE  
KENNETH MENNERICH  
JOSEPH E. PROFACI  
THOMAS P. FOGARTY

ALSO PRESENT: MICHAEL H. DONNELLY, ESQ.  
BRYANT COCKS  
JOHN R. SZAROWSKI

APPLICANT'S REPRESENTATIVE: FRANK VALDINA

----- X

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

1  
2 MR. BROWNE: Our next item of business  
3 is the Magyar/Budget Truck Rental, project number  
4 2011-04. It's a site plan being represented by  
5 Frank Valdina.

6 MR. VALDINA: I'm Frank Valdina  
7 representing the Magyar family with a proposed  
8 building on the property they own on Route 9W  
9 just north of the existing convenience store,  
10 also in their ownership at this time.

11 This has been before the Board before.  
12 In response to the previous reviews, it has been  
13 submitted to the Board Members and all the  
14 consultants.

15 The latest review comments, the Planner  
16 did not have any that I'm aware of.

17 The Landscape Architect had some minor  
18 revision. Her comments related to the sign. I  
19 pointed out to her that information was on the  
20 plans. In conjunction with the landscape plan,  
21 an estimate will be submitted in accordance with  
22 the Planning Board's wishes and for her  
23 acceptance.

24 The fire bureau did not grant the  
25 waiver on the sprinklers, so the building will be

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sprinklered in accordance with Town code.

The source of water, I had a discussion with the town engineer today. We're still contemplating for the source with the domestic utilization for the building to tie into the existing service lateral which will take Town action -- approval before that can be done. As far as the sprinkler itself, we're investigating two avenues. One is putting in a storage tank with a pump which will provide the fire protection to the building. The other is we're also investigating the further feasibility of tying into the main on 9W which would eliminate the need for the other service lateral to get water to the building. At this point, since we're looking at the options, we'll leave that as a viable option and pursue to get Town Board -- Town acceptance on that proposal.

The comments pertaining to the flood plain. Based on Irene and the other storm, I want to disclose that this is a flood plain. This building will be built in accordance with all flood plain requirements under the building code. The building has been raised. We're in an A zone

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2 which normally has less than a foot of water. It  
3 doesn't give actual elevations in the zone. The  
4 building is raised to be -- it's more than a foot  
5 above the existing topography in that area.

6 The information pertaining to the  
7 access and water service easements have been  
8 submitted to my client's attorneys. I had given  
9 them descriptions and a sketch showing the  
10 dimensions of the easement requirements. I also  
11 suggested they -- and I gave them Mr. Donnelly's  
12 name and phone number to correlate with him to  
13 get the documents in to any contract of sale. My  
14 understanding is there is a contract being drawn  
15 up for sale of the existing facility.

16 The stormwater management report has  
17 been submitted and we have received and reviewed  
18 comments on that. Basically we will address all  
19 those comments that have been raised by the  
20 review. At this point we don't feel there's  
21 going to be any significant impact on the basic  
22 site plan itself. We have room in the back where  
23 we can put in any water quality management we  
24 have to do and elements of that nature.

25 CHAIRMAN EWASUTYN: Thank you. John,

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would you want to discuss the stormwater management plan as to what you think will be required?

MR. SZAROWSKI: I did get a chance -- the report came in late to our office. It wasn't with the initial submission. We received it just, I believe, the day before yesterday. I did take a look at it this morning. I noticed that the green infrastructure requirements as part of the new permit were not addressed at all in the stormwater permit. You need to get this into the green infrastructure. There's specific calculations you have to show that you're meeting for the water quality requirements.

I notice there were some technical issues with the stormwater model that you had based on the numbers. It was in my comments. I don't know if the Board actually received the comments. I think they might have went out directly to the consultant today. They were not part of our original comments.

There were some other problems with the stormwater report. There's minimum standards you need to discuss in the report that needs to -- it

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needs to be a little thicker. If you could just work on that, that would be great.

MR. VALDINA: Oh, yes. All the comments will be addressed.

MR. SZAROWSKI: Okay.

CHAIRMAN EWASUTYN: Bryant Cocks?

MR. COCKS: The only outstanding comment I had was regarding the signage. Frank did provide the detail with a signage chart and did reduce the height of the pylon sign by five feet. It will now be fifteen feet in height.

All of my other comments have been addressed.

CHAIRMAN EWASUTYN: Any comments. Frank Galli?

MR. GALLI: On the water part, if he puts a storage tank in there does it have to be shown on the plan?

MR. VALDINA: Yes. It will be buried.

MR. GALLI: Buried?

MR. VALDINA: Yes.

MR. GALLI: Does it have to be shown on the plan as buried?

MR. SZAROWSKI: Yes.

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MR. VALDINA: The proposal is we'll bury it behind the building.

MR. DONNELLY: If he goes with a tank he's going to have to show that. If he goes with the tunnel he'll have to show that. Either way the plan will have to be updated.

MR. GALLI: How big of a tank would that have to be?

MR. VALDINA: I'm not a sprinkler guy. In brief discussion at the fire bureau meeting, Tom Tibetsky said 900 gallons. Jerry Canfield said he thinks he's off by a factor of ten. It might be more like 9,000. Whatever size is required by code.

MR. GALLI: I think Jerry said tonight it was 18,000.

MR. DONNELLY: 13.

MR. COCKS: 13.

MR. GALLI: We were talking about it tonight. I thought he said 18,000.

This is the first time I'm hearing tonight the land was in contract maybe.

MR. VALDINA: It may be. I'm not involved with that but --



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MR. GALLI: Will that affect the easement, Mike, for the water?

MR. DONNELLY: He'll need to get it. It's a lot easier to get it when you own it.

MR. VALDINA: My understanding is that's written into the contract. I'm not involved in it. I gave the information to my client's attorneys and they're handling that aspect of it.

MR. GALLI: That's all. And just we talked about the flood zone in the work session also. I think Jerry said it was two feet above.

MR. VALDINA: We're actually three feet.

MR. GALLI: I guess to build it has to be out two feet or something like that. You might want to check.

MR. VALDINA: I'll check.

MR. GALLI: You'll have to do that for a building permit anyway.

MR. VALDINA: Right.

MR. GALLI: That's all I had.

MR. VALDINA: Just like construction elements with the flood plain, it will be done

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according to the safe building.

CHAIRMAN EWASUTYN: Cliff Browne?

MR. BROWNE: During work session we talked about the landscaping and the signage and all that. The report back on that from Karen was she's very well satisfied with what you did on that part. Thank you. The separation between the two.

MR. VALDINA: We added quite a bit of landscaping. My client says that probably will not be all he will do as time goes on.

MR. BROWNE: I just wanted to mention that because we did talk about that and that was a positive aspect. The water, obviously, is a major addition.

MR. VALDINA: The fire bureau meeting was only last Wednesday, so it's --

MR. BROWNE: Thank you.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: I have no questions.

MR. PROFACI: No questions.

CHAIRMAN EWASUTYN: Tom Fogarty?

MR. FOGARTY: I appreciate you reducing the size of the sign. That was my complaint.

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2 CHAIRMAN EWASUTYN: Frank, I'm going to  
3 make a suggestion that when you feel you have  
4 your revised drainage report and you're ready,  
5 would you submit that to McGoey, Hauser & Edsall  
6 and they'll work to review that. Once we hear  
7 back from them that that's satisfactory, we'll  
8 reschedule you for a Planning Board meeting  
9 because that's the outstanding item at this  
10 point?

11 MR. VALDINA: Okay. One other further  
12 question if I may. In the event this building is  
13 sold prior to this site being constructed, I  
14 talked to Jerry about a trailer. He said you  
15 have to show it on the site plan. However, they  
16 currently own several commercial buildings.

17 CHAIRMAN EWASUTYN: Jerry brought that  
18 up at the meeting. What Jerry is saying,  
19 regardless, when you come back you have to show  
20 that. He said you have to make a decision as to  
21 which way you want to go and show it on the plan.

22 MR. VALDINA: They're proposing not to  
23 go with a trailer. The proposal is to use an  
24 existing temporary facility.

25 CHAIRMAN EWASUTYN: I think what he

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said, though, is it had to be shown.

MR. DONNELLY: You would have to show him and he decides whether it would require site plan approval. It probably would. You'd have to get another site plan for the other lot.

MR. VALDINA: Under the code it says a building less than 2,500 square feet, the Board has the --

MR. DONNELLY: There is an exception for those. You start with Jerry.

MR. VALDINA: Okay. Thank you.

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

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

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

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DATED: November 1, 2011

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

----- X

In the Matter of

O'BRIEN LANE III  
(2011-16)

O'Brien Lane  
Section 6; Block 1; Lot 9.24  
AR Zone

----- X

TWO-LOT SUBDIVISION

Date: October 6, 2011  
Time: 7:33 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman  
FRANK S. GALLI  
CLIFFORD C. BROWNE  
KENNETH MENNERICH  
JOSEPH E. PROFACI  
THOMAS P. FOGARTY

ALSO PRESENT: MICHAEL H. DONNELLY, ESQ.  
BRYANT COCKS  
JOHN R. SZAROWSKI

APPLICANT'S REPRESENTATIVE: JAMES RAAB

----- X

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

1  
2 MR. BROWNE: The next item of business  
3 that we have on our agenda is O'Brien Lane III,  
4 project number 2011-16. This is a two-lot  
5 subdivision being represented by Charles Brown,  
6 PE. Jim Raab is representing.

7 MR. RAAB: For the record, it's Jim  
8 Raab.

9 We have made some adjustments to the  
10 two-lot subdivision. We've eliminated the  
11 retaining wall. We've given the -- we provided  
12 separations for the wells that are necessary.  
13 The minor items that Bryant asked for we took  
14 care of.

15 The one thing that's left is the  
16 question about the wells. Now, it was my  
17 understanding that our client's attorney was  
18 going to provide Mr. Donnelly with a deed that  
19 shows that the only thing about this easement  
20 through here is that they need ingress and  
21 egress. Since we're very close to the owner of  
22 the easement or the recipient of the easement,  
23 which is Michael O'Brien, the original owner of  
24 this property, he has no issues with it. He said  
25 as long as he can get by where the well locations

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2 are. If there's something that the Planning  
3 Board needs in writing from Mr. O'Brien, we're  
4 willing to provide that. The deeds really  
5 reflect no evidence of anything at all. They're  
6 really not very good. All there is is a  
7 description of the easement. All it says is  
8 ingress and egress. The reason why I know that is  
9 I wrote the description.

10 MR. DONNELLY: The issue, I'm sorry  
11 Jim, it's an access easement and you want to know  
12 if a water line can be put in?

13 MR. RAAB: No. It's a well. The well  
14 points in in here. Again, there's no --

15 MR. DONNELLY: But the well is --

16 MR. RAAB: There's no restriction from  
17 it in the easement.

18 MR. DONNELLY: Generally speaking, an  
19 access easement -- the owner of the land over  
20 which an access easement travels can make any use  
21 of the land he wishes as long as it doesn't  
22 interfere with the access. If it's a recorded  
23 access easement, he can do plenty of things as  
24 long as he doesn't interfere with the right of  
25 those who have the right --



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2 MR. RAAB: That was my understanding  
3 also. That was the only outstanding issue, I  
4 believe, that Pat brought up. It's not a  
5 proposed easement, it's an existing easement.

6 MR. DONNELLY: I think that's a private  
7 matter and is not a problem.

8 MR. MENNERICH: John, do you have  
9 anything additional?

10 MR. SZAROWSKI: They've addressed all  
11 of our previous comments.

12 MR. MENNERICH: Bryant?

13 MR. COCKS: The only outstanding issue  
14 is a stamped and sealed surveyor's sheet and the  
15 owner's consent note.

16 The applicant did provide a revised  
17 narrative letter and better location map as  
18 requested.

19 The Orange County Planning Department  
20 lost these plans at some point and I had to  
21 resend them last week, so we haven't received any  
22 comments yet. The original submission was over  
23 thirty days ago and we never received anything.  
24 I know Chad Wade indicated that he did receive  
25 the plans and he should be sending a letter. He

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O'BRIEN LANE III

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was trying to shoot for today but I guess he didn't get it.

MR. DONNELLY: You could still act under SEQRA and schedule it for a hearing.

MR. MENNERICH: It's ready to be -- have a negative dec on it?

MR. COCKS: Yes. I believe all the comments have been addressed, including engineering comments. I believe it's ready for a public hearing.

MR. MENNERICH: Frank?

MR. GALLI: No additional comments.

MR. BROWNE: Nothing more.

CHAIRMAN EWASUTYN: Nothing.

MR. MENNERICH: Joe?

MR. PROFACI: No.

MR. FOGARTY: I have no comment.

MR. MENNERICH: I would like to have a motion to declare a negative dec and set the project up for a public hearing on --

What date, Bryant?

MR. COCKS: November 3rd.

MR. MENNERICH: -- November 3rd.

MR. GALLI: So moved.

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MR. FOGARTY: Second.

MR. MENNERICH: The motion was made by Frank Galli and seconded by Tom Fogarty. All in favor?

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: I'll abstain.

MR. FOGARTY: Aye.

CHAIRMAN EWASUTYN: Aye.

The motion is carried.

MR. MENNERICH: The motion is carried.

MR. RAAB: Thank you very much.

(Time noted: 7:36 p.m.)

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

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

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DATED: November 1, 2011

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

----- X  
In the Matter of

LANDS OF TARBEN  
(2004-43)

Request for an Extension of Conditional  
Final Subdivision Approval

----- X

BOARD BUSINESS

Date: October 6, 2011  
Time: 7:36 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman  
FRANK S. GALLI  
CLIFFORD C. BROWNE  
KENNETH MENNERICH  
JOSEPH E. PROFACI  
THOMAS P. FOGARTY

ALSO PRESENT: MICHAEL H. DONNELLY, ESQ.  
BRYANT COCKS  
JOHN R. SZAROWSKI

----- X

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

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MR. BROWNE: That concludes our items on the agenda. Under Board Business for discussion we have Lands of Tarben, project number 2004-43. The applicant is requesting an extension of conditional final subdivision approval which will run from October 4, 2011 to January 2, 2012.

CHAIRMAN EWASUTYN: I'll move for that motion.

MR. PROFACI: So moved.

MR. FOGARTY: Second.

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

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. FOGARTY: Aye.

CHAIRMAN EWASUTYN: And myself. Motion carried.

(Time noted: 7:37 p.m.)

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

----- X  
In the Matter of

NEWBURGH TOYOTA  
(2009-15)

Request to Commence Site Work and Construction  
of Building, Including Clearing and Grading, Before  
DOT Issues the Final Construction Access Permit

----- X

BOARD BUSINESS

Date: October 6, 2011  
Time: 7:37 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman  
FRANK S. GALLI  
CLIFFORD C. BROWNE  
KENNETH MENNERICH  
JOSEPH E. PROFACI  
THOMAS P. FOGARTY

ALSO PRESENT: MICHAEL H. DONNELLY, ESQ.  
BRYANT COCKS  
JOHN R. SZAROWSKI

APPLICANT'S REPRESENTATIVE: GREGORY SHAW

----- X

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



1  
2 MR. BROWNE: The next item under Board  
3 Business is Newburgh Toyota, project number  
4 2009-15. The applicant is requesting to commence  
5 site work and construction of the building,  
6 including clearing and grading, before the DOT  
7 issues its final construction access permit.

8 CHAIRMAN EWASUTYN: Do you want to talk  
9 to us?

10 MR. SHAW: Absolutely. Again for the  
11 record, my name is Greg Shaw representing  
12 Newburgh Toyota. I had this reproduced,  
13 compliments of Phil Greely, which shows our site  
14 on Route 17K along with the proposed left-hand  
15 turn lane.

16 We made a submission in to the DOT for  
17 a conventional highway entrance, and after quite  
18 some time of them reviewing it, the bottom line  
19 is they want a left-hand turn lane, not due to  
20 the traffic that the project is generating, just  
21 due to the background traffic. So I venture to  
22 say that any uses along this highway, no matter  
23 what the use is, is also going to require a  
24 left-hand turn lane or an extension.

25 In any case, the surveyors were out

1 performing the survey. John Collins Engineering  
2 is doing the design work.  
3

4 At the meeting with DOT up in  
5 Poughkeepsie, they said that once they receive  
6 the preliminary drawings, which probably would be  
7 about sixty percent of the final design work,  
8 that they would grant a temporary access permit  
9 to allow the owner to go up and do work on the  
10 property. The work is cutting and filling and  
11 installing the utilities. They would have to  
12 review the drawings to feel relatively sure that  
13 the design documents pretty much fall in line  
14 with what their standards are.

15 At the request of my applicant I gave  
16 Jerry Canfield a call and I explained to him what  
17 we'd like to do. There's really three questions.  
18 Once we get that temporary access permit; one,  
19 can we go in and start the site work, realizing  
20 full well we do not have a stamped site plan,  
21 because one of the conditions is to have a  
22 permanent DOT permit which we will not have from  
23 the DOT until the very end?

24 The next question is if the Board would  
25 say yes, okay, would it be feasible for the Town

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to grant a building permit to allow the construction of the building?

And lastly, backing off that, all right, can we go in now and just cut down the brush and the trees that are on the site?

So when I posed those three issues to Jerry, he said they're Planning Board issues. It clearly spells out in the resolution you need a stamped plan. The resolution would have to get changed in order for any of those three things -- actually, the first two things to happen. So that's why I'm here before you tonight, for the purpose of discussing them and to find out how the Board would feel about, once we get the temporary access permit from the DOT, letting us go in there and start doing site work, issue number one. Issue number two, possibly allowing a building permit, maybe just for the foundation, get that in before the cold weather comes. And lastly, can we start doing any work right now, which is primarily just clearing and grubbing of the site, no earth movement at all.

So with that, you know, I'd ask for your Board's consideration on those three issues.

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MR. DONNELLY: John, let me start, if I could.

CHAIRMAN EWASUTYN: You read my mind.

MR. DONNELLY: I haven't talked to Jerry and I thought, frankly, that the issue was going to be resolved because Ken Wersted sent an e-mail that said as long as you get that temporary access permit. You already knew that. I wasn't aware of that.

The resolution did not require that the DOT approval be obtained before the plans were signed. It really only said that the approval was conditioned upon the DOT ultimately issuing the highway work permit. If the highway work permit was not issued for the plan that's shown and they require changes, then you'd have to return. So we never conditioned it upon either the plan or the building permit. I think the building permit is for Jerry.

The first question, I don't see any problem, if the plans haven't been signed, with the plans being signed. You're at your own risk if things change.

The second thing is obviously as soon

1  
2 as the highway temporary access permit is issued,  
3 you could begin whatever site work Jerry's office  
4 will allow you to do.

5 The last issue, which I don't think it  
6 would be appropriate for you to conduct any site  
7 work using the -- I don't think this Board should  
8 be giving you permission to begin site work on a  
9 project when the DOT hasn't issued their permit  
10 for you to use the roadway for that purpose.

11 MR. SHAW: So if I understand you  
12 clearly, on points one and two the decision lies  
13 with Jerry's office?

14 MR. DONNELLY: I'll talk to Jerry.  
15 That's my recommendation.

16 MR. SHAW: The third point is a DOT  
17 issue?

18 MR. DONNELLY: Yes.

19 MR. SHAW: If we get the green light  
20 from Jerry and the DOT, the Board is okay with  
21 that which I laid out?

22 MR. DONNELLY: Just that you are  
23 subject to the conditions that if the DOT makes  
24 changes, you're at risk.

25 MR. SHAW: Absolutely. One hundred

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percent.

CHAIRMAN EWASUTYN: I had a brief conversation and that was my knee-jerk reaction when we first spoke about it. I still thought it was -- I agree with Mike -- a building department issue.

MR. SHAW: That's why the first, you know, person I called was Jerry Canfield. He rolled the ball over to the Board and you were the second call.

CHAIRMAN EWASUTYN: And I rolled it back.

We'll talk to the Board Members.  
Members?

MR. GALLI: I have no problem moving forward. The sooner the better.

MR. BROWNE: I agree.

MR. MENNERICH: I agree.

MR. PROFACI: Yeah. It's Jerry's and DOT's issue.

MR. FOGARTY: I don't have a problem with that.

Greg, how long does it usually take to go from temporary to permanent with the DOT?

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MR. SHAW: The completion of the drawings, I would say probably six weeks. How long they review it, it's just very difficult up there.

MR. FOGARTY: The only other thing that worries me a little bit is could you get yourself involved in doing something on that site that maybe when the DOT comes back and says look, we want these changes and those changes and you've done something --

MR. SHAW: That's why they wouldn't even consider giving you the temporary access permit until they reviewed the preliminary drawings, which, as I said, are probably sixty percent of the final version of the drawings. In other words, they want to see all the meat and potatoes. They're not going to get hung up on details. That can happen between preliminary and final. They want to see the basic design of the two tapers and the stacking lane.

MR. FOGARTY: So the work you have in mind is really not going to interfere with what's going on happen with this left-hand turn lane?

MR. SHAW: No. The only thing we're

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going to be doing is on the site hopefully moving dirt and putting in utilities on the site, storm drainage, building retaining walls.

MR. FOGARTY: I don't have a problem with that.

CHAIRMAN EWASUTYN: Comments from John from McGoey, Hauser & Edsall?

MR. SZAROWSKI: I would just ask they get their NOI started.

MR. SHAW: It's done. We are covered.

CHAIRMAN EWASUTYN: Bryant Cocks?

MR. COCKS: I have nothing.

CHAIRMAN EWASUTYN: I would ask that the Board then have Mike Donnelly prepare a letter and forward that on to Jerry Canfield. I'll move for that motion.

MR. GALLI: So moved.

MR. PROFACI: Second.

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

MR. GALLI: Aye.

MR. BROWNE: Aye.



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NEWBURGH TOYOTA

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MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. FOGARTY: Aye.

CHAIRMAN EWASUTYN: Aye.

That will outline our discussion tonight. Give it to Jerry and Jerry will have something to work from so you'll have a foundation to discuss.

MR. SHAW: Was this discussed during the workshop?

CHAIRMAN EWASUTYN: Unfortunately, I apologize, Jerry had to leave early. I apologize. We didn't have a chance to. We were actually talking about the items that were on the agenda itself.

MR. SHAW: Okay. Then I'll be the one to give them the good news. Thank you.

(Time noted: 7:44 p.m.)

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

----- X  
In the Matter of

STARBUCKS  
(2011-09)

Karen Arent to Discuss ARB Field Change

----- X

BOARD BUSINESS

Date: October 6, 2011  
Time: 7:44 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman  
FRANK S. GALLI  
CLIFFORD C. BROWNE  
KENNETH MENNERICH  
JOSEPH E. PROFACI  
THOMAS P. FOGARTY

ALSO PRESENT: MICHAEL H. DONNELLY, ESQ.  
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JOHN R. SZAROWSKI

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STARBUCKS

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CHAIRMAN EWASUTYN: The last item,  
Cliff.

MR. BROWNE: The last item on Board  
Business is Starbucks, project 2011-09. On the  
agenda we have Karen Arent discussing an ARB  
field change with the building.

We talked about that during the work  
session and we'll hold over now for any action.

CHAIRMAN EWASUTYN: Karen looked at it,  
thought the changes were minor based upon the  
original ARB approval that was granted for  
Starbucks.

That being said and Karen representing  
the Board for all ARB, I'd move for a motion to  
grant the modified changes to the ARB for  
Starbucks showing the awning and the change in  
some of the windows.

MR. PROFACI: So moved.

MR. MENNERICH: Second.

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

(No response.)

CHAIRMAN EWASUTYN: I'll move for a

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roll call vote starting with Frank Galli.

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. FOGARTY: Aye.

CHAIRMAN EWASUTYN: Myself. So

carried.

With that I'd like to thank everyone.

I'll move for a motion to close the meeting of  
October 6th.

MR. GALLI: So moved.

MR. FOGARTY: Second.

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

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. FOGARTY: Aye.

CHAIRMAN EWASUTYN: And myself.

(Time noted: 7:47 p.m.)

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