

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

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In the Matter of

HOLIDAY INN ROUTE 17K  
(2004-21)

Route 17K  
Section 95; Block 1; Lot 16  
IB Zone

- - - - - X

PUBLIC HEARING  
TWO-LOT SUBDIVISION

Date: December 2, 2010  
Time: 7:00 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman  
FRANK S. GALLI  
KENNETH MENNERICH  
JOSEPH E. PROFACI  
THOMAS P. FOGARTY  
JOHN A. WARD

ALSO PRESENT: MICHAEL H. DONNELLY, ESQ.  
BRYANT COCKS  
PATRICK HINES  
KAREN ARENT  
GERALD CANFIELD  
KENNETH WERSTED

APPLICANT'S REPRESENTATIVE: DOMINIC CORDISCO

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

MR. PROFACI: Good evening, ladies and gentlemen. Welcome to the Town of Newburgh Planning Board meeting of December 2, 2010.

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

MR. GALLI: Present.

MR. MENNERICH: Present.

CHAIRMAN EWASUTYN: Present.

MR. PROFACI: Here.

MR. FOGARTY: Here.

MR. WARD: Present.

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

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, Hauser & Edsall Consulting Engineers.

MR. COCKS: Bryant Cocks, Planning  
Consultant.

MS. ARENT: Karen Arent, Landscape  
Architectural Consultant.

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

MR. PROFACI: Thank you. At this time  
I'll turn the meeting over to John Ward.

MR. WARD: Please stand.

(Pledge of Allegiance.)

MR. WARD: If you have any cell phones,  
if you would turn them off. Thank you.

MR. PROFACI: The first item on this  
evening's agenda is the Holiday Inn at Route 17K.  
It is a public hearing for a two-lot subdivision.  
It's Section 95; Block 1; Lot 16, located in the  
IB Zone, being represented by Andrew Featherston.

MR. CORDISCO: Actually, Dominic  
Cordisco. I'm here and I'll introduce the  
project team to the Board. I'm here with Joe  
Dopico from Maser Consulting as well as the  
principal, and Phil Grealy of course is our  
traffic consultant, and AJ Coppola is here on the  
architecture, and Jesse Cokeley from Maser is

here to give a brief overview of the plan in connection with our public hearing.

I'll turn it over to Jesse.

CHAIRMAN EWASUTYN: At this point I would like to have Mike Donnelly give the meaning and the purpose of a public hearing.

MR. DONNELLY: The public hearing on the Holiday Inn matter is on the subdivision part of the application. The purpose of the public hearing is for members of the public to bring to the attention of the Planning Board, before they take action on this project, any issues, concerns or information that the Planning Board may not be aware of or has not learned from its various consultants. After the applicant gives his presentation, the Chairman will ask any members of the public who wish to speak to please raise your hand. After you're called upon by the Chair, we would ask you to step forward so we can all hear you. That microphone I don't think is on so there's no sense trying to use it. Give us your name, spell it if you would for our Stenographer so we get it down correctly, tell us where you live in relation to the project, and

then direct your comments to the Board. If you have questions that can be easily answered, the Chairman will ask either the applicant's team or one of the Town's consultants to answer the question.

MR. PROFACI: I'll ask Ken Mennerich to read the notice of public 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 Holiday Inn Route 17K for a two-lot subdivision on premises Route 17K, just west of Route 300 intersection, Section 95; Block 1; Lot 16. Said hearing will be held on the 2nd day of December 2010 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 November 19, 2010."

MR. GALLI: The notice of hearing was

published in The Mid-Hudson Times and The Sentinel for the newspapers. Fifteen were sent out, eleven were returned. All the notices and publications are in order.

CHAIRMAN EWASUTYN: You may continue the presentation.

MR. COKELEY: Good evening, Chairman, Members of the Board. I'm here tonight, my name is Jesse Cokeley from Maser Consulting, to speak to you about the Route 17K/300 Holiday Inn.

As mentioned, it's located in the Town of Newburgh. To the east it has frontage on Route 300, to the south Route 17K, on the west border is New York State Thruway, to the north is a vacant wooded lot. It's located in the IB district, Interchange Business, which permits, subject to the plan review of the Planning Board, restaurants and hotels.

The existing portion of the site is partially developed with an existing hotel. It's proposed to have a two-lot subdivision. The new hotel on the lot is slightly greater than five acres. It's going to be 150 rooms -- 140 rooms, excuse me, with a conference area, restaurant and

a bar and lounge area.

The accompanied parking is located on the site.

Utilities will be accessed to Route 17K.

Due to the site improvements, stormwater will be handled through infiltration basins subsurface -- one infiltration basin subsurface and multiple other subsurface detention basins.

This is located within the Town's sewer district, and Jim Osborne has sent a letter to the City of Newburgh requesting entrance for that.

Outside of that, that's pretty much a summary of the project and where it's at now.

CHAIRMAN EWASUTYN: Mr. Cordisco, is there anyone on your project team that would like to speak at this time?

MR. CORDISCO: No, other than pointing out to the Board that, as we discussed before, we did appear before the Zoning Board of Appeals for side yard setbacks and signage variances, and we obtained those. The Board did conduct a public

1                   HOLIDAY INN ROUTE 17K                   8  
2                   hearing, and there was one commenter at that  
3                   public hearing. Since that time we've returned  
4                   back to this Board, and I believe this Board,  
5                   last time when Adam Rodd was here when I could  
6                   not, the Board adopted a negative declaration  
7                   under SEQRA and granted ARB approval.

8                   We're here. If the Board has any other  
9                   questions or if there's any comments from the  
10                  public that we can address, we'd be happy to.

11                  CHAIRMAN EWASUTYN: At this point we'll  
12                  turn the meeting over to the public. If there's  
13                  anyone here who has any comments, will you please  
14                  raise your hand and give your name and your  
15                  address.

16                  MR. KELSON: Good evening. My name is  
17                  Todd Kelson, I'm an attorney with offices at 542  
18                  Union Avenue in New Windsor. I'm speaking this  
19                  evening for my client, 92 MM Hotel, Inc. and  
20                  Martin Milano.

21                  When the matter was reviewed by the  
22                  ZBA, the applicants urged to the ZBA that it need  
23                  not concern itself with matters regarding  
24                  parking, traffic and drainage, these would be  
25                  handled by the Planning Board.



On behalf of my client, and some of you know I've been attending some of these meetings, I'm hoping this Board will give a good hard look to those concerns. So far it has involved itself with some of them, and my client is hoping more of this will take place.

There are a couple of issues that are of serious concern to my client. The first one is parking. As your planning consultants and your engineers will confirm, the standard for parking under the code for a conference center is one space for three seats. I note on the plan that they're proposing one space per four seats. They have a note stating that there's industry research that permits this because of overlap. I did not see this issue in the ZBA and I didn't see anything in the code that allows this. So given the fact that this is already a very tight site, I'm sure you all noted that, I'm hoping that the Board will take a good hard look at this before proceeding.

The other matter I wanted to review this evening with the Board, and probably of paramount importance from a safety standpoint, is

1 what we believe is a real lack of attention by  
2 the applicant to meaningfully consider the  
3 affects of pedestrian traffic at the intersection  
4 of Route 300 with the applicant's access road.  
5 Now, Counsel is going to say, as he said in the  
6 ZBA, I make no bones about advising the Board  
7 that I represent a competitor of the applicant.  
8 My client operates a hotel across the street from  
9 the proposed site, the Hampton Inn, and it's the  
10 lessor of a restaurant across the highway, the  
11 Gateway Diner. But my comments should not be  
12 discounted because they're made by a competitor  
13 because they're comments of an adjoining property  
14 owner concerned with traffic, and pedestrian  
15 traffic in particular, at an already difficult  
16 intersection. The health and safety of  
17 individuals, guests prospectively of both the  
18 applicant and my client, as well as others, will  
19 be asked to navigate this treacherous site should  
20 be considered.  
21

22 At the meeting on November 18th, the  
23 discussion -- there was some comment about  
24 pedestrians but it was very, very brief. I  
25 believe there was a reference to the DOT's

referral that they did not realize that the intersection already had a signal. The only real comment relating to pedestrians was a comment from Ms. Arent who asked, to her credit, for some pedestrian scale lighting down the access road, and to the applicant's credit they agreed they would look into that. Okay. So far as it goes, great. So now the pedestrians will be able to see better the cars coming down at night as they're forced to walk downhill on the surface of a road instead of a sidewalk. I mentioned in other parts of the Town, sidewalks are often required by this Board. My client additionally owns or controls the Hilton Garden Inn, and they were required to put sidewalks out to Route 17K even though there is very little pedestrian traffic in that area. This Board often calls for sidewalks from applicants, sometimes in areas where they're isolated. Here they're going to be needed.

In any event, the real difficulty comes when the pedestrians get to the bottom of the driveway. There in front of them is Route 300. There are no crosswalks, there are no sidewalks

to stand on, there are no traffic controls of any kind. What do they do?

Now, any of you who have ever attended a conference know that not everybody who attends the conference stays at the official hotel. They certainly don't eat all their meals every night or every morning at the hotel's restaurant when alternatives are close at hand. It's reasonable to think that some of the people attending a conference at the applicant's proposed hotel may end up staying at the Hampton Inn for any number of reasons, price, corporate requirements, availability of rooms, whatever. It's also reasonable that some guests of the applicant's hotel will, from time to time, want to visit one of the five restaurants on the other side of Route 300, the Gateway Diner, Longhorn Steakhouse, Chilli's, Panera Bread or, my favorite, Five Guys.

CHAIRMAN EWASUTYN: Well said. That's easy to follow.

MR. KELSON: I call them like I see them. So maybe everybody -- maybe the applicant believes everybody who stays at the hotel will

1  
2 take all their meals on the property. Or maybe  
3 they believe everybody could drive, and some of  
4 them will drive. But given the close proximity  
5 and the limited parking on the site, some are not  
6 going to. A lot of people want to put their car  
7 there. They have a good space in front of their  
8 room and they want to leave it there.

9 Counsel will want to point out -- I'm  
10 not a traffic consultant. I'm not. I'm an  
11 attorney. I asked my co-counsel on this matter,  
12 John Adams, to see if there was a traffic  
13 engineer they could consult with to take a look  
14 at the plans and see if he agreed that it was a  
15 legitimate concern. The plans were reviewed by  
16 William Fitzpatrick, who is a traffic engineer,  
17 no doubt familiar to some of you, not the least  
18 of which because he has 35 years work as the  
19 director and traffic engineer for the DOT here in  
20 the Hudson Valley.

21 I'm going to read Mr. Fitzpatrick's  
22 letter because it's very short and it makes the  
23 point very clearly. It's addressed to John Adams  
24 who is an attorney in Poughkeepsie. "Pursuant to  
25 our conversation and my review of the subject

site plan, I offer the following thoughts and recommendations for safe and efficient vehicular and pedestrians operation: The proposed 140-room hotel with amenities will generate sufficient vehicular and pedestrian activity to be a concern for safe access to Union Avenue and Route 300. The existing three-colored signal located at the existing access drive to Union Avenue will provide safe movements for vehicular traffic. However, the existing pedestrian infrastructure is not sufficient. The location and cross connections between adjacent hotels will encourage pedestrian activity, as it should, and the pedestrian path alongside the access drive will lead some of that activity to Union Avenue and the proximate commercial activities. Therefore, without pedestrian capabilities at the signal, safe crossing of Union Avenue will be very problematic. It is strongly recommended that pedestrian indications, appropriate walkways and countdown timers be incorporated into the signal cycle and timing plan. This will necessitate approval and issuance of a highway work permit from the New York State Department of

Transportation. This action would be essential to provide a safe environment for pedestrians given the proposed pedestrian path and anticipated generation.

If you have any questions, feel free to contact me. William D. Fitzpatrick."

So now you have it from me, an attorney with a client, also a Town of Newburgh resident and regular user of this intersection, and from a PE with forty years distinguished traffic experience.

In sum, my client is asking this Board simply to give these issues the hard look they deserve. Adequate parking, proper sidewalks, crosswalks and pedestrian signaling at the intersection will go a long way to addressing these meaningful concerns. On behalf of my client, I urge you to give these issues very careful attention, and I thank the Board for its time.

CHAIRMAN EWASUTYN: Thank you.

Mr. Cordisco, would you care to start by addressing the comments that were raised by Attorney Todd Kelson?

MR. CORDISCO: At this point I think the majority of the comments related to traffic and pedestrian crossings. I actually would like to turn it over to Mr. Grealy so that he can respond.

MR. GREALY: Good evening. Phillip Grealy, John Collins Engineers. I was able to get a copy of Mr. Fitzpatrick's letter, and I'm glad to see that he agrees with the conclusions on the traffic end of things.

In terms of -- maybe if the Board remembers, when the traffic signal was installed at Chili's there was some discussion about pedestrian facilities on Route 300. At that time DOT made the determination not to have a crosswalk. However, when we designed the signal, the traffic signal was designed to accommodate a future crossing if DOT changed their position. The control of what was installed at that signal, was designed to interconnect with the signal at 17K, and it also had the capability to add in a pedestrian phase.

We will be going to DOT for this project for some amendments on the actuation, on



the drive connecting out to Route 300. So we will ask DOT -- again, it's DOT's call, but relative to pedestrian crossing of Route 300, we will, you know, put that as part of our highway work permit application as part of the amendment. I can't promise you that DOT is going to say yes to it, but we will make that request. There was some history here because that was an item that was discussed with them when Chili's first went in. Now they may have a different perspective on it.

CHAIRMAN EWASUTYN: Are you willing to talk about the alternate of a sidewalk, a permanent sidewalk, as compared to what was initially agreed upon as far as a striped area indicating a pedestrian walkway?

MR. GREALLY: I think the proposal along the road itself was for a striped area because it would be dual usage. We feel that that would safely accommodate the pedestrians.

The issue is the crossing of Route 300 which, you know, is subject to DOT allowing us to do it. We would add in the pedestrian push buttons and the countdown modules to have the

proper crossing of Route 300.

I think along the road itself, our proposal, we feel, is adequate for the pedestrian volumes and with the striped area. When we get out to the intersection is where we would provide an actual crosswalk.

CHAIRMAN EWASUTYN: Comments in reference to Mr. Kelson's comments from Board Members that they may want to question the applicant or his representative?

MR. GALLI: Just on the safety issue. If it's a DOT determination, when they file at DOT, I'd just like to see the correspondence --

MR. GREALY: Absolutely.

MR. GALLI: -- that they're actually filing it and not telling us they're going to file it for the work permit and the pedestrian crossing.

MR. GREALY: It may be helpful also for the Board -- you know, if the Board wants to see that crossing, we can ask for it, but the Town asking --

MR. GALLI: The other issue they had, they had an issue with lighting.

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MR. COKELEY: I can speak on that.

There is lighting above the proposed pedestrian walkway that is about sixteen-feet high just in compliance with the code. There's a lighting plan included in that.

CHAIRMAN EWASUTYN: Additional comments from Board Members?

MR. PROFACI: I have a question. Mr. Grealy, you commented that that is a dual purpose walkway.

MR. GREALY: Yes.

MR. PROFACI: So how is the safety of the pedestrian guaranteed or looked after with respect to --

MR. GREALY: The proposal is to have it striped out. So it would be the equivalent of having a dual bike lane/pedestrian walkway. The difference is that there's no raised curb and separation. It's something that's been used in other areas. As long as it's properly lit, you know, it's usable for pedestrians and it's safe.

MR. PROFACI: Okay.

MR. FOGARTY: Your dealings with the DOT in the past, what do you think the chances

are of them approving --

MR. GREALY: Well I think if the Town writes a letter in support of a pedestrian crossing -- they go back and forth on this issue. They've looked at different locations. I think here the determining factor is you have many uses that are pedestrian generators, all the different restaurants, the Hampton Inn, the diner. You already have a concentration of uses where people do walk, and there are people out there today. Denny's, from the Ramada, the whole area. So I think DOT is open minded when it comes to that. I think if there was some indication from the Town, if it's something the Town desires, they would listen to that, they would be open minded.

MR. FOGARTY: What would be their rationale for turning it down? It seems to me to be really --

MR. GREALY: Primarily just traffic flow. Keeping traffic flow along Route 300. But I think, you know, looking at the concentration of uses here, it's a logical place to have it. Having it here would keep them from possibly

1 having it down at 300 and 17K which is more of an  
2 issue. Here at least it's controlled. The  
3 movements are easier to control in terms of  
4 traffic movements. So it's a logical location to  
5 have it.  
6

7 MR. FOGARTY: Thank you.

8 CHAIRMAN EWASUTYN: When you say a  
9 letter from the Town -- and I'll ask Mike  
10 Donnelly the question -- who do you mean by the  
11 Town?

12 MR. GREALY: It could be from the  
13 Planning Board, from the Town Board, from your  
14 consultant. I think just the representation that  
15 -- probably from the Planning Board that, you  
16 know, this project is being, you know, reviewed  
17 by the Board and the Town would, you know, desire  
18 to have that considered.

19 CHAIRMAN EWASUTYN: Mike, your --

20 MR. GREALY: It can be pretty simple.

21 MR. DONNELLY: I think it might make  
22 more sense here from the Planning Board, in part  
23 because we've had this very discussion with the  
24 DOT representative who was good enough, I forget  
25 the date, to have come. Their feeling was

1  
2 wherever possible we should provide sidewalks, or  
3 pedestrian access to locations that, at some  
4 point, might be appropriate for pedestrian  
5 access. I think this was one that was even  
6 discussed at that time. That's why it was wired,  
7 timed out for that pedestrian crossing at some  
8 point in time.

9           Might it help that it would come from  
10 your traffic consultant rather than you? I don't  
11 know how much that matters. I think what Phil is  
12 saying is that if the Town is suggesting that  
13 they're behind the request, it might carry some  
14 additional weight.

15           CHAIRMAN EWASUTYN: Ken Wersted, do you  
16 remember who you were coordinating with in  
17 reference to this project?

18           MR. WERSTED: Yes. It was Rich Gilman  
19 with the Department, and I believe at that  
20 meeting we also had Zibby Zacharia, the local  
21 permit engineer, and another representative from  
22 DOT. I remember during the discussions we talked  
23 about sidewalk locations, crosswalks and what  
24 not. As Mr. Grealy had represented, during  
25 Chili's site plan approval, we talked about

1 having a crosswalk at this intersection, and at  
2 that time DOT may have said no because they  
3 didn't know what to expect in terms of pedestrian  
4 volumes. I personally have observed people from  
5 the neighboring hotels, namely the Ramada, five  
6 teenagers had come down and they crossed between  
7 this traffic light and Route 17K. They were gone  
8 for about a half hour, came back and had bags of  
9 food with them. So I think it's a valid point.  
10 Other members of the Town may have their own  
11 observations of pedestrians in that area, but it  
12 was an item that we had brought up back then and  
13 I think it deserves, you know, to be revisited by  
14 the State.  
15

16 If it is something that the Town would  
17 like me to compose a letter to that effect, that  
18 the Town would support the relook at that, I can  
19 certainly do so.

20 CHAIRMAN EWASUTYN: I'll poll the Board  
21 Members at this point to see how they want to  
22 move forward on this. Would they like Ken  
23 Wersted to write a letter and coordinate this  
24 with the DOT?

25 MR. GALLI: Yes.

MR. MENNERICH: This letter would be  
for your signature, the Planning Board Chairman?

CHAIRMAN EWASUTYN: No.

MR. MENNERICH: It could be under  
his --

CHAIRMAN EWASUTYN: Under his  
signature. Right, Mike?

MR. DONNELLY: You could do it that  
way. If you thought it carried more clout, you  
could you ask the supervisor if he'd sign it.

MR. MENNERICH: That's what I was  
wondering, if the Town supervisor might pull more  
weight than the Planning Board.

CHAIRMAN EWASUTYN: Thanks. I still  
can order the pizza. I'll never lose that  
privilege.

You followed my train of thought. When  
I asked who by the Town, I agree with you, the  
supervisor is the person of statute, and I agree  
with that.

Does the Board agree with that?

MR. GALLI: Yes.

MR. MENNERICH: Yes.

MR. PROFACI: Yes.



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MR. FOGARTY: Yes.

MR. WARD: Yes.

CHAIRMAN EWASUTYN: Then we suggest that you work with the supervisor, Wayne Booth, and see how you can prepare and support this.

MR. WERSTED: Okay.

CHAIRMAN EWASUTYN: Does that meet with your satisfaction on part 1?

MR. KELSON: Thanks, Mr. Chairman. I think those are very good comments. I appreciate the Board's concern. I think it addresses it pretty nicely.

There's one thing I want to make clear. The lighting. There was a reference to the sixteen-foot lights. I think there was a comment in the prior meeting, when Dominic wasn't there, about putting in pedestrian stanchions.

MS. ARENT: We weren't aware, when we were speaking about that, on the lighting plan they actually showed pedestrian-scale light fixtures.

MR. KELSON: They're already there?

MS. ARENT: They're already there.

MR. KELSON: Thank you.

CHAIRMAN EWASUTYN: John Ward?

MR. WARD: At the last previous meeting and the meeting before I emphasized a sidewalk going up because of safety and everything, because you're going to have a volume of people no matter how you look at it, all in that area between neighboring hotels, restaurants and more. I will say it again. I think there should be a sidewalk going up. If it's an issue for plowing, you can taper it off. They have curbed sidewalks. You can have a low scale. The idea is safety for pedestrians. It's going to be all hours of the night. People -- who knows. If it's big volume, you've got a lot of people sometimes going up and down. Thank you.

CHAIRMAN EWASUTYN: And the last item that was discussed; I'll poll the Board Members, do they want to see a concrete sidewalk with concrete curbs allowing for pedestrian and bicycle traffic as far as being a mitigating measure for safety?

MR. MENNERICH: Could I ask a question first?

CHAIRMAN EWASUTYN: Please.

MR. MENNERICH: What is the width of the striped --

MR. COKELEY: Four feet.

MR. MENNERICH: How much?

MR. COKELEY: Four feet.

MR. MENNERICH: And the total width of the road is?

MR. COKELEY: Twenty-six feet. Four feet, and then two eleven-foot travel lanes.

CHAIRMAN EWASUTYN: A question as far as the width.

MR. MENNERICH: Four sounds narrow to me. I was just wondering, could it be made five feet?

MR. COKELEY: That's something we'd have to look at with the room. I mean it's pretty tight there with the property line and the proposed stormwater and the parking. It would merely bottleneck up towards the top there.

CHAIRMAN EWASUTYN: Ken, can we feel satisfied with a four-foot wide concrete sidewalk?

MR. WERSTED: I think so. There will be, as we discussed I think probably a couple

1 meetings ago, about the standard width of the  
2 sidewalk. The DOT generally maintains a five-  
3 foot sidewalk, however the ADA will let you go  
4 down to, I think it was four feet but every 200  
5 feet you have to have a passing zone so to speak.  
6 So at a minimum I think you would have to have  
7 that.  
8

9 CHAIRMAN EWASUTYN: Will the Board be  
10 satisfied with that detail of a design?

11 MR. GALLI: For the concrete sidewalk.  
12 I'm fine either way, with the concrete or the  
13 blacktop. I don't really have an issue with -- I  
14 don't feel it's going to generate tons of people  
15 walking down that road constantly for a sidewalk.  
16 If the Board wants a sidewalk, I can agree on a  
17 sidewalk.

18 CHAIRMAN EWASUTYN: Ken Mennerich?

19 MR. MENNERICH: I could go either way,  
20 too. I guess I was hoping that the striped  
21 version was going to be wider than a concrete  
22 sidewalk would be, but --

23 CHAIRMAN EWASUTYN: Joe Profaci?

24 MR. PROFACI: I don't think I can go  
25 either way. I think I'm of the opinion the same

as John Ward, that a sidewalk would be much safer for pedestrian traffic. I know there's reflectors and so on. To me it seems like it's all road. That's my opinion.

CHAIRMAN EWASUTYN: Tom Fogarty?

MR. FOGARTY: I don't see a need for a sidewalk. I don't know how much -- I can't -- I'll go along with Frank. I don't see it generating a whole bunch of traffic, and I think the way it's designed now is fine.

CHAIRMAN EWASUTYN: John Ward? We heard his opinion.

MR. PROFACI: Can I just say I only disagree -- I disagree with that because this is truly going to be a conference center. Is it a hotel or is it a conference center?

MR. COPPOLA: It's a 300-person conference room.

MR. PROFACI: Then you need the sidewalk.

CHAIRMAN EWASUTYN: I would support a concrete sidewalk with curbing. So we have a -- I guess we have a split vote on this.

MR. DONNELLY: You had some that were

willing to go either way. You may want to revisit them.

MR. GALLI: Concrete is fine.

CHAIRMAN EWASUTYN: At this point, as far as a mitigation measure and safety, the Planning Board is in favor of seeing a detail showing concrete sidewalk and curbing.

There was a recent article in The Planning Federation News, you probably know more about it than I do, that the State Legislature has just passed a law, they're waiting for the assembly to adopt it, that all new roads that the DOT put in will in fact have concrete sidewalks and make for more pedestrian friendly and safety, and also to minimize the use of vehicles as much as possible. So it's going to be one of the requirements that the DOT has to meet in funding a project. It's an interesting article. Okay.

The last thing that we have to address is this question of is there an adequate amount of parking available as far as the site goes. That was the last of your three-part question.

MR. KELSON: Yes.

CHAIRMAN EWASUTYN: You can speak. You

do better at speaking.

MR. KELSON: That was really -- that was the other point. That's right.

CHAIRMAN EWASUTYN: Thank you. I know we talked about that somewhat at the work session. Of course we talked about it at the last meeting.

Mike, you also discussed it. You haven't spoken that much this evening.

MR. DONNELLY: Well, it may not be the issue you're addressing here but I think the important one is without the City of Newburgh flow acceptance letter you can not grant final approval of either the subdivision or the site plan at this time. You can, however, grant preliminary approval to both of those. When you grant preliminary site plan approval it's designed to accomplish actions where additional engineering or design work has to be done.

I've been taking some notes on some of the things we've discussed here. Obviously we'll now need a revised plan to show a concrete sidewalk on the access leads to Route 300. We do need to see the approved drainage plans from the

1 DOT, the flow acceptance letter, the relocation  
2 of the signs that were talked about by Ken  
3 Wersted earlier. Some of these actually Pat will  
4 talk about. The lighting fixtures should be  
5 shown on the site plan in addition to the  
6 lighting plan, and some revisions to the  
7 infiltration basin facilities need to be shown on  
8 the plans.  
9

10 You could act on it subject to those  
11 and the other conditions that I'll recite to you  
12 at the appropriate time.

13 You granted ARB. You could grant those  
14 two and the applicant would return after the flow  
15 acceptance letter addressing these five or six  
16 items.

17 MR. CORDISCO: In connection -- if I  
18 may. In connection with the sidewalk issue, we  
19 haven't designed it yet. As Jesse had mentioned,  
20 it is a fairly narrow area so we need to make  
21 sure that a four-foot sidewalk where the  
22 appropriate two hundred foot turnaround passing  
23 lane works on the site. We'll be happy to address  
24 it and respond.

25 My suggestion would be that we'll work



on that particular detail, and prior to obtaining final approval, whatever we show will be something that hopefully will work for everyone.

At this point I guess what I'm saying is we can't absolutely commit to putting the four-foot concrete curbed sidewalk along the entire stretch because we're not sure yet if the engineering actually works.

CHAIRMAN EWASUTYN: Having heard that, let's go back to the issue of reserved parking and is there adequate parking on site. Are we satisfied with what the site plan is showing as far as parking at this point? I'll start with Pat Hines.

MR. HINES: That's something -- we usually defer to Bryant and Ken on the parking calculations.

MR. COCKS: I mentioned the conference center usage usually is one to three. I believe we used the ITE numbers, which is allowable under zoning for combined uses of hotels and conference centers. Using the ITE numbers we came up with the amount of parking as shown on the plan right now. With those reserved spots being included in

the 286 total, right now they're going to show 246. 240 are going to be built right now with 46 being landbanked. The 286 does meet code.

CHAIRMAN EWASUTYN: Ken Wersted, do you want to add to that as far as the ITE code?

MR. WERSTED: Sure. This issue is similar to one that we've addressed prior, particularly with the pharmacy and the Key Bank project on Route 32 and Noel Drive. The Town code required a certain amount of parking for the pharmacy, and both looking at standard parking demand rates as well as just more of everyone's observation of pharmacies, the Town's zoning code required probably twice as much parking as what really would be needed. I believe the code allows for the Planning Board, with sufficient support, to modify or accept more or less parking than what the code requires.

Mike, if I'm mistaking --

MR. DONNELLY: Specifically by reference to the ITE manual, that is what you have the authority to do. That's what you have done in the past and that's what I think the discussion was here that led to the one to three.

1  
2 MR. WERSTED: So the site was reviewed  
3 and the parking is being provided as such,  
4 however the contingency being that the landbanked  
5 parking spaces would be constructed if the Town  
6 felt that it was necessary. I believe at the  
7 last meeting we discussed the Board having -- the  
8 Board and the Town having the right to observe  
9 the site, and if it's noted that parking is tight  
10 and that those extra spaces would be a benefit,  
11 that the Town would notify the applicant and the  
12 applicant would have to construct those spaces.

13 CHAIRMAN EWASUTYN: Comments from Board  
14 Members. Frank Galli?

15 MR. GALLI: I agree with Ken. That's  
16 how we left the issue, was that the project owner  
17 was going to allow the Town enforcement officer,  
18 which does the parking, to control the property.  
19 If he saw there was a need, the landbanked would  
20 be paved and striped, and then that was how it  
21 was going to end up.

22 CHAIRMAN EWASUTYN: Ken Mennerich?

23 MR. MENNERICH: I agree, the landbanked  
24 parking makes a lot of sense. If it's not  
25 needed, we end up with more green area. If it is

needed, there's a provision for it to be added in the future.

CHAIRMAN EWASUTYN: Joe Profaci?

MR. PROFACI: I agree. My only question is, Ken, if the landbanked parking is constructed, will that bring it up to the one space per three seats?

MR. WERSTED: I don't know if it will be the one space per three seats. I don't know that ratio offhand. I believe it will bring it up to the Town's required number of spaces of 286.

MR. PROFACI: Okay.

MR. DONNELLY: It's my understanding that if all of the parking were built, it would fully comply with the code provision. Right?

MR. WERSTED: That's my understanding, yes.

MR. DONNELLY: I mean there are two uses.

MR. HINES: No. If all the parking is constructed, there still is the reduction of the two out of three people using the restaurant are guests at the hotel. So they reduced the

1 restaurant occupancy as well as the bar and  
2 lounge occupancy. And then also the one out of  
3 every four using the meeting room are guests of  
4 the hotel, so they've reduced it from 75 to 57.

5  
6 MR. DONNELLY: When I said to code, I  
7 mean as permitted to substitute the ITE manual  
8 methodology. So it would meet the ITE  
9 methodology count. That's what I meant to say.

10 What we've done several times in the  
11 past where sites seem to have a larger parking  
12 lot than seems to be needed is to allow the  
13 landbanking of the parking. Specifically, what  
14 you do is require that the area be shown, that  
15 the drainage be provided for the full amount of  
16 the parking and all of those impervious surfaces,  
17 then you allow the applicant to not initially  
18 build the area of the parking that's marked as  
19 reserved for future use. We require that  
20 documentation that we can prepare later be  
21 delivered to the Town, and we leave to the sole  
22 discretion of the Planning Board the authority to  
23 require that that parking be brought up to the  
24 full site plan layout if experience in the field  
25 from the code compliance department or other

sources, leads you to believe that the parking is inadequate without that additional parking area. I think you've used it successfully once or twice before. You discussed early on that that was the approach you thought you'd take here. We had talked a little bit about a sunset provision, such that if parking was not found to be needed after a period of years, that the requirement would disappear. I said to you I don't think you have the authority to in effect grant a variance, therefore I can not recommend that to you. I have the language we used in the past included in the draft resolution here this evening.

MR. PROFACI: Okay.

CHAIRMAN EWASUTYN: Tom Fogarty?

MR. FOGARTY: That answered my question. I was just wondering how it was going to be put down in the final document. If code compliance comes to us and we say we want you to build these additional 46, what happens if there's opposition on the other side? Is it basically if we say --

MR. DONNELLY: Your sole discretion.

MR. FOGARTY: So it's our sole

discretion?

MR. DONNELLY: Yes.

CHAIRMAN EWASUTYN: I have one more Board Member that hasn't spoken and then I'll get back to you. Once I have a wave going, I like to continue with that.

John Ward?

MR. WARD: No more comments.

CHAIRMAN EWASUTYN: Todd Kelson, Attorney?

MR. KELSON: Just one comment. I believe that this was discussed, not at the prior meeting but the meeting previous. Mr. Cordisco had made a suggestion where you analogized the Cornwall Hospital issue with the parking. Is that right?

MR. CORDISCO: Yes.

MR. KELSON: The proposal that was made, and I actually think it's a good proposal. I don't know if it's in the draft Mr. Donnelly prepared, would be that there be a conditional certificate of occupancy which would give the Board, you know, the additional power of enforcement, if you will. The issue was raised

1 what about, you know, resistance. I think -- I  
2 don't know if it's in there. I think that that  
3 would be an appropriate way to deal with this.  
4

5 CHAIRMAN EWASUTYN: I'll turn to Jerry  
6 Canfield because, as we were discussing during  
7 our work session, the Planning Board is a, we'll  
8 call it a department under the umbrella of the  
9 building department. The spirit of our  
10 activities here is to, one, to complete  
11 satisfactorily the SEQRA requirements, and at the  
12 same time we're looking then to turn over a  
13 complete site plan or subdivision that  
14 effectively is manageable by the building  
15 department, and in many cases is subject to  
16 conditions. I'll let Jerry Canfield speak on  
17 that.

18 Jerry, your recommendation in response  
19 to Mr. Kelson's comment with a conditional  
20 certificate of occupancy?

21 MR. CANFIELD: I think that's  
22 backwards. No disrespect intended. Typically  
23 your site plan is conditioned, and your building  
24 permits are granted, and C of Os granted based  
25 upon compliance with the conditions of the site



plan, not the other way around whereas you would condition a certificate of occupancy. That's after the fact.

So my recommendation to the Board would be not to entertain that at all, and when the conditions of the site plan were met, and of course the building department can go forward, issue the building permit and the building proceeds, and when all the building issues are met, then a certificate of compliance or certificate of occupancy can be issued for the building.

MR. DONNELLY: I'll echo that. I know Mark Taylor, and we've had this discussion in the past, is not familiar with either temporary or conditional COs. I agree with his position on that. We will, in essence, have, from this resolution, three enforcement mechanisms. One is the condition of the site plan approval itself. The second is the condition requires that an instrument be delivered to the Town in recordable form which the Town can record and then enforce against any subsequent owner of the site as well. Finally, there is a Town/owner pact agreement

1  
2 that will be drafted between the applicant and  
3 the Town regarding all of the enforcement issues  
4 that come. Particularly since there will be two  
5 lots, and potentially two owners and two uses,  
6 there will be shared access, parking, so on and  
7 so forth. Easily a contractual enforcement  
8 mechanism could be included within that agreement  
9 as well. So I think I'm comfortable that the  
10 Town inherently has the authority to enforce,  
11 would have a recorded instrument that would  
12 compel subsequent owners to live up to the  
13 obligation, and will have a contractual remedy in  
14 the Town/owner pact. I think that's enough of an  
15 enforcement mechanism for something that we all  
16 hope is not going to be required in any event.

17 MR. CORDISCO: That seems to be more  
18 iron clad than having my son come and report to  
19 the Board regarding traffic. That didn't seem to  
20 get any play with the Board last time.

21 MR. KELSON: Just a question for Mr.  
22 Donnelly. What sort of relief would the Town  
23 seek, injunctive relief, compelling the  
24 construction? Maybe just describe for us how you  
25 would see that operate.

MR. DONNELLY: Number one, as a site plan condition they could bring a per day justice court violation that would carry a fine, it could bring a contract action or it could bring a mandatory injunction action against either this owner or any subsequent owner. It has a variety of remedies. That would suit, I think, the circumstances. That seems to be the correct way to go.

MR. CORDISCO: As proposed, my understanding of the language is it would be in the Town's sole discretion as to whether or not to require.

MR. DONNELLY: We said the Planning Board because they're the closest one. It would obviously receive the advice of the code compliance department and its own citizens.

MR. CORDISCO: Of course.

CHAIRMAN EWASUTYN: Is there anyone else here this evening for the application before us for the Holiday Inn public hearing on the two-lot subdivision that would like to speak?

(No response.)

CHAIRMAN EWASUTYN: Are there any

additional comments from the public in reference to the public hearing for the two-lot subdivision for the Holiday Inn on 17K?

(No response.)

CHAIRMAN EWASUTYN: Okay. Since there are no other comments, I'll move for a motion to close the public hearing on the two-lot subdivision for the Holiday Inn located on Route 17K. I'll move for a motion.

MR. FOGARTY: So moved.

MR. PROFACI: Second.

CHAIRMAN EWASUTYN: I have a motion by Tom Fogarty. 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 Frank Galli.

MR. GALLI: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Myself yes. So carried.

At this point I'll ask Mike Donnelly, Planning Board Attorney, to give us the conditions of approval for preliminary site plan and subdivision.

MR. DONNELLY: Correct. The resolution would be preliminary site plan as well as preliminary subdivision. The first condition will relate to the various memos you have from your consultants. You will need sign-off letters, before final approval, that the issues raised within those memos have been satisfied. Next, the following additional plan details must be included, to the Planning Board's satisfaction, in the final plan set: First, the plans should be revised to show a concrete sidewalk with curbs along the pedestrian access leading to Route 300. That's not to say you may not amend that if impossibility is shown, but that's the requirement in the resolution for the time being. Approved drainage plans for all DOT improvements shall be submitted before final approval. I think that was in Pat's memo as well. The applicant shall deliver a City of Newburgh sewer flow acceptance letter to the Planning

Board before final approval. There shall be a relocation of the internal signs as recommended by Creighton, Manning Engineering on the final plans. The location of the lighting fixtures shall be shown on the final site plan itself in addition to being specified on the lighting plan. That's to make sure it isn't missed during the building process. Revised plans showing acceptable stormwater infiltration basin facilities should be submitted before final approval. Again, it arises out of Pat Hines' technical memo. We will need a sign-off letter from Bryant Cocks on the deferral of the landscape security. That is, that the map note exists, that the acknowledgement and certification has been delivered to the Town Board, and that can be a post-final approval condition, but I want to carry it within this resolution anyway. We'll need a DOT approval, both of the driveway utilization, as well as the stormwater connections. The City of Newburgh sewer acceptance letter that we talked about earlier. We will make reference to the Zoning Board of Appeals' decision of May 27, 2010 and

incorporate its conditions into this resolution of approval.

I believe we need a demolition permit, Jerry?

MR. CANFIELD: Yes.

MR. DONNELLY: That will be --

MR. CANFIELD: For the house.

MR. DONNELLY: -- a condition as well that will carry forth into final. Obviously it won't take place before final. We do need a letter from the FAA regarding height compliance. The language of the reserved parking section, I don't want to read it all, but in essence it says the applicant has demonstrated an ability to provide full parking. He has also shown an area he wishes to reserve for potential future parking. The Planning Board agrees that in order to avoid the drainage impacts and the adverse aesthetic effects of overly large parking lots, that it will allow that set aside to occur. The area designated for that purpose is so indicated on the plan. The condition then says the applicant agrees that the Planning Board shall have the sole discretion to decide if and when

1 construction of parking in this area shall be  
2 required. Toward this end, the applicant shall,  
3 prior to signing of the plans, deliver an  
4 appropriate instrument to the Town in which the  
5 applicant acknowledges its obligation of  
6 landbanked parking construction upon direction  
7 from the Town. The obligation set forth in the  
8 instrument rendered to the Town shall be in a  
9 form suitable for recording and recite that the  
10 obligation set forth shall run with the land and  
11 shall be satisfactory in form to the Town  
12 attorney. Next, we will need the simplified  
13 Town/ owner pact agreement that I spoke of  
14 earlier, as well as a reciprocal easement  
15 agreement that will show the shared access ways  
16 and cross parking obligations, and that agreement  
17 I think appropriately should include the reserved  
18 parking contractual enforcement provision that we  
19 spoke of a few moments ago. Landscaping  
20 maintenance, a comprehensive maintenance plan  
21 shall be required. The applicant shall be  
22 required, and these again will be carried forth  
23 in final to comply with those provisions of the  
24 Town code that require ongoing parking lot  
25



1 maintenance. We've asked the applicant to  
2 deliver a petition under Section 1660-A of the  
3 Vehicle and Traffic Law in essence asking --  
4 granting to the Town the authority to enforce VTL  
5 and fire code provisions within what would  
6 otherwise be private property. We will carry  
7 forth your standard condition known as ARB  
8 approval which was granted in November. We note  
9 that financial security of both a landscaping and  
10 stormwater improvement nature along with  
11 inspection fees will be required as part of final  
12 approval. Finally, your standard condition will  
13 be carried in the final resolution that says in  
14 essence that no structure, facility or amenity  
15 not shown on the plan may be built on the site  
16 without amended approval from the Planning Board.  
17 The resolution recites your vote on November 18th  
18 granting ARB approval and will reflect the vote  
19 you take this evening on this resolution.

21 CHAIRMAN EWASUTYN: Questions or  
22 comments on the preliminary conditions for the  
23 site plan and subdivision for the Holiday Inn  
24 presented by Attorney Mike Donnelly, starting  
25 with Planning Board Member Frank Galli?

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MR. GALLI: No additional.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: I was wondering if there should be a provision in there that the applicant should petition the DOT for the pedestrian crossing of Route 300 ?

MR. DONNELLY: Sure. If you want to reflect that both the Town -- I don't want to tell you what to say. We'll add it. Yes, I can include that.

MR. MENNERICH: Thank you.

CHAIRMAN EWASUTYN: Okay. Joe Profaci?

MR. PROFACI: I'm good.

CHAIRMAN EWASUTYN: Tom Fogarty?

MR. FOGARTY: No additional.

CHAIRMAN EWASUTYN: John Ward?

MR. WARD: No additional.

CHAIRMAN EWASUTYN: Jerry Canfield, Code Compliance?

MR. CANFIELD: Just one question, Mike. With respect to requesting or the applicant granting the Town permission to enforce, I thought you had said fire code.

MR. DONNELLY: That's separate. VTL.

MR. CANFIELD: V&T --

MR. DONNELLY: Vehicle and Traffic Law offenses.

MR. CANFIELD: What should be there is parking enforcement. That's the key I think.

MR. DONNELLY: Okay.

MR. CANFIELD: I have nothing further.

CHAIRMAN EWASUTYN: Pat Hines, Drainage Consultant?

MR. HINES: Our comments have been addressed in the resolution.

CHAIRMAN EWASUTYN: Bryant Cocks, Planning Consultant?

MR. COCKS: I have no comments.

CHAIRMAN EWASUTYN: Karen Arent, Landscape Architect?

MS. ARENT: The one comment I have is regarding the landscape improvements on Route 17K and Route 300, to unify the signs and create a pleasing street scape.

CHAIRMAN EWASUTYN: Ken Wersted, Traffic Consultant?

MR. WERSTED: Nothing additional.

CHAIRMAN EWASUTYN: Having heard the

conditions of approval for the preliminary subdivision and site plan for the Holiday Inn, and also having heard additional comments from Ken Mennerich, Planning Board Member, and Jerry Canfield, Code Compliance Officer, to be added to that resolution, I'll move for a motion to approve that.

MR. WARD: So moved.

CHAIRMAN EWASUTYN: I have a motion by John Ward. Do I have a second?

MR. MENNERICH: Second.

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

(No response.)

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

MR. GALLI: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: And myself yes. So carried.

Thank you, Mr. Cordisco.

Thank you very much, Mr. Kelson, for a  
positive position on the project.

MR. CORDISCO: Thank you all very much.

(Time noted: 7:55 p.m.)

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

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

DATED: December 28, 2010

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

- - - - - X

In the Matter of

GREINER SUBDIVISION  
(2002-33)

Lattintown Road  
Section 7; Block 1; Lot 22.25  
AR Zone

- - - - - X

ELEVEN-LOT SUBDIVISION

Date: December 2, 2010  
Time: 7:56 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman  
FRANK S. GALLI  
KENNETH MENNERICH  
JOSEPH E. PROFACI  
THOMAS P. FOGARTY  
JOHN A. WARD

ALSO PRESENT: MICHAEL H. DONNELLY, ESQ.  
BRYANT COCKS  
PATRICK HINES  
KAREN ARENT  
GERALD CANFIELD  
KENNETH WERSTED

APPLICANT'S REPRESENTATIVE: GREGORY SHAW

- - - - - X

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

MR. PROFACI: The next item on tonight's agenda is the Greiner Subdivision. It's an eleven-lot subdivision located on Lattintown Road opposite Merritt Lane, Section 7; Block 1; Lot 22.25, in the AR Zone. It's being represented by Greg Shaw.

MR. SHAW: We are here before you tonight for section 2 of the Greiner Subdivision. It is on Greiner Road, it's in an AR Zone and it encompasses about 27 acres.

Before we get into particulars, we'll revisit the history of this project just to get the Board up to speed with respect to where we've been and where we're going. The last time we were before your Board was on August 17th of 2006, over four years ago, when we got preliminary subdivision approval. Subsequent to that we submitted to Orange County Health, and on December 10th of 2007 we got realty subdivision approval which put us in a position of coming back to this Board and requesting for final. The plan that the Health Department approved was identical, and the plan that you're looking at tonight was identical to that which this Board

1 granted preliminary approval on except for two  
2 items. One is that lands to the north, which was  
3 Wildflower Subdivision, they have since pulled  
4 away from the project. So right now, while we  
5 have an extension of the road to the north, the  
6 intent was that road would interconnect with that  
7 subdivision. Hopefully some day that will happen,  
8 but it will not happen with Wildflower. Because  
9 of that, with Wildflower's stormwater going into  
10 the joint pond that was on Greiner's property,  
11 the pond has now been resized for just the  
12 Greiner Subdivision and lands which are tributary  
13 to it. So it's been downsized considerably.

14 This Board has granted numerous  
15 extensions of preliminary subdivision approval,  
16 with the last one being granted on October 15th  
17 of 2009. That approval extended, preliminary  
18 approval, to November 1st of 2010. So that  
19 preliminary approval has run out. I'd like to  
20 talk about that once we go through the  
21 particulars of the project, and also what may  
22 need to be done.

23 Very simply, it's an eleven-lot  
24 subdivision. The lots are either going to be  
25



1 accessed off of Lattintown Road, or existing  
2 Greiner Road, or the extension of Greiner Road  
3 itself which is going to be about 600 feet in  
4 length. Greiner Road will be built according to  
5 the Town specifications. It was the intention of  
6 granting Greiner or dedicating Greiner Road to  
7 the Town, and the Town, and I'm going back to  
8 meetings four or five years ago, was comfortable  
9 with it because the road was going to  
10 interconnect and come back out to Lattintown  
11 Road. We don't know what's happening with the  
12 parcel to the north. With that, we're now  
13 exceeding the maximum cul-de-sac length. We're  
14 going to have to go back to the Town Board and  
15 get a waiver for extending Greiner Road. In the  
16 worst case, if they refuse that, then Greiner  
17 Road, as it presently ends, will remain a Town  
18 road and the extension will have to be a private  
19 road. It doesn't make a lot of sense. Hopefully  
20 the Town Board will let us extend it. That's  
21 what we'll have to do if they just refuse to  
22 grant us that waiver.  
23

24 With respect to water and sewer, we're  
25 providing on-site sewer disposal systems and

individual wells. All that was reviewed by the Health Department. There are some test wells on the site that were drilled and tested. Both were good for quality, and the Health Department approved, and with that we received realty subdivision approval.

So what's left to be done. In the letter with my transmittal key I outlined a few of the things. One is the formation of the drainage district by the Town Board, the waiver for the cul-de-sac length by the Town Board. We're going to need common driveway easement and maintenance agreements for this common driveway which services lots 6 and 7, and also the common driveway which services lots 14 and 15, and the license agreement from Central Hudson for the crossings of the easements that exist on this property.

So, where would we like to go from here other than revising the drawings to meet these comments and also your consultants' comments? I'll defer to your attorney. Maybe it would be appropriate for this Board to grant a new preliminary subdivision approval, if you're so

1 inclined. Right now I believe our approval has  
2 run out.  
3

4 Also what's very important to us is for  
5 us to move forward with getting an acceptance  
6 form from the Town of Newburgh to allow us to  
7 file a notice of intent with the New York State  
8 DEC for stormwater discharge. I'm sure this  
9 Board is aware that the regulations are changing  
10 as of the end of February, and the changes are  
11 going to be quite considerable. So the bottom  
12 line is if we get the acceptance form and submit  
13 it to the State and we get coverage for the  
14 project, we are grandfathered under the current  
15 regulations. If it just so happens that we don't  
16 get our notice of intent to the State before the  
17 end of February, then all the stormwater  
18 management provisions I had laid out on this site  
19 are going to have to be closely re-examined  
20 because they do not meet the new regulations  
21 which will be in effect from March 1st on. So  
22 it's important for us, and that's why we came  
23 back before this Board, basically to show you how  
24 far we've advanced with the project and to  
25 possibly give your consulting engineer direction

1  
2 to write a letter to the Town supervisor  
3 suggesting that he sign the acceptance form to  
4 allow us to get coverage for the stormwater  
5 discharge. This we've done on just about every  
6 project we've been before the Board on. In fact,  
7 I've been in constant contact with Mr. Hines on  
8 every project that's been before this Board,  
9 trying to get it covered today so that's  
10 grandfathered under the old regs as opposed to  
11 the new regulations which are severely affected.

12 So, that is kind of a brief overview of  
13 where we've been and where we'd like to go with  
14 it. Again, we're asking just to get legal with a  
15 new preliminary subdivision approval and to move  
16 towards the stormwater discharge permit.

17 CHAIRMAN EWASUTYN: Okay. We'll take  
18 the first part of Mr. Shaw's request.

19 Mike, the granting of another  
20 conditional --

21 MR. DONNELLY: I don't know that you  
22 need to do that. I had written you a letter  
23 sometime back when we talked about the duration  
24 of preliminary and conditional final approvals.  
25 As you know, the conditional final approvals can

1 now be extended. Preliminary approvals by  
2 themselves don't really expire. What the State  
3 law and your code says is that the applicant  
4 shall, within six months of the granting of a  
5 preliminary approval, return to the Board with a  
6 final plat. It does not by itself say that the  
7 preliminary approval expires at that time. You  
8 have tried, wherever possible, to keep  
9 preliminary approvals on your radar by asking  
10 applicants to come back and report where they are  
11 and be granted extensions, and Greg has told you  
12 this applicant has received one. The fact that  
13 it is expired doesn't, in my view, prohibit you  
14 from now revising it. I don't feel the same  
15 about a final approval, but a preliminary  
16 approval, since it doesn't really expire by its  
17 terms, I think you can extend again tonight for  
18 an additional period of six months, which I'm  
19 sure is more than necessary without the need of  
20 granting a new preliminary approval.

22 CHAIRMAN EWASUTYN: I'll move for a  
23 motion from the Board to grant an extension of  
24 the preliminary subdivision approval --

25 MR. DONNELLY: Why don't we make it

June 11, 2011.

CHAIRMAN EWASUTYN: -- for the  
eleven-lot subdivision of the Lands of Greiner to  
June 11, 2011.

MR. GALLI: So moved.

MR. FOGARTY: Second.

CHAIRMAN EWASUTYN: I have a motion by  
Frank Galli. 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 Frank Galli.

MR. GALLI: 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 Pat Hines,  
our Drainage Consultant, to discuss the request  
by Greg Shaw as far as --

MR. HINES: As I explained to the Board  
at work session, I concur with Mr. Shaw's

analysis with the change in regulations.

We've reviewed the revised stormwater management report, the SWIFF as it's called, and we find it acceptable. I have no concerns issuing a letter of authorization from the Town. That goes through my office, through the supervisor's office and then back to the applicant. Because we're an MS-4 community, DEC will not accept a notice of intent for coverage without the necessary Town review of the project. I feel comfortable issuing that. I don't have a problem with that.

I do have one comment on the drainage itself. Regarding the 9 by 8 concrete box culvert that's proposed, Mr. Shaw pointed out there is an easement provided. I have a comment that there needs to be. I'll confirm that as we review the project in the future. I didn't look at it since we last spoke but I will take a look at that. Otherwise I'm okay with the stormwater management.

CHAIRMAN EWASUTYN: At this point, since your request has been satisfactorily granted, I'll turn to our consultants for their

final comments.

I'll start with Ken Wersted. Ken?

MR. WERSTED: I had two comments in my letter. One had to do with the driveway widths for lot 13 and then also for 14 and 15. Right now they're proposed to be twenty-feet wide for lot 13, which is essentially just serving one house and the occasional need to have a maintenance truck drive down to the detention pond. Twenty feet is basically a small width road. I thought maybe you could narrow that down. Obviously it would give a better impression that it's a driveway, not a road. I don't know if there's a need for the twenty foot.

MR. SHAW: To the best of my knowledge, that was requested by the Town Board, Darrell Benedict. Again, I'm going back four, maybe five years. A lot of effort was spent with the Town Board with respect to the maintenance of this pond and also sharing a common driveway for lot number 13. You'll notice that a portion of it is owned by lot 13 and then the remaining leg goes with parcel A. The fact that they wanted it twenty-feet wide to accommodate their truck and a



1 vehicle going to the residence of lot 13, they  
2 felt that twenty-foot wide was required in case  
3 the two happen to pass one another. Once you got  
4 past the driveway for lot 13, then it could very  
5 simply go down to a fifteen-foot wide drive.  
6 That was their position at the time. If you want  
7 me to revisit it with the Town, I can. They were  
8 just concerned about two vehicles passing one  
9 another, that is a maintenance vehicle and a  
10 vehicle of the residents.  
11

12 MR. HINES: Actually, once it passes  
13 the driveway it goes to a grass covered --

14 MR. SHAW: Correct. There are a  
15 certain set of notations that were required by  
16 Darrell Benedict, which was a composition of  
17 shale with some topsoil and some grass on top of  
18 it. That was the Town's preference at that time.

19 MR. WERSTED: I thought it might be  
20 something similar to that. I guess my only  
21 position on that is how frequently would that  
22 happen and is it worth the extra width in the  
23 driveway for something that might happen once a  
24 year. I couldn't --

25 MR. SHAW: I have to go back and deal

1  
2 with the Town on the drainage district and the  
3 cul-de-sac length. I'll bring up the issue when  
4 I talk to them. If they say it's fine, it's fine  
5 with us.

6 MR. WERSTED: And then I had basically  
7 a similar comment for lots 14 and 15 where it's a  
8 twenty-foot wide roadway going back to the first  
9 house and then narrows down to fifteen feet. You  
10 could probably comfortably fit a sixteen-foot  
11 wide driveway there for the occasional neighbor  
12 as they pass each other. Again, if that's an  
13 issue that the Town Board might have --

14 MR. SHAW: No. That was -- the Town  
15 Board is not concerned about that common  
16 driveway. If it feels more appropriate to knock  
17 it down to sixteen, we can do that. That's not a  
18 problem.

19 MR. WERSTED: Okay. The other comment  
20 I had was about the boxed culvert. The side  
21 slopes from the roadway down to the culvert.  
22 It's a little hard to pull it off the plans  
23 because the contours, but I estimated it was a  
24 one-on-two and a one-on-three slope, making it  
25 that if a car did come off the road there, it

would be almost impossible to get back up, and the need for a guide rail on that section there.

MR. SHAW: I think that's a good point. We have cabin curbs that don't have a vertical face to them and you could hop them very easily. Not easily but you could hop them. Maybe a guardrail would be appropriate.

MR. WERSTED: And then my last comment wasn't in my letter but I just thought about it. In looking through some of the Wildflower Vista plans, the future -- what had been the future extension of Greiner Road, it may be useful to have a note on the plans stating the potential that the road could extend in the future should a private come in later on, I think it might help with anybody who goes back to the plans to say this road was never intended to go further north and --

MR. SHAW: Sure.

MR. WERSTED: It may be worth -- the Town had considered that and it was potentially the vision of --

MR. SHAW: That's absolutely fine. I'll put a note on the plan. That's very easy.

MR. WERSTED: That was all my comments.

CHAIRMAN EWASUTYN: Karen Arent,  
Landscape Architect?

MS. ARENT: In the note where you  
propose street tree species, they should be  
proposed with quantities so we know approximately  
how many species of each are proposed rather than  
just leaving it random, to make sure that there's  
a distribution of various species throughout the  
site. They should be specified indigenous  
species. To take the ash tree off of the species  
list. Put the standard landscape warrantee notes  
on the drawing as well as planting detail for the  
street trees.

MR. SHAW: Okay.

MS. ARENT: If you could just --  
there's some areas where you're saving the woods.  
If you could just show the tree protection  
fencing there.

MR. SHAW: Okay.

MS. ARENT: And a landscape cost  
estimate will be needed.

MR. SHAW: A what?

MS. ARENT: Landscape cost estimate.

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MR. SHAW: Yes.

CHAIRMAN EWASUTYN: Bryant Cocks,  
Planning Consultant?

MR. COCKS: One issue that came up is the new residential lot area local law that was just approved by the Town Board about a month ago. They're also trying to enact another, I guess, amendment to that law which would grandfather in cases like this, old projects that have preliminary or final approval. They haven't passed that yet. I think for this Board to be able to give any type of approval, this plan would actually have to meet those requirements. I think you're kind of in limbo right here. You can -- hopefully that will get passed before February when the MS-4 guidelines are changed and this will be grandfathered in. If not, I think before the Board grants final approval you would have to meet those requirements. It would effect not the number of lots but a couple of the house locations in regards to slope and buildable area. I don't know if you saw the new zoning yet.

MR. SHAW: No.

MR. DONNELLY: It will change some of

your building envelop.

MR. COCKS: I don't know -- I'm not sure when it's on the agenda to be passed. I know I gave Mike a copy of what is going to be on the agenda, I just don't know when it's going to be passed. It's kind of like this project is in limbo right now.

MR. DONNELLY: Just so you understand Greg, the first law has been enacted and it affects the manner in which you compute lot area, building envelopes, et cetera. The Town Board has a second local law under consideration that would grandfather any project that had received preliminary subdivision approval prior to November 1, 2010 from its application.

MR. SHAW: From the first set of laws?

MR. DONNELLY: No. If you had a subdivision approval, preliminary approval, prior to November 1, 2010, which you do, --

MR. SHAW: Correct.

MR. DONNELLY: -- if this new second law is enacted, you'll be grandfathered from the change in the building envelop/lot area law that's now effected. The problem is we don't

know when that will happen.

We have two choices. You can either revise your plan to comply with the law or you can wait until they enact a grandfathering law. I don't know which will occur first. I think the Town Board intends to move forward rather swiftly with this because they're aware there are applicants who are impacted by it that they want to grandfather. I can't tell you which but the problem is your plan doesn't, as Bryant points out, comply with that law, yet it is not yet protected by the grandfathering law.

MR. SHAW: Thank you very much. That clarifies a lot. My opinion right now is we'll out-wait them. That seems to make the most sense.

MR. DONNELLY: I would think this is likely to happen either in December or January.

MR. SHAW: Then that's even better.  
Thank you.

CHAIRMAN EWASUTYN: Jerry Canfield,  
Code Compliance?

MR. CANFIELD: I have nothing.

CHAIRMAN EWASUTYN: Comments from Board

Members. Frank Galli?

MR. HINES: I'm sorry. Sheet 19, since this has been at the Health Department, the Health Department required an agricultural soil -- residue remediation plan. The Town has certain notes that are going to be required on there. You'll provide a certification to the building inspector, the building department. The Town, since that's the County Health Department's requirements, likes to see that certification go to the Health Department with a copy to the Town to not put the Town in that loop so to speak. We have some notes that I can provide based on other projects similar to this, to put those on the plan.

Also, you led into the macadam curb issue. The Board has been working with the highway superintendent since back last April. The Board would prefer, actually at work session we discussed probably unanimously, prefer the concrete mountable curbs, and the highway superintendent has worked with the Board and come up with a rather crude detail of what would be the acceptable concrete mountable curb version.



That's what the Board would like to see on the plans consistent with the Town's street specs which requires that.

MR. SHAW: I know we spent a lot of time four years ago over the macadam curbing. That was the Board's position way back then. For some reason at that time Mr. Benedict felt that the macadam curbs could be repaired much easier. If this is what the Board's preference is, then that's what we'll go along with.

CHAIRMAN EWASUTYN: There's an endorsement as far as Darrell has endorsed that detail.

MR. SHAW: Fine. We'll provide it.

CHAIRMAN EWASUTYN: I apologize.

MR. HINES: That's all I had.

CHAIRMAN EWASUTYN: Jerry Canfield, Code Compliance?

MR. CANFIELD: Nothing.

MR. GALLI: The only addition that was brought up is they changed the flood plain since that has been here last.

Pat, you were going to look into it.

MR. HINES: We're going to check into

1                   that.  It's my understanding the flood plain  
2                   stops on the opposite side of Lattintown Road  
3                   from this project.  The culvert under Lattintown  
4                   Road acts as a restriction, causing the ponding  
5                   on the, I guess, west side -- northwest side of  
6                   Lattintown Road.  From the east side down is not  
7                   in a flood plain.  We'll recheck that.  The maps  
8                   have been revised since you were last here.  
9

10                   MR. SHAW:  I've looked at them and I  
11                   don't believe the flood plain extends on our  
12                   property.

13                   MR. HINES:  I don't think it does  
14                   either.

15                   MR. SHAW:  Feel free to check it out.

16                   MR. GALLI:  That's it.

17                   CHAIRMAN EWASUTYN:  Ken Mennerich?

18                   MR. MENNERICH:  Greg, if a project  
19                   develops on the north of this site, their  
20                   detention pond would be completely separate from  
21                   this?  It won't tie into this detention pond?

22                   MR. SHAW:  Correct.

23                   MR. MENNERICH:  Thank you.

24                   CHAIRMAN EWASUTYN:  Joe Profaci?

25                   MR. PROFACI:  I have nothing further.

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CHAIRMAN EWASUTYN: Tom Fogarty?

MR. FOGARTY: It shows an old farm road on the lower left-hand side. Somewhere in there. I didn't know what was going to happen with that.

MR. SHAW: This existing farm road?

MR. FOGARTY: Yeah.

MR. SHAW: I don't know. Let me ask Mr. Greiner who is the applicant and also owns the land to the north.

The farm road that presently runs -- starts on your parcel to the north, runs through the northerly leg or the common property line and then turns due north, what's going to happen to that farm road?

MR. GREINER: It wasn't much of a farm road, it was more of the quads. We kind of chased them out and we're trying to keep them out. That's kind of getting less and less of a road.

MR. FOGARTY: Greg, just one other question. I think you said the last time this was before the Board was 2006 or 7. Whenever it was, --

MR. SHAW: Yes.

1  
2 MR. FOGARTY: -- do these changes  
3 require you to go back before the Orange County  
4 Health Department for any other reasons?

5 MR. SHAW: What's going to happen, all  
6 right, and this is the way I've been doing it  
7 with this Board and the Health Department for at  
8 least ten years. We have a set of plans stamped  
9 by the Health Department with the date on it.  
10 The Board is asking for changes on the drawings  
11 that have the Health Department's approval date  
12 on them. As long as the drawings don't affect  
13 the sewage disposal systems or the well, the  
14 spacing, design, and any of the components that  
15 fall under their jurisdiction, what we do is  
16 revise the drawings according to your  
17 consultants' comments and we do not change the  
18 date, then we go back to the Health Department  
19 with the approved drawings. The new drawings,  
20 same date, different issue, different information  
21 to reflect the final Planning Board approval  
22 process, and then it's stamped, the new drawings  
23 with the old date. They just swap out the  
24 drawings. It still reflects the date upon which  
25 they granted approval, it's just a different set

of drawings. As long as the changes don't affect that which is under their purview.

MR. FOGARTY: Thank you.

CHAIRMAN EWASUTYN: John Ward?

MR. WARD: No comments. Everything was covered. Thank you.

CHAIRMAN EWASUTYN: Two comments. One, I would like to receive a letter from the applicant from Wildflower Vista rescinding their application.

MR. SHAW: Okay.

CHAIRMAN EWASUTYN: And I'm also requesting a release of any outstanding money in their escrow account. If you would identify in that letter the Town Planning Board project number, --- -

MR. SHAW: Mm'hm'.

CHAIRMAN EWASUTYN: -- then we could move forward with that.

MR. SHAW: That's fine. Formally close it out.

CHAIRMAN EWASUTYN: And release monies because the State does audit the escrow accounts and they'd like to know why these monies are in

1 accounts. Accounting is very efficient in  
2 satisfying those audits.  
3

4 The only other question is lots 6 and 7  
5 show a shale driveway.

6 MR. SHAW: Okay.

7 CHAIRMAN EWASUTYN: Is there a  
8 possibility of finishing that with an inch-  
9 and-a-half of binder or a finished project as  
10 compared to shale? It seems like at this point  
11 in time, a shale driveway, just the maintenance  
12 of them dates back fifteen years. Can we surface  
13 that?

14 MR. SHAW: Yes, we can. The reason I'm  
15 kind of laughing is that this might be your last  
16 opportunity to ask for it. Once the new  
17 stormwater regs come in to play, they want to  
18 reduce impervious area.

19 CHAIRMAN EWASUTYN: Thank you.

20 MR. SHAW: Yes.

21 CHAIRMAN EWASUTYN: That's what makes  
22 planning so interesting. We have the Holiday Inn  
23 before us where, you know, the question is do you  
24 fit in all the parking now. As Ken Mennerich had  
25 said, by not doing it now you have more green

space. There's always that balance to all this.

MR. SHAW: And it's going to be interesting for this Board once those regs come into play because the name of the game, very simply, is reduce impervious area. The impervious area that you do create, you've got to mitigate the volume of stormwater that runs off it. Not the peak flow but the volume. So there's going to be pressure on the towns to change their zoning, to take driveways and narrow them up, take your roads, narrow them up, reduce your cul-de-sacs, impermeable pavement, all those things just to reduce runoff. That's another story for after February.

CHAIRMAN EWASUTYN: Mike, where are we then with the project?

MR. DONNELLY: If I could, we can't take action tonight because Greg is going to wait out the Town Board's local law or revise the plans.

What I would like to do is go through the conditions of preliminary approval so I can strike out those that I know were satisfied and then I'll have a resolution in place when this

1 next comes on. I anticipate we'll need sign-off  
2 letters, but those issues may be resolved before  
3 we get back here. We have a condition requiring  
4 Town Board approval of the roadway name. I know  
5 it's just going to be the extension, but has that  
6 been done or does that still need to be done?  
7

8 MR. SHAW: That needs to be done.

9 MR. DONNELLY: Okay. The cul-de-sac  
10 length waiver I'll add now. We had a condition  
11 requiring cross-grading easements to be reviewed  
12 and approved. I don't think I've seen them, so I  
13 assume that's not been done.

14 MR. SHAW: Not the easements  
15 themselves.

16 MR. HINES: There's a blanket note on  
17 there.

18 MR. DONNELLY: That might satisfy me.  
19 We had said easements. Certainly we can make a  
20 generic one that disappears upon construction.

21 MR. FOGARTY: There's one on the plan.

22 MR. DONNELLY: I can live with that.  
23 It's not truly an easement because it's only on  
24 the plan. It's certainly enforceable by the  
25 Town. I'll remove it because I don't think it was



a huge issue anyway.

There were more than ten lots, so the ARB provision will stand. Common driveway easement and maintenance agreements we discussed. We do have both the realty subdivision and soil remediation approvals from the Orange County Health Department. We'll take that off. I'll include the language that Pat spoke of earlier in terms of where you deliver the certifications to.

A notice of intent for stormwater, you're going to take care of that, Pat?

MR. HINES: Yes.

MR. DONNELLY: That will be done. Town Board creating a drainage district. You still need to do that. Central Hudson letter. We're going to have a landscape inspection and stormwater and Town road security and inspection fee. You should be all right.

MR. SHAW: Thank you so much. Have a nice Christmas.

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

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

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

DATED: December 28, 2010

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

- - - - - X  
In the Matter of

THE SHOPPES AT UNION SQUARE  
(2007-05)

Adrian Goddard to Discuss Update to the Site Plan and  
Setting Up a Consultants' Work Session for 12/21/10

- - - - - X

BOARD BUSINESS

Date: December 2, 2010  
Time: 8:25 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman  
FRANK S. GALLI  
KENNETH MENNERICH  
JOSEPH E. PROFACI  
THOMAS P. FOGARTY  
JOHN A. WARD

ALSO PRESENT: MICHAEL H. DONNELLY, ESQ.  
BRYANT COCKS  
PATRICK HINES  
KAREN ARENT  
GERALD CANFIELD  
KENNETH WERSTED

- - - - - X

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

1                   MR. PROFACI: We have one item of  
2  
3                   Board Business this evening, a discussion of  
4                   the Shoppes at Union Square. Adrian Goddard  
5                   will be coming in to discuss an update to the  
6                   site plan and the possibility of setting up a  
7                   consultants' work session for December 21,  
8                   2010.

9                   MR. GODDARD: Thank you for the  
10                  opportunity to speak.

11                  CHAIRMAN EWASUTYN: Just for the  
12                  record, would you give your name?

13                  MR. GODDARD: Yes. Adrian Goddard. As  
14                  an update, we are ready to proceed with the plan  
15                  that was approved. We were, in our opinion,  
16                  eluded by our anchor tenant. Now we need to  
17                  proceed with a smaller plan to honor the leases  
18                  that we have committed to.

19                  What I'd like to do is to request of  
20                  the Planning Board that we meet with the  
21                  consultants.

22                  I think it will probably be two phases  
23                  but it might be three depending on one lease  
24                  which I'm in the process of negotiating.

25                  In any case, we're going to need to

1  
2 proceed with construction when the season --  
3 construction season begins.

4 What we'd like to do is work out the  
5 most efficient way of doing a phasing plan that  
6 will satisfy the Planning Board, and do so in  
7 conjunction with your consultants so we can come  
8 back with something that works.

9 CHAIRMAN EWASUTYN: Sounds reasonable.  
10 Comments from Board Members. Frank Galli?

11 MR. GALLI: Is the front -- I can't see  
12 the plan that great.

13 MR. GODDARD: Sorry. I'll flip it  
14 around a little bit.

15 MR. GALLI: Are you changing basically  
16 the back part of the project because of the --

17 MR. GODDARD: What we will probably do  
18 is build the front. We have Vitamin Shoppe is  
19 committed, Staples is committed, we're working on  
20 a commitment for this. If we end up getting this  
21 committed soon, we would build the Vitamin  
22 Shoppes, this and all of the infrastructure  
23 through here. Probably not the parking. This is  
24 assuming we don't, in the interim, come up with a  
25 replacement. If this is not committed, in order

1 to honor the obligations we have here, we would  
2 need to do enough to get this part of the project  
3 open. So that's why I'm talking about two,  
4 perhaps three phases. It would be two if it is  
5 this followed by this, and three if it was this  
6 followed by this.  
7

8 MR. GALLI: The infrastructure itself  
9 would have to be put in place for the site itself  
10 first?

11 MR. HINES: I would envision the water  
12 loops through the site. Those are the kind of  
13 things we'll look at at work session. Water,  
14 sewer, how the drainage stands alone, how each  
15 phase will stand alone if a subsequent phase  
16 doesn't get constructed.

17 MR. GODDARD: Right.

18 MR. GALLI: That's fine.

19 CHAIRMAN EWASUTYN: Ken Mennerich?

20 MR. MENNERICH: Okay.

21 CHAIRMAN EWASUTYN: Joe Profaci?

22 MR. PROFACI: I'm fine with that.

23 CHAIRMAN EWASUTYN: Tom Fogarty?

24 MR. FOGARTY: Not a problem.

25 CHAIRMAN EWASUTYN: John Ward?

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MR. WARD: I'm fine with it.

CHAIRMAN EWASUTYN: Comments from our consultants. Jerry Canfield?

MR. CANFIELD: I have no comment at all at this time.

CHAIRMAN EWASUTYN: Pat Hines?

MR. HINES: We'll review it at work session.

CHAIRMAN EWASUTYN: Bryant Cocks?

MR. COCKS: I have nothing.

CHAIRMAN EWASUTYN: Karen Arent?

MS. ARENT: Nothing.

CHAIRMAN EWASUTYN: Ken Wersted?

MR. WERSTED: No comments.

CHAIRMAN EWASUTYN: Okay. There will be a few parts to the motion. One, I'll move for a motion to set this up for a consultants' work session for the 21st of this month, and also I'll move for a motion for Bryant Cocks to notify the Town Clerk, Andy Zuretskie, that due to the holiday season our adopted meeting date, which would have been the 27th of --

MR. COCKS: 28th.

CHAIRMAN EWASUTYN: -- the 28th will

now be corrected and we'll have a meeting on the 21st. I want to go on record that we're making that change.

The motion before us is to correct the original which would have been the consultants' work session meeting dated the 28th and to act on approving the Shoppes at Union Square for a consultants' meeting session on the 21st of December.

MR. PROFACI: So moved.

MR. GALLI: Second.

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

(No response.)

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

MR. GALLI: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Myself. So carried. Thank you.



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MR. GODDARD: Thank you.

CHAIRMAN EWASUTYN: At this point I'll  
move for a motion to close the Planning Board  
meeting of the 2nd of December.

MR. GALLI: So moved.

MR. FOGARTY: Second.

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

MR. GALLI: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Aye.

(Time noted: 8:30 p.m.)

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

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

DATED: December 28, 2010