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

----- X

In the Matter of

RHODA REALTIES
(2007-41)

Southern side of Highland Terrace
Section 20; Block 8; Lot 77
B & R-3 Zones

----- X

PUBLIC HEARING
FOUR-LOT SUBDIVISION

Date: October 15, 2009
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
KENNETH MENNERICH
JOSEPH E. PROFACI
THOMAS P. FOGARTY
JOHN A. WARD

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

APPLICANT'S REPRESENTATIVE: CHARLES BROWN

----- X

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

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RHODA REALTIES

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MR. BROWNE: Welcome to the Town of
Newburgh Planning Board meeting of October
15, 2009.

At this time I'll call the meeting
to order with a roll call vote starting with
myself. Present.

MR. MENNERICH: Present.

CHAIRMAN EWASUTYN: Present.

MR. PROFACI: Here.

MR. FOGARTY: Here

MR. WARD: Present.

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

MR. DONNELLY: Michael Donnelly,
Planning Board Attorney.

MS. CONERO: Michelle Conero,
Stenographer.

MR. CANFIELD: Jerry Canfield, Town of
Newburgh.

MR. HINES: Pat Hines with McGoey,

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RHODA REALTIES

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Hauser & Edsall, Consulting Engineers.

MR. COCKS: Bryant Cocks, Planning
Consultant, Garling Associates.

MR. MUSSO: Mike Musso, HDR, Wireless
Consultant.

MR. BROWNE: At this time I'll turn the
meeting over to Joe Profaci.

MR. PROFACI: Please join us in a
salute to the flag.

(Pledge of Allegiance.)

MR. PROFACI: Please turn off your cell
phones also.

MR. BROWNE: This evening the first
four items on our agenda are all public hearings.
I would ask Mike Donnelly to go over what we're
doing with the public hearings and what that's
all about, and also comment on the first two
because they have been held open from the
previous time.

MR. DONNELLY: As Cliff mentioned,
there are four public hearings on. Two of them
were matters that the hearings began in
September, on September 17th, and because there
was a problem with the publication through the

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newspapers' fault in both of those matters, the hearings were continued to this evening in order that a proper notice could go in the paper. The other two are new public hearings.

The purpose of the public hearing before the Planning Board is for the members of the public to bring to the Planning Board issues that the Planning Board may not be aware of themselves or they have not learned through the consultant team who advises them.

After the applicant makes his presentation the Chairman will recognize anyone in the public that wishes to speak. We would ask you to stand and perhaps come forward so you can be heard, and begin by giving your name to the Stenographer and spelling it so we get it correct in the transcript. We would ask you to direct your comments to the Planning Board. If you have questions, the Chairman will determine whether they're appropriate and whether a member of the applicant's team or one of the Town's consultants should answer the question.

MR. BROWNE: Thank you.

The first public hearing is a four-lot

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RHODA REALTIES

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subdivision for Rhoda Realties being represented by Charles Brown of Taconic Design Engineering.

I would ask Ken Mennerich to read the notice of hearing now.

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 Town Law on the application of Rhoda Realties for a four-lot subdivision on premises Highland Terrace off Route 9W in the Town of Newburgh, designated on Town tax map as Section 20; Block 8, Lot 77. Said hearing will be held on the 15th day of October 2009 at the Town Hall Meeting Room, 1496 Route 300, Newburgh, New York at 7 p.m. at which time all interested persons will be given an opportunity to be heard. By order of the Town of Newburgh Planning Board. John P. Ewasutyn, Chairman, Planning Board Town of Newburgh. Dated September 18, 2009. Published one time only no later than October 9, 2009."

This notice was published in The Sentinel on September 22nd and in The Mid-Hudson

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RHODA REALTIES

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Times on September 23rd.

CHAIRMAN EWASUTYN: At this time I would like to introduce Charles Brown who will give a presentation on the subdivision. As Mike Donnelly said, anyone who has any questions or concerns after Mr. Brown has finished, would you please raise your hand and give your name and your address.

Charles.

MR. BROWN: Thank you. This proposal is an existing nine-acre parcel that is vacant at the current time. It's split zones, the front is zoned B and the rear portion is zoned R-3. It's fronted on 9W and Highland Terrace on the side.

The proposal is to create three new single-family building lots, each one approximately an acre-and-a-half, that will be serviced by individual wells and septic systems and be accessed via driveways off Highland Terrace.

The balance of the property, roughly four-and-a-half acres, is not proposed to be developed at this time, and that's the commercial part.

CHAIRMAN EWASUTYN: Thank you.

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RHODA REALTIES

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Questions or comments from anyone in the audience at this time?

MR. DRENNAN: Greg Drennan, 42 Highland Terrace. What is the approximate size of the houses going in there?

MR. BROWN: Representative right now, the houses are approximately 3,500 square feet as shown on the footprint, however at the time of issuance of the building permit, when an applicant for the building permit applies they can essentially put the house anywhere within the building envelop that doesn't conflict. Other than the minimum 900 square foot requirement.

MR. DRENNAN: They'll definitely be single family?

MR. BROWN: Yes. These lots cannot support duplexes.

CHAIRMAN EWASUTYN: I'll turn to our consultants at this time. Jerry Canfield, Code Compliance?

MR. CANFIELD: I have nothing.

CHAIRMAN EWASUTYN: Pat Hines, Drainage Consultant?

MR. HINES: We have some comments from

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RHODA REALTIES

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the previous meeting on September 17th. There's some coordination with the drainage on the commercial lot, the B lot there. There's different inverts on several of the sheets and pipe sizes which need to be cleaned up.

We requested -- the applicant is proposing a buffer along the front and rear setback lines. We just wanted the front one clearly labeled also. The rear one was labeled.

Along with that, the topsoil stockpiles were shown in the front buffer. Those should be relocated.

The pipe under the driveway for lot 5 needs to be -- actually it's lot 4?

MR. BROWN: Lot 5.

MR. HINES: It is lot 5. It needs to be shown with the inverts coordinated with that drainage on the commercial lot.

MR. BROWN: Okay.

CHAIRMAN EWASUTYN: Bryant Cocks, Planning Consultant?

MR. COCKS: The applicant has addressed our previous comments on lot layout including buffers.

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RHODA REALTIES

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I'll just note they have to submit a common driveway maintenance agreement to be approved by Mike Donnelly, and also they will need to get road name approval for the common driveway which will technically be a private road.

MR. BROWN: My understanding is the common driveway agreement has been submitted, Mike.

MR. DONNELLY: I'm going to look. Is that from Tom Murphy?

MR. BROWN: Tom Murphy, yes.

MR. DONNELLY: I have it but I'll leave it in the resolution. I have a letter prepared that it's satisfactory.

MR. BROWN: Very good. Thank you.

CHAIRMAN EWASUTYN: Comments from Board Members. Cliff Browne?

MR. BROWNE: Nothing more, John.

MR. MENNERICH: No questions.

MR. DRENNAN: Greg Drennan again. I have one more question. The buffer, how wide is the buffer?

MR. BROWN: Forty foot, and it's

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RHODA REALTIES

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stipulated to be left as it is. Existing
condition.

MR. DRENNAN: Trees?

MR. BROWN: Yes.

MR. DRENNAN: Fifty foot on each side?

MR. BROWN: Forty in the front and
forty feet in the rear.

MR. HINES: That was offered by the
applicant.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: No questions.

CHAIRMAN EWASUTYN: Joe Profaci?

MR. PROFACI: Nothing additional, John.

MR. FOGARTY: No questions.

MR. WARD: No questions.

CHAIRMAN EWASUTYN: Any further
questions or comments from the public?

(No response.)

CHAIRMAN EWASUTYN: Then I'd like at
this time to move for a motion to close the
public hearing for the four-lot subdivision known
as Rhoda Realty.

MR. MENNERICH: So moved.

MR. PROFACI: Second.

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RHODA REALTIES

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

(No response.)

CHAIRMAN EWASUTYN: I'll move for a roll call vote starting with Cliff Browne.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Myself yes. So carried.

At this time we'll refer to Mike Donnelly, Planning Board Attorney, to give us the conditions of final approval in resolution form. Mike.

MR. DONNELLY: Yes. We will need sign-off letters from both the Planning Board Engineer and from Garling Associates on the items that were just outlined by them that appear in their most recent review memoranda. The resolution will also include a condition that states that there shall be no use of the commercial lot shown

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on the plan without approval from the Planning Board. The resolution makes provision for the deferral of the payment of landscaping and parkland fees, in the event the applicant wishes to defer payment of those, until the time of building permit issuance. I will need to review and sign off on the common driveway easement and maintenance agreement. I have seen it, it is satisfactory, but I will send a letter to that effect. There's a condition that requires that the clearing limits shall be clearly marked in the field and honored during site preparation. A requirement that the Town Board approve the name of the private roadway. We'll need a stormwater improvement security and inspection fee, a Town road security and inspection -- it's not a Town road? There's no Town road?

MR. HINES: No Town road.

MR. DONNELLY: A private road?

MR. HINES: Actually it's a common driveway.

MR. DONNELLY: You're right.

MR. HINES: Because of the 911 numbering they're going to give it a road name.

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RHODA REALTIES

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MR. BROWN: They're going to give it a name.

MR. DONNELLY: Just for name purposes. It's not a private road.

There will be a \$6,000 fee in lieu of parkland fee required.

CHAIRMAN EWASUTYN: Comments from Board Members?

MR. BROWNE: None.

MR. MENNERICH: No questions.

MR. PROFACI: None.

CHAIRMAN EWASUTYN: If we're all satisfied then with the resolution provided by Mike Donnelly for final approval for the four-lot subdivision for Rhoda Realty, I would move for a motion for that.

MR. PROFACI: So moved.

MR. WARD: Second.

CHAIRMAN EWASUTYN: I have a motion by Joe Profaci. I have a second by John Ward. Any discussion of that motion?

(No response.)

CHAIRMAN EWASUTYN: There being no discussion, I'll move for a roll call vote for

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RHODA REALTIES

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approval starting with Cliff Browne.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Myself yes. So
carried.

Thank you.

MR. BROWN: Thank you.

CHAIRMAN EWASUTYN: Thank you for
attending.

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

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

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

DATED: November 1, 2009

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

----- X

In the Matter of

CHRIS KELLY SUBDIVISION
(2006-07)

39 New Road
Section 34; Block 2; Lot 16
B Zone

----- X

PUBLIC HEARING
THREE-LOT SUBDIVISION

Date: October 15, 2009
Time: 7:10 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman
CLIFFORD C. BROWNE
KENNETH MENNERICH
JOSEPH E. PROFACI
THOMAS P. FOGARTY
JOHN A. WARD

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

APPLICANT'S REPRESENTATIVE: CHARLES BROWN

----- X

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CHRIS KELLY SUBDIVISION

MR. BROWNE: The next item of business is a public hearing for a three-lot subdivision, Chris Kelly Subdivision, also being represented by Charles Brown of Taconic Engineering.

Ken Mennerich, please 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 Town Law on the application of Lands of Chris Kelly for a three-lot subdivision on premises west side of New Road in the Town of Newburgh, designated on Town tax map as Section 34; Block 2; Lot 16. Said hearing will be held on the 15th day of October 2009 at the Town Hall Meeting Room, 1496 Route 300, Newburgh, New York at 7 p.m. at which time all interested persons will be given an opportunity to be heard. By order of the Town of Newburgh Planning Board. John P. Ewasutyn, Chairman, Planning Board Town of Newburgh. Dated September 18, 2009. Publish one time only no later than October 9, 2009."

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The notices were published in The Sentinel on September 22nd and in The Mid-Hudson Times on September 23, `09.

CHAIRMAN EWASUTYN: At this time again Charles Brown will make a presentation. After his presentation, if there are any questions or comments from the public, would you please raise your hand and give your name and your address.

Charles.

MR. BROWN: This is an existing three-acre parcel that has an existing single-family residence that fronts on New Road. The existing residence has a septic and is serviced by Town water.

The proposal is to subdivide and create two more parcels. There's no proposed development of those parcels with this application. Individual site plan approvals would be required for development of those parcels, because again they are in the B zone.

With this application we have shown septic designs.

Lot 3, the one in the back, will be served by an individual well on site whereas lot

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CHRIS KELLY SUBDIVISION

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2 would get Town water off of New Road.

CHAIRMAN EWASUTYN: Thank you.

Questions from the public?

(No response.)

CHAIRMAN EWASUTYN: Then I'll turn to our consultants for their final comments. Jerry Canfield?

MR. CANFIELD: I have no additional comments on the subdivision.

CHAIRMAN EWASUTYN: Pat Hines, Drainage Consultant?

MR. HINES: We were awaiting comments from the highway superintendent regarding the access road. I don't know if we have those yet.

MR. BROWN: We've been trying to get them out there. They're busy this time of year. We should have him out there within the next week. We have sight distance on those driveways so I don't anticipate any problems. We are in contact with them to get that.

MR. HINES: We received a letter from Central Hudson regarding crossing of the easement, so that comment has been addressed. There will be a need for an access and

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maintenance agreement for the commercial lot.

The actual size of the water line is not depicted on these plans but will be shown when the lots come in for site plan, and that will be based on the building size and the need for sprinklers.

We requested the limit of disturbance note number 3 on sheet 4 be revised.

And also we talked last time about removing the proposed improvements shown on lot 2 so that someone doesn't think that that's part of an approved site plan.

The building and parking areas will be removed and it will look like lot 3 on the subdivision.

MR. BROWN: Right.

MR. HINES: That's all we have.

CHAIRMAN EWASUTYN: Thank you.

Bryant Cocks, Planning Consultant?

MR. COCKS: We have nothing further on this subdivision.

CHAIRMAN EWASUTYN: Planning Board Members. Cliff Browne?

MR. BROWNE: We talked during work

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session about the possible future on the last lot back, that that water main would have to be extended.

MR. HINES: They're showing it with a well right now. If it gets developed as a business in the B zone it may need to be sprinklered. They'll either need a sprinkler waiver or a water main extension to be shown. I think there's a desire right now to make that a residential lot.

MR. BROWN: That's correct. Several years ago we were before the Town Board. Actually the zoning line is R-3 right at the back of the property. We brought this before the Town Board. My client currently lives in the house. He wants to develop, in the future, this lot for his business and his own house on the back lot as a residence. The B zone permits existing residences to continue but does not permit new residences.

So again, we went before the Town Board to amend the zoning line around this. They were amenable to that. They said they would do that. They asked us to go through the process first so

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we could give them the metes and bounds of the deviation for the movement of the zoning line. That's the way that this would pan out as to what my client intends to do. If that's not granted, as Pat said we would have to extend the water line for any commercial development on that lot.

MR. BROWNE: Would there be any need or would it be appropriate to put a note on this plan projecting that in the future?

MR. HINES: There's a note right now that says no proposed development right now. So there is that note that says they have to come back to us.

MR. BROWNE: Thank you.

CHAIRMAN EWASUTYN: Jerry, I notice you were motioning. Do you have input on this?

MR. CANFIELD: No. Just to reiterate what Pat said, if and when they develop the parcels they'll have to come back for site plans anyway so it will give us an opportunity.

Also too Cliff, whether or not a sprinkler system would be required will be dependent upon what type of building they put in the back and the sides.

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CHRIS KELLY SUBDIVISION

MR. BROWNE: Thank you.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: No questions.

MR. PROFACI: Nothing, John.

MR. FOGARTY: No questions.

MR. WARD: No questions.

CHAIRMAN EWASUTYN: Before I move for a motion to close the public hearing, is there anyone in the audience this evening that would like to speak on the three-lot subdivision for the lands of Kelly?

(No response.)

CHAIRMAN EWASUTYN: Then I'll move for a motion to close the public hearing for the three-lot subdivision for the lands of Chris Kelly.

MR. MENNERICH: So moved.

MR. PROFACI: Second.

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

(No response.)

CHAIRMAN EWASUTYN: I'll move for a roll call vote starting with Cliff Browne.

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CHRIS KELLY SUBDIVISION

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Myself yes.

And at this point we'll ask Mike Donnelly, Planning Board Attorney, to review with us the resolution for final approval.

MR. DONNELLY: First we'll tie in the Zoning Board of Appeals variance that was granted in 2006. We'll need a common driveway easement and maintenance agreement. We'll need a sign-off letter from Garling Associates and from the Planning Board Engineer. We will also need review and approval of the highway superintendent.

CHAIRMAN EWASUTYN: Thank you.

MR. DONNELLY: I think we have -- is it parkland fees?

MR. BROWN: Not on this.

MR. DONNELLY: It's commercial. Okay.

CHAIRMAN EWASUTYN: All good, Mike?

MR. DONNELLY: Yes.

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CHRIS KELLY SUBDIVISION

CHAIRMAN EWASUTYN: Okay. Thank you.

Having heard the conditions of approval from Mike Donnelly, Planning Board Attorney, for the lands of Chris Kelly, I would then move for that motion.

MR. PROFACI: So moved.

MR. FOGARTY: Second.

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

(No response.)

CHAIRMAN EWASUTYN: Then we'll move for a roll call vote for the final approval starting with Cliff Browne.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Myself yes. So carried.

MR. BROWN: Thank you.

CHAIRMAN EWASUTYN: Thank you.

(Time noted: 7:18 p.m.)

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

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

DATED: November 1, 2009

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

----- X
In the Matter of

VERIZON WIRELESS CO-LOCATION
(2009-8)

Newburgh Mall Monopole
Section 60; Block 3; Lot 35.1
IB Zone

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PUBLIC HEARING
SITE PLAN & SPECIAL USE PERMIT

Date: October 15, 2009
Time: 7:18 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman
CLIFFORD C. BROWNE
KENNETH MENNERICH
JOSEPH E. PROFACI
THOMAS P. FOGARTY
JOHN A. WARD

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

APPLICANT'S REPRESENTATIVE: CLIFFORD ROHDE

----- X

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

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2 MR. BROWNE: The next item of business
3 is a public hearing, site plan and special use
4 permit for Verizon Wireless Co-Location, Newburgh
5 Mall Monopole. It's being represented by
6 Tectonic Engineering. Who is representing --

7 MR. ROHDE: Actually my name is
8 Clifford Rohde, I'm with the law firm of Cooper,
9 Erving & Savage.

10 MR. BROWNE: At this time I'll ask Ken
11 Mennerich to read the notice of hearing.

12 MR. MENNERICH: "Notice of hearing,
13 Town of Newburgh Planning Board. Please take
14 notice that the Planning Board of the Town of
15 Newburgh, Orange County, New York will hold a
16 public hearing pursuant to the Municipal Code of
17 the Town of Newburgh, Chapter 185-57, Section K
18 and Chapter 168-16, Section A on the application
19 of Verizon Wireless Co-Location for a site plan
20 and special permit for the installation of
21 cellular phone antennas on the Newburgh Mall
22 monopole on premises Meadow Hill Drive in the
23 Town of Newburgh, designated on Town tax map as
24 Section 60; Block 3; Lot 35.1, IB Zone. Said
25 hearing will be held on the 15th day of October

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2 at the Town Hall Meeting Room, 1496 Route 300,
3 Newburgh, New York at 7 p.m. at which time all
4 interested persons will be given an opportunity
5 to be heard. By order of the Town of Newburgh
6 Planning Board. John P. Ewasutyn, Chairman,
7 Planning Board Town of Newburgh. Dated September
8 18, 2009. Publish no later than -- publish one
9 time only no later than September 30, 2009."

10 There were twelve notices mailed out
11 and ten notices returned. It was published in
12 The Sentinel -- the notice was published in The
13 Sentinel on September 22nd and in The Mid-Hudson
14 Times on September 23, `09.

15 MR. BROWNE: Thank you. John.

16 CHAIRMAN EWASUTYN: Thank you. Will
17 you make your presentation?

18 MR. ROHDE: Yes, please. Mr. Chairman,
19 Members of the Board, thank you for having us
20 here tonight. Again my name is Cliff Rohde, I'm
21 with the Albany law firm of Cooper, Erving &
22 Savage and I'm here tonight with Mike Orchard of
23 WFI who is Verizon Wireless's site acquisition
24 specialist for this project.

25 It's important to reflect for the

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record that I am going to pretend that I did not drive down through a snowstorm on October 15th, otherwise I will be telling the truth.

CHAIRMAN EWASUTYN: Would you like to cancel the meeting?

MR. ROHDE: No. That's okay. We can go ahead, that would be great.

So we are here tonight for the public hearing. Thank you for that. We're hoping to have a successful environmental quality review and negative declaration and hopefully an approval of our application.

Just to step back very briefly, what our application is about, we are seeking to co-locate antennas on an existing monopole tower near the Newburgh Mall. We would be the fourth and -- I don't know if the Board can see this, if you need to see this.

CHAIRMAN EWASUTYN: I think for the public. We've been reviewing it.

MR. ROHDE: Okay, terrific.

So we would be the fourth tenant on this existing tower that is owned by Crown Castle, and the lowest tenant. There is no --

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it's a 150-foot monopole tower. Our antennas, twelve of them, four on each three sectors, would go at a center line height of 117 feet.

The reason why we are proposing to go on this existing tower is that our network engineers have identified a need for service in this territory. Verizon Wireless is a New York State public utility. We're required to provide safe and adequate service. Because of coverage problems and capacity problems in this region, going through the tremendous growth of the region and tremendous growth of wireless services and the use of wireless services, we've identified this need for the facility.

Having identified a need, we are somewhat circumscribed in where we can go to site the facility because of limitations on wireless technology. It's a line-of-sight technology. It can't get through very well buildings or hills or trees and things like that. We identified a relatively small search ring. Within that search ring we looked for sites and found an existing tower. Town zoning prefers co-location, that is siting your facilities on somebody else's

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structure. The wireless industry favors this as well because it's very economic and makes a lot of sense. You don't end up with too many towers, we don't have the expense of having to go and build a tower.

I've described a little bit where we are on the tower. In terms of the land space, this is currently a fenced-in compound. We are proposing to extend the compound a little bit. We would also extend the fence. Along with our antennas goes a requisite accessory equipment shelter. Because of the placement of the compound currently we do have to bump it out a little bit. That's all in the copious materials that we filed with the Board so far.

We've engaged in a tough but fair back and forth with your telecommunications consultant, HDR, on this project, both before the last meeting in September and then since that September meeting, and I'm sure Mr. Musso will probably talk about that. We've talked about a couple of issues related to structural analysis and the input or not or impact or not of seismic concerns in this area.

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As well, we looked more at a question from Mr. Mennerich I believe from the last meeting regarding natural gas. This facility entails a back-up emergency generator in the case of a sustained power outage. We typically put a diesel tank actually within the equipment shelters, but in this case we're proposing to install a 500-gallon propane tank outside the facility. There is natural gas in the area. My understanding from Tectonic who produced all the site plans is the closest point is about 200 feet away. To get to the site you would have to go underneath wetlands and a swale which really takes natural gas into consideration.

We did send out the notices in September. I actually -- we did receive one more receipt back. I don't know -- can I give that to the Board, if you'll indulge me?

CHAIRMAN EWASUTYN: Sure.

MR. ROHDE: Thank you. We sent those out in a timely way, provided again the information to the Board on sending out the notices to the adjacent property owners.

That is the project in a nutshell.

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2 Again, we are hopeful we'll receive a negative
3 declaration under SEQRA from the Board, and
4 project approval. Thank you.

5 CHAIRMAN EWASUTYN: Thank you.

6 At this point I'll open the meeting up
7 to the public for their questions or concerns.
8 Anyone here, would you please raise your hand and
9 give your name and your address.

10 (No response.)

11 CHAIRMAN EWASUTYN: As Mr. Rohde had
12 discussed during his presentation, he had
13 communicated throughout the last several weeks
14 with Mike Musso who represents the Town of
15 Newburgh residents and the Planning Board, and I
16 would like to introduce Mike Musso at this time
17 for him to give his summary of the studies and
18 reports.

19 MR. MUSSO: Mr. Chairman, Members of
20 the Board, thanks for having me back. Mike Musso
21 from HDR working on behalf of the Town.

22 I presented last month and my report
23 was in place at that time also, so I'll just give
24 you a couple highlights and I think recent
25 discussions that we've had.

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To reiterate, as the applicant presented tonight, this is an existing 150-foot monopole located behind the Newburgh Mall. The proposal is to be the fourth and lowest antenna array at 117 feet.

No additional lighting is going to be proposed.

As you can see by the plans, the flare and the construction of the antenna array is similar indeed to two of the three that are on this tower already.

We looked at the common elements including radiofrequency, health and safety, made sure they took into account the three existing providers that are there along with the proposed Verizon antennas.

We looked at the structural aspects of the existing monopole to confirm that it is capable of maintaining the existing loads and the added weight which is being proposed by Verizon.

A question had also come up regarding the Tower Industry Associates guidelines for structural analysis and how and if seismic loads are accounted for. Indeed we did confirm with

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2 the applicant's structural engineer the seismic
3 loads are accounted for. There's factors like
4 there are for wind loads for each county in the
5 U.S., and because the seismic co-efficient of .4
6 is less than 1, the other loads that are
7 accounted for in the calculations would override
8 that. So here in Orange County, New York it's
9 considered but it's correctly not added to the
10 structural calculations by the applicant.

11 I think the one other development to
12 bring up recently is that Karen Arent, Landscape
13 Architect, provided a memorandum to the Board
14 regarding some of the plantings.

15 Other than that, I don't think I have
16 any other new comments at this point.

17 CHAIRMAN EWASUTYN: Thank you, Mike
18 Musso.

19 Any questions or comments from the
20 public?

21 (No response.)

22 CHAIRMAN EWASUTYN: Okay. I'll turn to
23 our consultants if they have anything to add.
24 Jerry Canfield?

25 MR. CANFIELD: I have nothing

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additional at this time.

CHAIRMAN EWASUTYN: Pat Hines?

MR. HINES: We have nothing on this.

CHAIRMAN EWASUTYN: Bryant Cocks?

MR. COCKS: Just that we did forward this to the Orange County Planning Department and they came back with a local determination with no comments.

CHAIRMAN EWASUTYN: Board Members.

Cliff Browne?

MR. BROWNE: I have no other comments.

Thank you.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: No comments.

MR. FOGARTY: Mike, is there a maximum load that can go on that pole? In other words, right now we have four units on there. Is that reaching a maximum load? Is that it or can it fit more?

MR. MUSSO: Well, it would have to be -- if and when there is another provider that wants to go on that pole, I can't really speak to that because there's a tower a little bit up the Thruway and one a little bit down. They are

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certainly under the maximum capacity but there is a limit to monopole structures and what can be out there.

One of the things we looked at is if there is any need for reinforcing. Indeed they are under the safe level capacity.

What I can say is that four and sometimes five is getting close or at that maximum level, and here this would potentially be the fourth provider that's there.

So really to answer your question, it would have to be looked at if number five ever comes along, how big their equipment is, where it's located, what exactly they propose to do.

MR. FOGARTY: Very good. Thank you, Mike.

CHAIRMAN EWASUTYN: John Ward?

MR. WARD: No further comment.

CHAIRMAN EWASUTYN: There seems to me at this point to be no one in the audience who has any questions or comments, so I would then turn to the Board Members and ask that we move for a motion to close the public hearing on the Verizon Wireless site plan and special use

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permit.

MR. WARD: So moved.

MR. MENNERICH: Second.

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

(No response.)

CHAIRMAN EWASUTYN: I'll move for a roll call vote starting with Cliff Browne.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Myself yes. So carried.

At this point I'll turn to Mike Donnelly, Planning Board Attorney, to discuss with us the need for a SEQRA determination, if so, and the conditions for a final approval for the site plan and special use permit.

MR. DONNELLY: I have recommended to the Board that this being a structure or facility of under 4,000 square feet in area, that it is a

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Type II action under SEQRA and therefore doesn't require any determination of significance. I don't know if you disagree. Certainly that's how we handle these. It's not just buildings, it's structures or facilities under 4,000 square feet. So we've done that fairly consistently in the past. Unless there's a reason to change, I think that's what I recommend that the Board do.

In terms of the conditions, we'll need a sign-off letter from Karen Arent addressing the items raised in her memorandum of October 13th. Part and parcel of the approval here is ARB, so that this structure and renderings need to be consistently built in the field. This is the fourth tower on here, and I don't have a running summary of how much of the performance security removal bond has been paid, so we'll include a condition that says that what is due is the balance to bring it up to the full amount of \$75,000. I don't recall what that amount is. It may be fully paid at this time, I don't know. Normally you would be required to pay a removal bond of \$75,000. It may already be paid. If it isn't, you'll make up the difference. There are

1 standard conditions regarding routine inspection
2 of the facility and warning signs, an annual
3 letter certifying that the NIER levels are within
4 the threshold levels adopted by the FCC. Any
5 proposed increase in power, size or enlargement
6 of ground-based equipment shall require amended
7 approval from this Board. This is a co-location
8 and our requirement is that before the -- put it
9 this way: The field measurements be taken in the
10 field when the tower is open to make sure that
11 the total cumulative measurements are within
12 compliance with the FCC requirements. There will
13 be a landscape security and inspection fee
14 required, and the inspection fee will be in the
15 amount of \$2,000. The bond will be determined
16 based on the recommendation of the Town's
17 landscape architect.

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19 CHAIRMAN EWASUTYN: Is there anything
20 our consultants may want to add to that
21 resolution, or Mike Musso?

22 (No response.)

23 CHAIRMAN EWASUTYN: Any questions from
24 our Board Members? Cliff Browne?

25 MR. BROWNE: No.

2 MR. MENNERICH: No.

3 MR. FOGARTY: None.

4 MR. WARD: None.

5 CHAIRMAN EWASUTYN: Then I'll move for
6 a motion for final approval for the site plan and
7 special use permit for Verizon Wireless Co-
8 Location as set forth in the resolution presented
9 by our Attorney, Mike Donnelly.

10 MR. MENNERICH: So moved.

11 MR. WARD: Second.

12 CHAIRMAN EWASUTYN: I have a motion by
13 Ken Mennerich. I have a second by John Ward.
14 Any discussion of the motion?

15 MR. BROWNE: John, one question. Do we
16 need to separate the SEQRA conditions?

17 MR. DONNELLY: If you follow my
18 recommendation, it's a Type II because no further
19 compliance with SEQRA is required.

20 MR. BROWNE: We don't have to say
21 anything as far as --

22 MR. DONNELLY: No.

23 CHAIRMAN EWASUTYN: I had a motion by
24 John Ward. I had a second by Ken Mennerich. We
25 had discussion by Cliff Browne. Is there any

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further discussion?

(No response.)

CHAIRMAN EWASUTYN: Then I'll move to
continue that motion for final approval.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: And myself yes. So
carried.

Mr. Rohde, thank you.

MR. ROHDE: Thank you very much.

CHAIRMAN EWASUTYN: Cliff Rohde in the
near future will be presenting an application for
an addition on Valley View. We received that
application this week and we're waiting for some
further information that will come in to make it
complete. There's a possibility we may be seeing
it for our second meeting in November.

MR. ROHDE: I'd be happy to be back.

(Time noted: 7:34 p.m.)

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

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

DATED: November 1, 2009

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

----- X
In the Matter of

OMNIPOINT COMMUNICATIONS, INC.
(2008-06)

39 North Plank Road - Mid-Valley Mall Water Tank
Section 75; Block 1; Lot 11
B Zone

----- X

PUBLIC HEARING
SITE PLAN & SPECIAL USE PERMIT

Date: October 15, 2009
Time: 7:34 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman
CLIFFORD C. BROWNE
KENNETH MENNERICH
JOSEPH E. PROFACI
THOMAS P. FOGARTY
JOHN A. WARD

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

APPLICANT'S REPRESENTATIVE: DOUGLAS WARDEN

----- X

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

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OMNIPOINT COMMUNICATIONS, INC.

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MR. BROWNE: The next and last public hearing this evening is a site plan and special use permit for Omnipoint Communications located at 39 North Plank Road, Mid-Valley Mall, and it's being represented by --

MR. WARDEN: Doug Warden.

MR. BROWNE: -- Doug Warden. Thank you.

I'd ask Ken Mennerich now to read the notice of hearing.

MR. MENNERICH: "Notice 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 the Municipal Code of the Town of Newburgh, Chapter 185-57, Section K and Chapter 168-16, Section A on the application of T-Mobile Northeast, LLC for a site plan and special use permit for the installation of cellular phone antennas on the side of the water tower on the Mid-Valley Mall site on premises 309 North Plank Road, water tank, in the Town of Newburgh, designated on Town tax map as Section 75; Block 1; Lot 11, B Zone. Said hearing will

1 be held on the 15th day of October at the Town
2 Hall Meeting Room, 1496 Route 300, Newburgh, New
3 York at 7 p.m. at which time all interested
4 persons will be given an opportunity to be heard.
5 By order of the Town of Newburgh Planning Board.
6 John P. Ewasutyn, Chairman, Planning Board Town
7 of Newburgh. Dated September 18, 2009. Publish
8 one time only no later than September 30, 2009."

9
10 CHAIRMAN EWASUTYN: Thank you.

11 MR. MENNERICH: It was published in The
12 Sentinel on September 22nd, in The Mid Hudson
13 Times on September 23rd. There were sixty-nine
14 mailings, twenty-eight returns and three
15 undeliverables. Thank you.

16 CHAIRMAN EWASUTYN: Doug Warden, if you
17 would give your presentation, please.

18 MR. WARDEN: Good evening. My name is
19 Doug Warden, I'm an attorney with the law firm of
20 Snyder & Snyder. I'm here tonight on behalf of
21 T-Mobile Northeast formerly known as Omnipoint
22 Communications.

23 T-Mobile is here tonight respectfully
24 requesting to locate a wireless telephone
25 communications facility on the existing water

1 tank at 39 North Plank Road. I said we're asking
2 for approval to locate. I more properly should
3 have said to co-locate. It is my understanding
4 that Nextel has recently been approved to locate
5 antennas on the same water tank, and therefore it
6 constitutes a co-location. I believe the code
7 has a location priority section that sets forth
8 the preferred locations, and under the code
9 location, priority requirements, it's my
10 understanding that co-location on an existing
11 tall structure is the most preferred type of
12 location, and so that is a good thing.

14 To provide some context, I know we
15 discussed this before but it can't hurt to
16 discuss it again. We were here a year ago with
17 an application to fill this same significant gap
18 in T-Mobile's coverage. We had a different
19 location, and that was 5020 Route 9W towards the
20 rear of a small shopping mall which was adjacent
21 to a golf course. The Town and this Board were
22 -- I think they were very skeptical of the
23 application because they felt that the golf
24 course had certain aesthetic significance to the
25 Town. The Board had asked us to recognize that,

1
2 look at other alternatives and take a look at the
3 water tank that we're now proposing. We took
4 that to heart and we're pleased to report that
5 we're here on the suggested water tank, to locate
6 there.

7 The application in itself involves the
8 location of twelve panel antennas along the outer
9 rim of the existing water tank, below the top of
10 the existing water tank. So we're not going to
11 increase the height of the facility at all. That
12 also is in that -- it means we're not increasing
13 the profile visually. We're minimizing the
14 increase in any aesthetic intrusion that may
15 result from this application.

16 The antennas, to give us a sense of
17 perspective, are each fifty-three inches tall,
18 thirteen inches wide and three inches deep.
19 They'll be mounted up against the water tank
20 itself and will not stick out radially. Some
21 carriers use these radial rays that increase the
22 width. That creates a visual intrusion that we
23 have tried to avoid here.

24 The application also involves the
25 location of related equipment within an equipment

1 compound, an existing compound at the base of the
2 tower. The existing compound is surrounded by a
3 four-foot fence, and we're proposing to increase
4 that fence to a height of six feet for security
5 purposes. To the extent that the Board agrees
6 that it is a wise thing to do, also for security
7 purposes we would also like to propose barbed
8 wire on top of that fence to keep intruders out
9 of the equipment compound. All of our equipment
10 will be located within the compound with the
11 exception of some utility and telecommunications
12 with fiber and power cables which will be located
13 outside. Those are small transformers about this
14 size and also a small telecommunications box,
15 both which will be locked for security purposes.

17 The relief we're requesting this
18 evening is of course a negative declaration of
19 the State Environmental Quality Review Act,
20 special use permit, site plan approval, and also
21 for the Board to exercise its authority which
22 allows it to waive certain small requirements of
23 the code. Our equipment at the base of the tower
24 is technically within the existing setback.

25 That's because the existing tower itself, which

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OMNIPOINT COMMUNICATIONS, INC.

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is 140 feet tall, is itself quite close to the setbacks. It's 10 feet away from the nearest lot line. So we're requesting that this Board exercise its authority to waive certain de minimus requirements of the code under, as I said, 168-29.

That's an overview of what we're proposing. So if it pleases the Board, I'd be glad to make myself available to answer any questions that the Board or the public may have.

CHAIRMAN EWASUTYN: At this point I'd like to open it up to the public for any questions or comments they may have, would they please give their name and address, and Doug will be willing to answer them.

(No response.)

CHAIRMAN EWASUTYN: Very much like the Verizon application that was before us earlier this evening, Mike Musso represents the Town of Newburgh and the Planning Board in reviewing the reports. I'll ask him for the submittals and documentation to support the determinations that we will make and will be making this evening.

Mike Musso.

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2 MR. MUSSO: Thank you, Mr. Chairman,
3 Members of the Board. I'd like to run through
4 very quickly our October 8th report which was
5 still in draft form last time I was here to speak
6 about this application. I'd just like to give
7 you some methods and some high points and again
8 some recent developments as our report was being
9 finalized.

10 The applicant is correct, there's a
11 total of twelve panel antennas, flush mounted
12 against the background of the existing water
13 tank.

14 No lighting, no increase in height, and
15 certainly views of the ground-based equipment and
16 whatever fencing is approved would be minimal
17 from various vantage points, and certainly from
18 really no vantage points outside of the Mid-
19 Valley Mall property.

20 I did also want to acknowledge the
21 applicant's patience I think in working with this
22 Board. Clearly it was stated about a year ago
23 that the new monopole that was being proposed at
24 the time in proximity to the Poweltown Club was
25 certainly undesirable for many reasons, and the

1 applicant has successfully worked with the
2 operator of the Mid-Valley Mall. We're very
3 happy to see that they were able to work through
4 a leasing agreement to co-locate here.
5

6 Currently Nextel is approved at this
7 location but not constructed yet. I believe that
8 they're going through that process now. So this
9 potentially would be the second provider at this
10 location.

11 We performed our review of the
12 application. Some of the last bits of
13 information when we received a revised
14 application were again a question on structural,
15 confirmation that the existing water tank is out
16 of service. We've done that with Mr. Canfield
17 and code compliance in that this water tank has
18 been out of service for quite some time, it's
19 empty.

20 The applicant was conservative in their
21 structural review, however, in that they did put
22 in a maximum of 200,000 gallons of water in that
23 tank, which of course is a significant weight and
24 significant load.

25 With the current status and the

1
2 anticipated future status of this structure,
3 there's certainly more than ample structural
4 capacity to accommodate Omnipoint's proposal,
5 Nextel's proposal and possibly for other wireless
6 applicants that may approach this Board in the
7 future.

8 We also looked at the health and
9 safety. We were happy to see that not only the
10 proposed Omnipoint but the approved Nextel
11 application was included in the radiofrequency
12 analysis, so it did confirm that not only was it
13 a worst-case situation, what we always ask for,
14 but it was also cumulative, and that's expected.
15 All public use areas including the Mid- Valley
16 Mall property, portions along roadways and of
17 course other areas further out, any other type of
18 property would be significantly below, in fact
19 less than two percent of what's known as the
20 maximum permissible exposure for full-time
21 general public exposure.

22 Of course when we started reviewing the
23 application at 5020 Route 9W, it was documented
24 at that time that there was a gap in service
25 along Route 84, parts of Route 32 and also 9W. I

1 think this is maybe a rare situation in the
2 wireless world in that I think it was a win-win
3 for both the Town and also for the applicant in
4 this situation. There's an existing structure
5 that certainly provides ample height and
6 coverage, perhaps even better than the monopole
7 that was proposed prior.
8

9 I mentioned we went through our
10 structural analysis where we're pleased with
11 what's been provided.

12 As far as the very last information
13 that was provided, we received everything in late
14 September. Like I said, we submitted our report
15 dated October 8th.

16 I did have a series of conclusions and
17 recommendations which I believe Mr. Donnelly may
18 want to speak to a little bit. A couple
19 highlights on that would be if Mid-Valley Mall
20 water tank is ever contemplated to be put back in
21 service, which right now it isn't, it would have
22 to go through the proper channels at the Town,
23 and also any planned water tank maintenance or
24 other activities would have to be coordinated.

25 Other than that, I don't think I have

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anything further to present at this time.

CHAIRMAN EWASUTYN: Thank you.

Do our Board Members have any questions for Mike Musso? Cliff Browne?

MR. BROWNE: No.

MR. MENNERICH: No.

MR. FOGARTY: I just have one, Doug. You had mentioned that you were going to put the fence around but you have two units that are going to go outside of the fence. Why aren't they inside?

MR. WARDEN: Fair question. Those are utility units. In other words, they are power transformers for the power company and also for the fiber optic company. The telecommunications antennas are up there. They located the existing land lines that are ambiguous throughout the area. Those companies need to be able to control the interconnection between their grids and the proposed antennas. It is part of their internal policies that they can't be within gated areas. What they do do for security purposes is lock those cabinets all the time. You'll see them -- probably all around the Town you've seen them.

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They're quite small. It's just a small telephone box and a small transformer.

MR. FOGARTY: Thank you.

CHAIRMAN EWASUTYN: John Ward?

MR. WARD: You mentioned the fence, four feet, you changed it to six foot. I appreciate that. I don't like the idea of the barbed wire because, for one, if they're going to get in they're going to cut the fence or whatever. To me you're going to make it look like a prison with the water tower and barbed wire around it. I don't think that's a good idea.

MR. WARDEN: If the Board would like to make that a condition if there were an approval to be issued, I think that would be something that my clients would be able to live with. Increasing the height of the fence maybe will serve as sort of a visual deterrent. We don't have any FCC requirement that I'm aware of that requires us to put barbed wire there. If the Board doesn't want that for the aesthetics of the base area, okay.

CHAIRMAN EWASUTYN: Ken Mennerich?

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MR. MENNERICH: I worked for an electric utility, Central Hudson, and we had a lot of substations that were fenced and it was standard practice to have barbed wire on those. It was mainly done so that people did not climb over the fence and get into things that they shouldn't get into. In this case I wouldn't want to see kids getting over the fences and climbing up the tower or whatever. So I guess I've got a little different view on it, John. That's all.

CHAIRMAN EWASUTYN: I'll open it up for discussion as far as how many Board Members would be in favor of having the barbed wire, and based upon the majority that would be the ruling motion.

MR. MENNERICH: Could I ask one question first? When you mentioned barbed wire, in what configuration would it be put up in?

MR. WARDEN: I think the idea was the spooled wire rather than have these brackets go up and out. Is that correct? The barbed wire configuration was the spooled barbed wire on top of the fence rather than the brackets that go up and down. Correct?

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MR. ORCHARD: Yes.

MR. WARDEN: That's the answer.

MR. DONNELLY: Are you talking razor wire?

MR. BROWNE: Prison wire?

CHAIRMAN EWASUTYN: I appreciate that. Ken Mennerich raised a question, so let him conclude with the answer.

MR. MENNERICH: Now I guess I'm leaning towards John. That looks like a prison. What Central Hudson used was the angled bracket with the three barbed wires pointing out. So I don't know --

CHAIRMAN EWASUTYN: All right.

MR. BROWNE: From my perspective I can understand the aesthetics, however in this location where this thing is is basically hidden from everything and everybody. I don't think it's a problem visually because nobody is going to see it. I think it's a problem from a safety standpoint if it's not there because it is out of sight. To my mind it would be an ideal hazard type thing.

CHAIRMAN EWASUTYN: There are two items

1 we're going to discuss. Number one, I'll first
2 ask the Board Members how many are in favor of
3 having barbed wire installed on top of the
4 six-foot high fence, and if the majority does
5 want to see it then I'll raise the next question
6 which is what design would they like to see, for
7 example either the design that was referenced by
8 Ken Mennerich, Planning Board Member, what
9 Central Hudson used in their substations, or
10 we'll call it the federal look of the prison with
11 a circular look.
12

13 How many Board Member -- what would the
14 majority of the Board like to see as far as
15 safety on the fence? Would they like to see
16 barbed wire. Cliff Browne, I think you said yes?

17 MR. BROWNE: Yes.

18 CHAIRMAN EWASUTYN: Ken Mennerich?

19 MR. MENNERICH: Yes.

20 CHAIRMAN EWASUTYN: Joe Profaci?

21 MR. PROFACI: Yes.

22 MR. FOGARTY: Yes.

23 MR. WARD: No.

24 CHAIRMAN EWASUTYN: I'm going to settle
25 for something. At this point, number one, the

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Board is in favor of some type of barbed wire.

Then I'll poll the Board Members as to how many would be in favor of the design mentioned by Ken Mennerich that had -- is being currently used by Central Hudson for their substations.

Is there a name to that design, Charlie, as an engineer, do you know?

MR. BROWN: That's pretty much standard. MTA uses that.

CHAIRMAN EWASUTYN: We'll call it the straight look.

MR. HINES: Three-strand look.

MR. BROWNE: Three-strand with cantilever brackets.

CHAIRMAN EWASUTYN: Is the Board in favor of that. Cliff Browne?

MR. BROWNE: Yes.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: Yes.

CHAIRMAN EWASUTYN: Joe Profaci?

MR. PROFACI: Yes.

CHAIRMAN EWASUTYN: Tom Fogarty?

MR. FOGARTY: Yes.

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CHAIRMAN EWASUTYN: John Ward?

MR. WARD: No.

CHAIRMAN EWASUTYN: Myself yes. At this point we had it opened up for discussion by John Ward. That concludes discussion from Board Members.

At this point I'll turn to our consultants for their final comments. Jerry Canfield?

MR. CANFIELD: John, I have a question. We had discussed at the work session, and Mike touched on it, about the possible condition of approval for further use of the tank, and that would apply to this applicant, or the condition of approval would suffice for the applicant. My question is isn't that really a condition for the tower owner and how that will be conveyed to the owner?

MR. DONNELLY: The tower owner is essentially a co-applicant by having signed an owner's endorsement, so he's bound by it.

MR. CANFIELD: Okay.

MR. DONNELLY: Part of the application packet, I don't have it in front of me, is an

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endorsement by the owner and they become bound by the conditions of the approval.

MR. CANFIELD: Okay. Thank you.

Nothing else.

CHAIRMAN EWASUTYN: Pat Hines?

MR. HINES: We have nothing. Thank you.

CHAIRMAN EWASUTYN: Bryant Cocks?

MR. COCKS: Just a note that this was sent to the Orange County Planning Department and they also gave a local determination.

CHAIRMAN EWASUTYN: Any further question or comment from the public?

(No response.)

CHAIRMAN EWASUTYN: I'll move for a motion to close the public hearing on the Omnipoint Communications/T-Mobile, Inc. public hearing for a site plan and special use permit.

MR. PROFACI: So moved.

MR. FOGARTY: Second.

CHAIRMAN EWASUTYN: I have a motion by Joe Profaci. I have a second by Tom Ward -- Tom Fogarty. Any discussion of the motion?

(No response.)

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CHAIRMAN EWASUTYN: I'll move for a roll call vote starting with Cliff Browne.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Myself yes. So carried.

At this point, Mike Donnelly, Planning Board Attorney, will review with us the conditions for approval on the site plan and special use permit.

MR. DONNELLY: The first issue is SEQRA. As we were speaking I did look at some of our earlier resolutions. We have not been one hundred percent consistent but it still seems to me that this is a Type II action under SEQRA and no further SEQRA compliance is warranted. That's my recommendation to the Board.

In terms of conditions, we'll have the standard condition saying that the applicant must construct what is shown on the plans as far as the ARB portion of the approval. The bond amount

1 is, under the code, \$75,000. I looked at Nextel
2 and we required \$75,000 from Nextel. I think
3 we've been able, in the past, to have the cell
4 tower carriers proportion that among themselves,
5 but these are both new applicants and there's no
6 guarantee and they're not coupled. We'll move
7 forward there for the first ones having to have
8 to pay that removal bond and the balance can be
9 obtained from the other carriers. The bond is
10 not due until the building permit is issued.
11 It's not a requirement of plan signing. I'm
12 including a condition that says that the
13 application for the 9W facility is deemed
14 withdrawn. I included the conditions in Mike
15 Musso's memo regarding the color matching of the
16 mounting structures, antennas, cable. A
17 requirement that all aspects of the facility be
18 routinely inspected and maintained by T-Mobile.
19 If T-Mobile proposes to change its transmission
20 power frequency, number of arrays or the ground-
21 based equipment, they'll need to return to the
22 Board for further approval. There was a
23 condition, or a suggested condition in Mike's
24 memorandum regarding site disturbance in terms of
25

1 grading, and that's included within the
2 resolution as well. Any planned water tank
3 maintenance or inspection activities by persons
4 not trained in RF exposure should be coordinated
5 appropriately between the owner and operator of
6 the tower to eliminate the potential for
7 radiofrequency exposure at levels above those
8 acceptable to the general public. I've included
9 a condition that says that the Mid-Valley Mall
10 water tank may not be put back into service
11 without an amended approval from this Board and
12 among other agencies the Orange County Health
13 Department. Because this is a co-location, in
14 the event that the other carrier is up when this
15 carrier puts its equipment up, there will be an
16 infield measurement taken to make sure that
17 cumulative radiofrequency emissions don't exceed
18 those allowable by Federal law.

19
20 Is there a landscape security and
21 inspection fee required?

22 CHAIRMAN EWASUTYN: Not for this
23 location.

24 MR. DONNELLY: Not for this one.

25 Finally, the condition that says that

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no facilities or structures may be built other than those that are shown on the site plan that's being approved.

CHAIRMAN EWASUTYN: Any questions or comments?

(No response.)

CHAIRMAN EWASUTYN: You mentioned a waiver in your presentation. Is that covered?

MR. DONNELLY: Actually that issue -- I don't think the section would allow that, however we discussed it at work session and because what's being constructed would not be for purposes of setback and the retaining wall is under four feet, no waiver is required and no approval will be mandated. So it's part of the site plan and nothing is required.

MR. WARDEN: Can I ask one other question? So the removal bond, I want to make sure I have this correct, it's to be apportioned as between the co-locating carriers?

MR. DONNELLY: I'd like to do that but the problem is Nextel was approved sometime earlier and they've never conformed. I think this Board needs to require that the full removal

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bond be in place as soon as equipment goes on the tower. That means that both resolutions require the full \$75,000 bond. In the event Nextel arrives before you, I suspect they'll be asking you for some contribution toward that bond, or vice versa, or it may be letting it sit there is satisfactory. From the Town's point of view the first one is going to have to put up the money.

CHAIRMAN EWASUTYN: Any questions from Boards Members?

MR. BROWNE: None.

MR. FOGARTY: No questions.

CHAIRMAN EWASUTYN: And questions from our consultants, or additions?

(No response.)

CHAIRMAN EWASUTYN: Having listened to the conditions of approval in the resolution presented by our Attorney, Mike Donnelly, for the Omnipoint Communications/T-Mobile site plan and special use permit, at this time I think it would be appropriate to move for a motion to grant final approval subject to those conditions.

MR. WARD: So moved.

MR. FOGARTY: Second.

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CHAIRMAN EWASUTYN: I have a motion by John Ward and a second by Tom Fogarty. Any discussion from the Board Members?

(No response.)

CHAIRMAN EWASUTYN: There being no discussion, I'll move for a motion, starting with Cliff Browne, for final approval.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Myself aye. So carried.

Doug, thank you.

MR. WARDEN: Thanks. It's been a long process but it's been a pleasure and I appreciate it.

(Time noted: 8:00 p.m.)

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

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

DATED: November 1, 2009

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

----- X
In the Matter of

LANDS OF TERRIZZI
(2006-48)

Route 32, 500 feet south of Mill Street
Section 4; Block 2; Lot 5
RR Zone

----- X

FOUR-LOT SUBDIVISION

Date: October 15, 2009
Time: 8:00 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman
CLIFFORD C. BROWNE
KENNETH MENNERICH
JOSEPH E. PROFACI
THOMAS P. FOGARTY
JOHN A. WARD

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

APPLICANT'S REPRESENTATIVE: CHARLES BROWN

----- X

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

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LANDS OF TERRIZZI

MR. BROWNE: The next item of business is the lands of Terrizzi. It's a four-lot subdivision being represented by Charles Brown.

MR. BROWN: This is an existing 19.4 acre piece that fronts on New York State Route 32 in the RR zone, which is a 2-acre zone. The proposal is to create four new building lots, a minimum lot size of 2.2 acres. The third lot, the balance of the parcel, is 12.3 acres.

It will be accessed via a 450 foot private road that comes off Route 32.

They'll be served by individual wells and septic.

This project I guess had a final approval which was rescinded a year or so ago. We're back here today to again get the comments from the Planning Board and the Planning Board Members and hope the -- perhaps get a final approval again.

CHAIRMAN EWASUTYN: Thank you. I'll turn to our consultants. I'm going to start with Jerry Canfield.

MR. CANFIELD: Nothing, John, on this subdivision.

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CHAIRMAN EWASUTYN: Pat Hines, Drainage Consultant?

MR. HINES: We're going to need to see the two-foot topography on the plans.

MR. BROWN: We do have that. That was on the last submission. Unfortunately it got turned off. It's there, and the grading is the same for this road as the previous subdivision with the longer road. The part that is still on there is graded about the same.

MR. HINES: The standard note for the Town of Newburgh requiring certification to the code enforcement officer and a map of the septic system needs to be added.

Also the small parcel I believe Terrizzi owns, --

MR. BROWN: Yes.

MR. HINES: -- that will need to be consolidated simultaneously with the filing of the map.

MR. BROWN: I can even do that ahead of time; right?

MR. HINES: Yeah, I think so.

MR. DONNELLY: I think so.

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MR. HINES: We discussed at work session the future private road and the potential for expanding that. I know Mr. Donnelly had some suggestions on how to handle that so some future owner of the piece of the private road doesn't object to that happening.

Do you want to discuss that now?

MR. DONNELLY: It's actually two pieces. The private road piece that's being built I don't propose to do anything. The future extension piece, my suggestion was that we require an offer of dedication to be delivered to the Town, not so much that the Town would ever accept it because it would not be a Town road unless and until everybody else agreed, but at least it would be a recorded document under which the owner had the ability to keep it for purposes other than access. It could of course be rescinded or the Town could decline to accept it at a later stage and the roadway could be built. If we created a separate parcel now, experience tells us it ends up going for taxes, it becomes a thorn in everyone's side. If we do nothing and the lot gets sold, the ability to use it for

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these purposes will die with that change in ownership. Although it is sort of a sideways or backwards way to achieve it, I think it does achieve the result I think that would serve everybody's purpose.

MR. BROWN: I'll explain it to you.

MR. HINES: Our last comment was the DOT right-of-way, and Bryant has confirmed that's in the same location. We're okay with that.

MR. BROWN: We're going to be applying for that permit very, very shortly.

MR. HINES: That's all we have.

CHAIRMAN EWASUTYN: Thank you.

Bryant Cocks, Planning Consultant?

MR. COCKS: Yes. The applicant did come and meet with me in my office, and all four lots now conform to the bulk requirements. That's just a note.

A surveyor's sheet with a stamp and signature is going to be required for final approval.

This was previously sent to the Orange County Planning Department.

Are you guys planning on revising the

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bond amount?

MR. BROWN: We actually have submitted that. That went to -- on October 2nd it went to Jim Osborne and was revised down to \$64,700. I have a copy of that.

MR. COCKS: Are you going to revise the landscape bond?

MR. BROWN: That will stay the same. The changes are so minor.

MR. COCKS: Just the note on the plans for the payment of parkland fees or landscaping bond if you are planning on doing either of those.

Just note that Terrizzi Drive, the road name was approved by the Town Board.

MR. BROWN: Actually, we did get that on this one.

MR. COCKS: The landscape bond if you want to defer, too.

MR. BROWN: Okay.

CHAIRMAN EWASUTYN: Thank you.

Comments from Board Members. Cliff Browne?

MR. BROWNE: I think Mr. Donnelly's

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recommendations are thorough.

MR. BROWN: I agree.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: No questions.

MR. PROFACI: No questions.

MR. FOGARTY: No questions.

MR. WARD: Nothing.

CHAIRMAN EWASUTYN: Okay. Mike, would you review, for the benefit of the audience this evening for the public hearing, whether there will be a need for a public hearing and your recommendation to the Board?

MR. DONNELLY: As Charlie mentioned, this had received both preliminary and final approval back in 2007. Thereafter, because that approval was only good for a maximum of 360 days, the applicant surrendered the final portion of that approval and asked to be restored to the preliminary approval status. That was done and that preliminary approval was extended through February of next year. The applicant has now returned and asked for the final portion of that approval to be put back on to the preliminary approval. The law says that you need not hold a

1 new public hearing at the time of final approval
2 if what is presented to the Board is in
3 substantial conformity with the approved
4 preliminary plan. That doesn't mean exactly the
5 same but substantial conformity. There have been
6 some minor revisions of lot lines to achieve bulk
7 table compliance as Bryant outlined earlier.
8 There are the same number of lots and the same
9 general configuration. I believe you could
10 appropriately conclude that the final plat is in
11 substantial conformance with what had been
12 approved earlier and not require the additional
13 holding of a public hearing. I prepared the
14 resolution with that finding in mind.

16 MR. BROWN: I would like to also add to
17 that that the lot sizes from what was finally
18 approved have changed by less than .05 acres
19 across the board. The lot sizes have been
20 maintained within two percent.

21 As far as the environmental impacts,
22 they're all reduced by the shortening of the --

23 MR. DONNELLY: In terms of resolution
24 conditions, we'll need sign-off letters from
25 Bryant, from Pat and from Karen Arent. We'll

1 need a letter from Bryant certifying that the
2 certification and acknowledgement and map notes
3 that are necessary to defer the payment of
4 parkland and landscaping financial security have
5 been delivered to him. We'll need a private
6 roadway easement and maintenance agreement for me
7 to review and sign off on. The resolution
8 recites that the Planning Board approval is
9 subject to issuance by the New York State DOT of
10 the highway work permit. In the event that there
11 are changes imposed to that connection way by the
12 DOT, the applicant would need to return to the
13 Planning Board. We had carried a condition, and
14 I assume we still want it, in the original
15 resolution that said the stonewalls on the site
16 shall only be removed from the site if necessary
17 for the construction of driveways, and then the
18 driveway openings shall not be more than twenty
19 feet in width. You will need a landscape
20 security and inspection fee. While the security
21 may be deferred, a \$2,000 inspection fee will be
22 needed before the plans are signed. We'll need a
23 private roadway security and inspection fee.
24 I've included the condition requiring an offer of
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dedication of the proposed future roadway segment, and it should contain a metes and bounds description. In terms of parkland fees, they may be deferred if the applicant complies with the requirements of the Town Board's resolution authorizing deferral. The amount of parkland fees will be \$8,000.

MR. BROWN: That offer of dedication, will that just sit in limbo really?

MR. DONNELLY: No. It would be received by the Town Board and be recorded. So that puts the world on notice that it has been offered for purposes of future roadway use.

MR. BROWN: Okay. But not accepted?

MR. DONNELLY: I'm sure the Town wouldn't accept it, and I would not have a problem in the offer of dedication itself explaining the purpose of the offer.

MR. BROWN: Okay. Now, does that create a conflict with it bisecting lot 3?

MR. DONNELLY: We're not creating a lot. There are no lot lines. The metes and bounds description of the area will be utilized for future roadway purposes.

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LANDS OF TERRIZZI

MR. BROWN: Understood.

MR. DONNELLY: Obviously you could never create it as a Town roadway without getting further subdivision approval. That would cut it off which would create two lots, and we're not looking to do that.

MR. BROWN: This will be adjoined, that south piece; right?

MR. DONNELLY: Yes.

CHAIRMAN EWASUTYN: Any questions or comments from the Board Members in reference to the advice and the conditions in the resolution for final approval for the lands of Terrizzi?

MR. MENNERICH: No comment.

MR. PROFACI: No comment.

CHAIRMAN EWASUTYN: Having listened to Mike Donnelly presenting a resolution listing all the elements for granting of final approval for the lands of Terrizzi for a four-lot subdivision, I'll move for that motion.

MR. PROFACI: So moved.

MR. WARD: Second.

CHAIRMAN EWASUTYN: I have a motion by Joe Profaci. I have a second by John Ward.

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LANDS OF TERRIZZI

Board Members, any discussion of that?

(No response.)

CHAIRMAN EWASUTYN: There being no discussion, I'll move for a motion for final approval starting with Cliff Browne.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Myself yes. So carried.

Thank you.

MR. BROWN: Thank you very much.

(Time noted: 8:12 p.m.)

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

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DATED: November 1, 2009

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

----- X
In the Matter of

THE MARKETPLACE AT NEWBURGH
(2004-54)

Route 300
Section 60; Block 3; Lots 41.3,41.4,48,49.1,49.21 & 49.22
Section 71; Block 4; Lots 7,8,9,10,11,12,13,14
Section 71; Block 5; Lots 15 & 16
Section 97; Block 1; Lots 13.3 & 20.3
IB Zone

----- X

AMENDED RESOLUTION

Date: October 15, 2009
Time: 8:12 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman
CLIFFORD C. BROWNE
KENNETH MENNERICH
JOSEPH E. PROFACI
THOMAS P. FOGARTY
JOHN A. WARD

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

APPLICANT'S REPRESENTATIVE: JOHN BAINLARDI

----- X

MICHELLE L. CONERO
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MR. BROWNE: The last item of business we have is an amended resolution for The Marketplace at Newburgh.

CHAIRMAN EWASUTYN: At this point we'll turn to Mike Donnelly, Planning Board Attorney.

MR. DONNELLY: We discussed this in work session but I'll go over it again now. The applicant has received final site plan approval and paid all of their required fees including a landscape security fee. After that approval this past summer, the Town Board has, the Planning Board is aware, passed a resolution that authorizes the deferral of the payment of the landscape security to the time of issuance of building permits rather than at the time of signing of the plans. John Bainlardi, on behalf of the applicant, when he learned of that, wrote to the town attorney, to the Planning Board and myself and asked whether he could avail himself of the benefits of that resolution. Both the town attorney and myself agreed we saw no reason why he could not. John then asked what would need to be done to accomplish that result. Mark Taylor and I agreed three things would need to be

1 done. One, a map note would have to be added to
2 track the language of the resolution. That has
3 been done by means of a revised cover sheet to
4 the plan set. Number two, the applicant would
5 have to file with the Town the certification and
6 acknowledgement that the resolution required. I
7 believe that document has been delivered as well.
8 And thirdly, the Planning Board would have to
9 amend its resolution, which is what the
10 resolution of the Town Board requires, in order
11 to authorize the deferral of the landscape
12 bonding. Therefore I have prepared a resolution
13 that accomplishes that result. The resolution
14 references the original resolution of site plan
15 approval, recites some of the history and
16 findings of the Planning Board at that time, and
17 then includes within its condition a condition
18 that says that except as hereby modified, all
19 conditions attached to the original granted site
20 plan and ARB approval are to remain in effect,
21 and this approval is subject to and conditioned
22 upon satisfaction of same as if those conditions
23 were set forth herein at length. I then added
24 the requirement of the need of a sign-off letter
25

1 from Bryant Cocks that the map notes and
2 certification and acknowledgement requirements of
3 the Town Board resolution has been satisfied.
4 I'm sure all of you have that letter from Bryant.
5 And then finally, the landscape security and
6 inspection fee condition is set forth requiring
7 the current payment of a \$4,000 inspection fee
8 and deferring the payment of the financial
9 security itself until building permit issuance.
10 And then I conclude that section by saying any
11 amounts in excess of that now currently -- now
12 due that have already been paid may, with the
13 approval of the Town Board, be returned to the
14 applicant.

15
16 I believe that accomplishes what Mark
17 Taylor and I laid out as to the steps that need
18 to be followed for the applicant to avail himself
19 of the resolution. It needs your vote.

20 CHAIRMAN EWASUTYN: Bryant, you're
21 familiar with everything Mike Donnelly just
22 presented?

23 MR. COCKS: Yes.

24 CHAIRMAN EWASUTYN: Do you agree with
25 that?

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THE MARKETPLACE AT NEWBURGH

MR. COCKS: Yes.

CHAIRMAN EWASUTYN: John, is there anything you would like to add at this time?

MR. BAINLARDI: I don't have anything else to add.

CHAIRMAN EWASUTYN: Okay. All right. Pat Hines, is there anything you would like to add?

MR. HINES: I have nothing.

CHAIRMAN EWASUTYN: Jerry Canfield?

MR. CANFIELD: I have nothing.

CHAIRMAN EWASUTYN: Board Members?

MR. BROWNE: I'm good.

MR. MENNERICH: Nothing.

MR. FOGARTY: Nothing.

CHAIRMAN EWASUTYN: Then I'll move for a motion to approve the amended resolution for The Marketplace at Newburgh as presented by our Attorney, Michael Donnelly.

MR. MENNERICH: So moved.

MR. PROFACI: Second.

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

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THE MARKETPLACE AT NEWBURGH

(No response.)

CHAIRMAN EWASUTYN: There being no discussion, I'll move for a roll call vote for approval starting with Cliff Browne.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: And myself yes. So carried.

Thank you.

MR. DONNELLY: John, can you supply me with the date of the revised cover sheet? I must be missing it. You don't have to do it now but if you would send it. Thank you.

(Time noted: 8:18 p.m.)

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DATED: November 1, 2009

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

----- X
In the Matter of

273 ROUTE 17K
(2009-11)

Granting of Final Approval

----- X

BOARD BUSINESS

Date: October 15, 2009
Time: 8:18 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman
CLIFFORD C. BROWNE
KENNETH MENNERICH
JOSEPH E. PROFACI
THOMAS P. FOGARTY
JOHN A. WARD

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

----- X

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273 ROUTE 17K

92

MR. BROWNE: That concludes the agenda items. We can now move on to Board Business.

We have received a local determination from Orange County Planning Department and now we can grant approval for the project.

CHAIRMAN EWASUTYN: Okay. Bryant Cocks, would you bring us along on this, please?

MR. COCKS: Yes. This was a change of use on the corner of Arbor Drive and Route 17K. It's now going to be a dry cleaners. Since it's on 17K, it's a State highway, it needed to be referred to the Orange County Planning Department. We did receive a letter back saying they had no further issues.

CHAIRMAN EWASUTYN: Then I'll move for a motion to grant final approval for the -- there was an amended site plan; correct, Bryant?

MR. COCKS: Yes.

CHAIRMAN EWASUTYN: For the amended site plan for 273 Route 17K.

MR. WARD: So moved.

MR. FOGARTY: Second.

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273 ROUTE 17K

93

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

(No response.)

CHAIRMAN EWASUTYN: I'll move for a roll call vote starting with Cliff Browne.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: And myself yes. So carried.

MR. DONNELLY: What I said in the resolution, because commercial buildings also need ARB, because the applicant is not proposing any changes, ARB approval is granted for what is there, and any changes to what is there will require an amended ARB at that time in the future.

CHAIRMAN EWASUTYN: Thank you.

(Time noted: 8:19 p.m.)

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

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DATED: November 1, 2009

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

----- X
In the Matter of

GREINER SUBDIVISION
(2001-17)

Extension of Preliminary Approval

----- X

BOARD BUSINESS

Date: October 15, 2009
Time: 8:19 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman
CLIFFORD C. BROWNE
KENNETH MENNERICH
JOSEPH E. PROFACI
THOMAS P. FOGARTY
JOHN A. WARD

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

----- X

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GREINER SUBDIVISION

MR. BROWNE: The next item under Board Business is the Greiner Subdivision, project 2001-17. This is an extension of preliminary approval. The current approval expires November 1, 2009 and the applicant would like a twelve-month extension to run until November 1, 2010.

CHAIRMAN EWASUTYN: I'll move for that motion, to grant a one-year extension.

MR. MENNERICH: Second.

CHAIRMAN EWASUTYN: I have a motion by Ken Mennerich --

CHAIRMAN EWASUTYN: I can make the motion. Why not. I'll make that motion. I have a second by Ken Mennerich. Any discussion of the motion?

(No response.)

CHAIRMAN EWASUTYN: I'll move for a roll call vote starting with Cliff Browne.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

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CHAIRMAN EWASUTYN: And myself.

(Time noted: 8:21 p.m.)

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DATED: November 1, 2009

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

----- X
In the Matter of

WILDFLOWER SUBDIVISION
(2004-42)

Extension of Preliminary Approval

----- X

BOARD BUSINESS

Date: October 15, 2009
Time: 8:21 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman
CLIFFORD C. BROWNE
KENNETH MENNERICH
JOSEPH E. PROFACI
THOMAS P. FOGARTY
JOHN A. WARD

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

----- X

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WILDFLOWER SUBDIVISION

MR. BROWNE: The next item under Board Business is Wildflower Subdivision, project 2004-42, extension of preliminary approval. The current approval expires November 1, 2009. The applicant would like a twelve-month extension to run until November 1, 2010.

CHAIRMAN EWASUTYN: Who would like to make a motion to grant the one-year extension?

MR. FOGARTY: So moved.

MR. WARD: Second.

CHAIRMAN EWASUTYN: I have a motion by Tom Fogarty. I have a second by John Ward. I'll ask for a roll call vote starting with Cliff Browne.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Myself yes. So carried.

(Time noted: 8:22 p.m.)

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

----- X

In the Matter of

WINDSOR HILL REALTY
(2004-75)

Release of the Landscaping Bond

----- X

BOARD BUSINESS

Date: October 15, 2009
Time: 8:23 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman
CLIFFORD C. BROWNE
KENNETH MENNERICH
JOSEPH E. PROFACI
THOMAS P. FOGARTY
JOHN A. WARD

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

----- X

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WINDSOR HILL REALTY

102

MR. BROWNE: The last item under Board Business is Windsor Hill Realty, project 2004-75, Karen Arent's approval memo of the release of the landscaping bond of \$466.07.

CHAIRMAN EWASUTYN: Thank you. I'll move for that motion, to grant the release of the landscape bond.

MR. PROFACI: So moved.

MR. WARD: Second.

CHAIRMAN EWASUTYN: I have a motion by Joe Profaci and a second by John Ward. I'll move for a roll call vote starting with Cliff Browne.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Myself. So carried.

Before we move to close the Planning Board meeting of the 15th of October, I'll remind everyone a week from this coming Saturday, the 24th, we'll be meeting at the Town Rec building at 8 o'clock in the morning to do our quarterly

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WINDSOR HILL REALTY

site inspections.

MR. COCKS: John, the Holiday Inn for
the consultants' work session.

CHAIRMAN EWASUTYN: Thank you, Bryant.

(Time noted: 8:24 p.m.)

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DATED: November 1, 2009

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

----- X

In the Matter of

HOLIDAY INN ROUTE 17K
(2004-21)

Attendance at 10/27/09 Consultants' Workshop

----- X

BOARD BUSINESS

Date: October 15, 2009
Time: 8:24 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman
CLIFFORD C. BROWNE
KENNETH MENNERICH
JOSEPH E. PROFACI
THOMAS P. FOGARTY
JOHN A. WARD

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

----- X

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HOLIDAY INN

105

MR. COCKS: I got an e-mail from Justin Bates. The Holiday Inn Route 17K wants to come in for a consultants' work session to discuss the signage plan before they go to the ZBA. He's asking us to set it up for October 27th.

CHAIRMAN EWASUTYN: Okay. I'll move for a motion from a Board Member to set the Holiday Inn up for the consultants' work session of the 22nd of October --

MR. COCKS: 27th.

CHAIRMAN EWASUTYN: -- excuse me -- for review of the required area for signage. What they are proposing we'll refer to the Zoning Board of Appeals.

MR. MENNERICH: So moved.

MR. PROFACI: Second.

CHAIRMAN EWASUTYN: I have a motion by Ken Mennerich, a second by Joe Profaci. I'll move for a roll call vote starting with Cliff Browne.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

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HOLIDAY INN

106

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Myself yes. So
carried.

That being said, we'll move for a
motion to close the meeting of October 15th.

MR. BROWNE: John, before you close,
I'm not going to be able to make the meeting on
the 24th, the site review.

CHAIRMAN EWASUTYN: Okay. That's all
right. Thank you for that.

We'll move for a motion then to close
the meeting.

MR. MENNERICH: So moved.

MR. PROFACI: Second.

CHAIRMAN EWASUTYN: I have a motion by
Ken Mennerich and a second by Joe Profaci. I'll
ask for a roll call vote starting with Cliff
Browne.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

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HOLIDAY INN

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CHAIRMAN EWASUTYN: And myself.
Very good. Thanks.

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

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

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