

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

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In the Matter of:

THE PONDS AT BRITAIN WOODS
(2003-20)
Route 207
Section 97; Block 1; Lot 40.1
R-3 Zone

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DRAFT ENVIRONMENTAL IMPACT STATEMENT

Date: February 19, 2009
Time: 7:00 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

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

APPLICANT'S REPRESENTATIVE: TIM MILLER

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Reported by: Rosemary A. Meyer

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MS. HAINES: Good evening ladies and gentlemen. I'd like to welcome you to the Town of Newburgh Planning Board meeting of February 19, 2009. At this time we'll call the meeting to order with a roll call vote starting with Frank Galli.

BOARD MEMBER GALLI: Present.

BOARD MEMBER BROWNE: Present

BOARD MEMBER MENNERICH: Present.

BOARD MEMBER PROFACI: Here.

CHAIRMAN EWASUTYN: Present.

MS. HAINES: The Planning Board has experts that help provide input and advise to the Planning Board in reaching issues various SEQRA determinations. I ask that they introduce themselves at this time.

MR. DONNELLY: Michael Donnelly, Planning Board attorney.

MR. CANFIELD: Gerry Canfield, Town of Newburgh fire inspector.

MR. HINES: Pat Hines with Mc Goey, Hauser and Edsall, consulting engineer.

MR. COCKS: Bryant Cocks, planning consultant, Garling Associates.

MS. ARENT: Karen Arent, landscape architect consultant.

MS. HAINES: Thank you.

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2 At this time I'll turn the meeting over to Joe Profaci.

3 BOARD MEMBER PROFACI: Stand for the salute to the flag.

4 (The Pledge of Allegiance was recited.)

5 BOARD MEMBER PROFACI: Please turn off your cell phones.

6 MS. HAINES: The first line of business we have on the
7 agenda tonight is The Ponds at Britain Woods. This is a
8 residential Site consisting of 370 units. We'll be reviewing
9 the Draft Environmental Impact Statement. The project is
10 located on Route 207 in an R-3 Zone, and being represented by
11 Tim Miller.

12 MR. MILLER: Good evening. Mr. Chairman, Members of the
13 Board, Tim Miller representing Ginsberg Development
14 Corporation.

15 We had received the new comments from your advisors.
16 And I think for the most part, they're fairly
17 straightforward. I had two general thoughts about the review
18 comments that I just wanted to mention to the Board.

19 One is that we want to continue to move this project
20 forward through SEQRA, addressing environmental issues,
21 environmental impacts. And I know that that's a little bit
22 different than how we processed many applications in the past
23 where we've done the SEQRA process and the Site Plan Review
24 simultaneously. And so what it really means is is that I
25 think we all get a little bit outside our comfort zone in

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2 terms of what we would like to know during the SEQRA process
3 about issues related to the Site Plan.

4 There are aspects of the Site Plan that will take place
5 as we get into our Site Plan application. In certain
6 instances, some of the questions that I think have been asked
7 by the Board and your advisors, we just may not be able to
8 answer right now. We're just not there. For example, we
9 haven't sized the stormwater outlets and micropools and
10 forebays for stormwater management plan. We haven't made a
11 determination where mailboxes are going to be. We haven't
12 made decisions about the types of light fixtures that we're
13 going to have. So some of the comments were questions that
14 related to those Site Plan details. We can take a crack at
15 it, and we're happy to do that. I just say that with our
16 mutual understanding, that we get into Site Plan, there's a
17 real good possibility some of those things are going to
18 evolve and change as we move along.

19 There's a couple reasons for this. Part of it is is
20 where we are in the world today. I am finding GDC is not
21 alone in this situation. People are really having trouble
22 obtaining soft cost dollars to do architectural and
23 engineering stuff at this stage of the process. It's a
24 little bit different than it was before. And so retaining a
25 civil engineer, retaining an architect to develop these

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2 details, with a pretty good understanding that things could
3 shift as we sort of move forward, it's getting harder and
4 harder for people to do that. Some of the things that has
5 happened with some of my clients is is that they've had a lot
6 of closing scheduled with their potential buyer's real
7 estate, and these people have not been able to sell their
8 homes. They've got contracts, they've got down payments,
9 they've got commitments from banks, and money is just not
10 moving to the marketplace. So there's a practical reason why
11 some of these things are happening. I don't think that
12 that's a reason why anyone should compromise their review,
13 and I'm not asking anybody to do that. But what I'm
14 suggesting is we want to concentrate on SEQRA and
15 environmental impact issues. And some of the questions that
16 were in these memos are naturally curious about what's
17 happening with the Site Plan. I just want to make note of
18 that.

19 Also, some of the other comments sort of felt like they
20 might be technical comments that would come after the
21 document is accepted as opposed to a completeness comment,
22 and I guess I'm not quite sure how to sort of address that in
23 any more detail than that. I feel like in the Draft
24 Environmental Impact Statement we did address the issue,
25 whether it's wildlife, vegetation, stormwater, visual

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2 impacts, things of that nature. Some of the comments seem to
3 really be directed to more detail questions that might come
4 after we have an accepted EIS and a public hearing so that we
5 can kind of wrap them up in a final DEIS. It's a judgment
6 call. Again, we're going to do our best to try to respond.
7 And it may serve all of us well to have a workshop meeting,
8 sit down and kind of go through them point by point.

9 Then there were a third series of comments that I think
10 came from Bryant, Garling's office. It's sort of like
11 looking for Planning Board feedback on some of the issues.
12 We welcome that. We'd love to hear that.

13 So those are our general take on things. And I guess at
14 this point, if you and your advisors want to have a
15 discussion about the contents of the memos and give us some
16 guidance as to how you'd like to proceed, that's what we're
17 here for.

18 CHAIRMAN EWASUTYN: Okay Thank you.

19 There are two things, I think, I heard you said. We
20 discussed this early on, during the work session, there are
21 some points that we agreed will have to be looked at. And
22 there are some points that may, in fact, be able to follow
23 the course that you are describing as far as Site Plan
24 issues, DEC issues. And then you raised the point also that
25 maybe we could discuss them now and it would be up to the

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2 Board if we wanted to move forward and you wanted to talk it
3 through further in a work session.

4 MR. MILLER: Well, if that works. I think issues
5 related to stormwater management I see as a genuine area, an
6 important area of impact, environmental impact. And we want
7 to make sure that there's a reasonable meeting of the mind
8 between where we are, where the Planning Board is, where
9 Pat's office is as far as what to do with the stormwater
10 report. We've done a preliminary stormwater report based on
11 the plan that's been set forth in the EIS. We've sized those
12 basins. We have calculations that support that. So what we
13 know is we've got the area to accommodate runoff from the
14 different watersheds of the site. And there's going to need
15 to be more detail design work as we move through the final
16 approvals and submit a SWPPP to the Town and to the DEC. So
17 that's where we are. You know, how far do we have to take
18 that in order to get us to a public hearing. I think that
19 merits a little bit of discussion because if we can move
20 forward with where we are now, which is siting the stormwater
21 ponds, supporting calculations, without finalizing outlet
22 structures, inlet structures, micropools, forebays, then
23 we've made a commitment which we know we must do to comply
24 with your Town of Newburgh stormwater requirements and the
25 state DEC stormwater requirements, and we know we have a

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2 feasible project and there's not going to be adverse impacts.
3 And that's what I think the purpose of SEQRA is. It's been
4 your custom, and many people's customs in the past, it's kind
5 of do this all right now, upfront, and I'm not sure that it's
6 necessary in order to reach a conclusion that we're going to
7 mitigate impacts. I don't know if we can talk about it more,
8 but we might.

9 CHAIRMAN EWASUTYN: Let's try and talk a little bit
10 about the waterline loop and that.

11 MR. MILLER: Okay.

12 CHAIRMAN EWASUTYN: Having read comments from Gerry
13 Canfield and Ron Vansetta, Pat Hines had written about all
14 that, what's your response to their comments on how that may
15 need to be further addressed before the DEIS can be accepted
16 for completion?

17 MR. MILLER: Well, the scope of the EIS was pretty
18 specific on that. I think we each need to adhere to the
19 Scope. It talked about some information on water pressures
20 and things of that nature which I don't think we had, did we,
21 Fred?

22 MR. FRED: We didn't have the actual testing.

23 MR. MILLER: I think we need to do a little more work on
24 that because that was a Scoping item, and it's a legitimate
25 completeness issue. I would agree with that.

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2 CHAIRMAN EWASUTYN: Bill, do you have any thoughts on
3 that?

4 MR. EVANS: No. We've done a lot of work on it. And we
5 have a loop available to us now, and we're finishing up on
6 some details of one of the easements. But we're in pretty
7 good shape. But it's important that Gerry and the rest of
8 the board and Pat understand how it works and what the
9 pressures will be and so forth.

10 CHAIRMAN EWASUTYN: How satisfied do you feel that,
11 based upon some comments, that you may have addressed the
12 visual impact, looking at the site from Snake Hill with the
13 thought that it may become a public park? How satisfied are
14 you with that? Because that was an area of concern that was
15 discussed somewhat during the work session.

16 MR. MILLER: Sure.

17 CHAIRMAN EWASUTYN: I'm not going to dominate this, but
18 I'm looking for something that will work between everyone and
19 yourself with the thought that we may want to ask the Board
20 to further this in a work session, understanding the
21 sensitivity of the market right now.

22 MR. MILLER: We can't hide this from Snake Hill. And at
23 the same time, you know, we didn't do a simulation.

24 MR. FRED: We didn't do any graphics from that location.

25 MR. MILLER: I mean if the board would be interested in

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2 like a cross section from the Snake Hill perspective, that
3 would be pretty easy to present. We know we can't hide it
4 because it is what it is. The topography is what it is and
5 the site has long been designated for this use. And I think
6 the public should understand what the changes are going to
7 be. So I would be happy to expand the visual section to
8 address that. Expanding the visual section, however, to try
9 to simulate views internal to the site as the project gets
10 phased, that would be a lot of work, and I think that we can
11 present that in a narrative form in the EIS. But I'm not
12 sure if I've got an easy way to graphically represent that.
13 Some of the comments that came up around that, I think were
14 very useful: Where will soil be stockpiled during these
15 phases. Will it be done in a way that screens it internally
16 so that people who might be residing in Phase 1 are not going
17 to experience the view of an unstabilized construction site,
18 depending upon how long that is. Those are all valuable
19 comments. So I would like to be able to address it, but I'd
20 like to have some flexibility to kind of give us a little bit
21 of a softer landing, so to speak. I just don't know how to
22 visually represent it easily from internal to the site either
23 than showing on the a Site Plan, or maybe doing a cross
24 section, representing it that way.

25 CHAIRMAN EWASUTYN: I'd like to turn to Ken Mennerich.

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2 He was part of the work session, so was Joe Profaci, to pick
3 up where I'm leaving off as far as questions.

4 MR. MILLER: Okay.

5 CHAIRMAN EWASUTYN: And our consultants as far as maybe
6 identifying their bullets, we'll call them, as issues that
7 they really feel are outstanding and that more than likely,
8 if the Board agrees with, should be further discussed at a
9 work session. I think there's a work session coming up next
10 week, next Tuesday, as a matter of fact. And keeping in mind
11 that there's closure on all this, there is a 30-day response
12 time on our half as far as initially 45 days and 30 days. I
13 don't know if you'd be ready for the 19th of March or you
14 want to waive that.

15 But I'll start with Ken Mennerich.

16 MR. MILLER: Okay.

17 BOARD MEMBER MENNERICH: Well, in the work session, I
18 think from the discussions that went on in that session, we
19 do appreciate the fact that you want to separate SEQRA and
20 the Site Plan Review. And in the past, that hasn't been the
21 normal approach, but in today's climate, it seems like the
22 necessary way to go. And so we spent a lot of time
23 discussing which items are related to the Scoping Document
24 and where there's deficiencies in the DEIS. And I think that
25 what you're saying is you're certainly willing to address

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2 those items where the Scope isn't complete. And I think
3 rather than me continue to talk, I think the consultants can
4 go through their memos and highlight the main bullet items
5 that relate to completeness of the DEIS.

6 CHAIRMAN EWASUTYN: Joe, do you have anything to add to
7 that?

8 BOARD MEMBER PROFACI: No. I think we need to hear from
9 the consultants with respect to their points.

10 CHAIRMAN EWASUTYN: Pat, do you want to start out?

11 MR. HINES: Sure. The first section of comments that I
12 talk about is that stormwater management SWPPP. There was a
13 submission. It is included in the document. The material
14 was dated. The regulations have changed and the material
15 needs to be updated to the 2008 standards. The old permit,
16 the language and such is in there. So that definitely needs
17 to be brought up-to-date.

18 As far as discussion regarding the orifices outlet,
19 there is a stormwater management report in there that
20 contains the design of certain outlet control structures. We
21 just don't have those. It makes it difficult. I'd continue
22 to review that, but then I have to go through and draw the
23 outlet control structures so that I can run the models
24 through the analysis. I think that that's something that the
25 Applicant's representative can do. Again, we're not asking

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2 for a design of the stormwater collection system and
3 conveyances. That's certainly a Site Plan issue. But the
4 report relies on certain pond sizing, certain input data that
5 needs to be shown on the plans. Some of that is deficient.
6 Certainly, we don't need the design of the sediment forebays
7 bays shown on the plan. There's only a five foot contour on
8 the plans right now which makes reviewing the stormwater even
9 a little more challenging than normal.

10 There's no pre and post-development drainage area
11 mapping, which it's required as part of the SWPPP. And
12 really, we can't perform an intelligent review of that
13 without having that input data.

14 Many of the output models contain what, for lack of a
15 better term, have little warnings and hints on top of the
16 data that says: Warning, this might be a problem. Input
17 data, output data. And normally, when you see a couple of
18 those it may be okay, but there's a lot of those in the
19 report. So someone needs to take a look at those. I
20 commented on that. There is a design basis for, and I think
21 it can be done in narrative, but also in some additional
22 detail on the plans. They're going to be using a pond, a P-1
23 pond. It's an extended detention micropool facility. That,
24 I think needs to be brought in more detail. I think it can,
25 again, in a narrative. We don't need the grading plan, but

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2 it needs to meet those. There are certain requirements for a
3 P-1 pond: The water quantity, quality and treatment. That
4 can be brought up. I think that's the gist of my stormwater
5 comments.

6 What I would suggest if the Applicant's representative,
7 prior to the work session, takes exception to some of the
8 comments, they can either put a note on there we'll address.
9 Or if they feel it's a technical comment or not, a
10 completeness comment, then that be used as a basis for our
11 discussion during any future work sessions so that we can
12 either eliminate or determine which ones will be included.

13 The water flow and pressure analysis issue, that was a
14 Scope issue that was identified early on. It's a concern.
15 It was added to the revised Scope. That was agreed upon more
16 recently than the original 2006 or earlier Scope. So that
17 needs to be in there.

18 Blasting is an issue that was in the Scope and now has
19 been defined. There's 90,000 plus or minus cubic yards under
20 the current grading plan, that the five-foot contour internal
21 plan, the whole plan. So we'll get plus or minus two and a
22 half feet across the site based on that contour interval. I
23 think that needs to be elaborated on, expanded upon in the
24 document, especially in light of some of the bedrock mapping
25 they've shown us is in relative close proximity to the

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2 residential properties adjoining this site. The noise
3 associated with that, I think needs to be further addressed.

4 The other comments, some of the comments I will grant
5 you are cleanup comments that, on the resubmission, could be
6 easily addressed. But those are the majority of our
7 completeness comments, the stormwater, the water pressure
8 analysis, and the blasting issues I think need to be further
9 expanded to make the document complete. We're willing to
10 work with the Applicant and their representatives if they
11 feel that something is a technical issue and not a
12 completeness issue and we can resolve that.

13 CHAIRMAN EWASUTYN: Gerry Canfield.

14 MR. CANFIELD: Yes. As earlier discussed, the
15 importance of the water loop and a hydrologic analysis,
16 that's very important at this point.

17 Another big issue or highlight of my comments that we
18 discussed at the work session was the fire access road, how
19 the developer proposes to address that. There are several
20 different suggestions. Perhaps at the work session we can
21 clarify what the actual code requirement is and how it will
22 impact the site. I know there's a relationship also with the
23 stormwater control and the width of the roads and the
24 additional runoff. It may impact the calculations for the
25 drainage. The document does not clearly describe what it is

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2 you're actually proposing to do. We can further discuss, at
3 the work session, what the actual requirements are.

4 One important note, there's a section of the document
5 that does indicate that the local code enforcement official
6 has the discretion to change that fire code requirement,
7 which is not totally accurate. We can further elaborate on
8 that at the work session.

9 The other comments are basically, some are site, others
10 are clean-up clarification, some verbiage changes.

11 Another item that we did not mention at the work session
12 but I feel it's important at this time, the document also
13 mentions creating a special assessment district. That's
14 something that should be addressed with the jurisdictional
15 fire department. I believe that was in relationship to
16 purchasing a ladder truck. I can't speak for the fire
17 department's wishes, however it should be addressed at this
18 point in time if there will be a special assessment district
19 created for that purpose. I'm not certain that that is their
20 wishes, but that's something that needs to be addressed with
21 them.

22 MR. EVANS: Gerry, can I say something on that?

23 We, and other states like Florida, where we can set up
24 special districts just to take care of certain requirements
25 of improvements that are needed in a private development,

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2 such as the sewer, water, or some special assessment for the
3 fire company, whatever, it becomes a separate item on their
4 taxes so that some of the burden of whatever is a common
5 element is paid for partially by the residents of the
6 community.

7 CHAIRMAN EWASUTYN: Mike, you wanted to comment on that?
8 You had --

9 MR. DONNELLY: We've talked about this with some degree
10 of frustration. Other states have more mature impact fee
11 methodologies where the developer will pony up an amount
12 that's equal to the increased demands on the system. We
13 don't have that as conveniently here. But I think if there
14 had been a volunteer offer to try to create a mechanism that
15 might be utilized to purchase a piece of equipment, I think
16 Gerry's point is let's make sure that that jurisdictional
17 fire department is interested.

18 MR. EVANS: Thank you.

19 MR. CANFIELD: Basically, that's the only outstanding
20 items that are highlighted.

21 CHAIRMAN EWASUTYN: Bryant, I think at the meeting you
22 said you had one outstanding item.

23 MR. COCKS: Yes. As straight completeness, the only
24 heading out of the Scoping Document that wasn't including was
25 the section on the effects on the use and conservation of

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2 energy resources. A lot of the information was in other
3 parts of the document, but that was just one section that
4 wasn't included.

5 I do have about three pages of comments. Some are
6 technical, as Tim mentioned. I could go through a couple of
7 the main ones if you want me to.

8 CHAIRMAN EWASUTYN: Whatever you feel is relevant at
9 this point. If they're just technical then I don't think we
10 should take the time to discuss them.

11 MR. COCKS: Okay. Just on the Land Use and Zoning
12 section, I think there should be an expansion on discussion
13 on the Town of Newburgh design guidelines.

14 The Visual Resources section we already talked about.
15 And Tim mentioned that it would be kind of hard to take a
16 look at some of the interior visual analysis while
17 construction is going on. I think if we at least could have
18 some potential views from the streets or the surrounding
19 neighborhoods, I think that would at least be a good start.

20 Gerry mentioned the fire code.

21 The lighting plan, you just showed the location of the
22 lights. There was no iso foot candle intensities.

23 CHAIRMAN EWASUTYN: Would that be more you'd consider to
24 be a Site Plan issue as we're looking at this thing? I know
25 Ken has kind of said something. I think we're probably

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2 thinking that might be a Site Plan issue.

3 MR. MILLER: I think we need to make a commitment to a
4 maximum lighting so that it doesn't leave our site. And if
5 we make that commitment during Site Plan, all the Board has
6 to see is the fixtures and that we've kept that commitment.
7 That would be a way of assuring that there's going to be
8 mitigation without having to have a lighting consultant
9 retained to do that isotropic lighting plan right now.

10 MR. DONNELLY: If you have a section that says the
11 developer acknowledges that it will, in its final Site Plan,
12 be required to meet the Town's requirements regarding light
13 falloff, then --

14 MR. MILLER: No more than two-foot candles would exist
15 at the property line or whatever the standard is, yes.

16 MR. EVANS: We would suggest that be the case in a
17 number of instances.

18 CHAIRMAN EWASUTYN: What do you mean by that? Give an
19 example. We're trying to understand.

20 MR. MILLER: Well, we had talked a concept of
21 thresholds. Like we made the commitment to a clearing limit
22 and future Site Plan applications adhere to that. Thresholds
23 as far as landscaping, that a future detailed landscaping
24 plan will need to have native plant species that are adaptive
25 to the northeast, that provide wildlife habitat and food for

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2 breeding songbirds, things of that nature. So we set up
3 these measures that provide for criteria when the Site Plan
4 comes in. In the past we've done it. And what we're saying
5 now is we know what needs to be done and we know what impacts
6 we need to mitigate. Let's set that up right now so that
7 when the Site Plan comes we know that we're consistent and
8 the impacts have been mitigated to the greatest extent
9 practicable. And if it relates to traffic, I'm trying to
10 think what's another threshold might be, like during
11 construction, or blasting mitigation, for example. In Pat's
12 comment he said well, if we're going to be blasting, we
13 should do a survey of off site wells, which was not in the
14 Scope. And what I would say is: Well, let's make a
15 commitment in the blasting plan to maintain peak particle
16 velocities at a certain level, and at that level it's been
17 demonstrated that it's highly unusual that there's any off
18 site structural damage if you don't have a peak particle
19 velocity that's more than two inches per second. So we don't
20 need to go study the world if we are not doing things that
21 are going to hurt the world.

22 And that's a concept that you might want to speak toward
23 it.

24 MR. EVANS: You did a good job.

25 MR. MILLER: So let's set the criteria up. You know,

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2 what's our mitigation? How do we intend to make sure that
3 when you get to the Site Plan it's a good Site Plan.

4 MR. EVANS: We want to put an umbrella on like we all do
5 here. We want to everything we can to go below that number,
6 especially on stormwater and things like that. We know we're
7 going to be trying, as I mentioned it in one of the meetings,
8 to mitigate as much runoff as possible and to make sure some
9 other areas on the site take it, and we have a lot of new
10 techniques to try and do that. So if we come to an
11 understanding with Pat that it's X, we have to stay within
12 that, and every section we'll be trying to come up with ways
13 to even reduce it further, to reduce the head on certain
14 areas more, to do other things to make it even better than
15 the DEIS.

16 MR. MILLER: So if we're stockpiling soils, we make a
17 commitment that they'll be screened both from the street and
18 from internally after a certain period of time. You know
19 things that would go into your findings that, like off a
20 checklist that you say they've done it.

21 CHAIRMAN EWASUTYN: Bryant, are you complete?

22 MR. COCKS: I just have one other thing that is a
23 completeness issue. The Threatened and Endangered Species
24 section, the Applicant stated that they used the DEC web site
25 and also conducted some site walks. But considering whatever

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2 is going on in the next Appellate Division or whatever it is
3 with the lawsuit, I thought that that might need to be
4 expanded upon. So I think that should be discussed by the
5 Planning Board.

6 MR. DONNELLY: In that case the weakness was the
7 reliance solely upon the DEC reports. As long as there's a
8 site walk, then I think we've satisfied that case. I don't
9 know how detailed it needs to be. There needs to be, in that
10 Court's opinion, personal, on-site observation and not mere
11 reliance on the report.

12 MR. MILLER: And I think the document did say that we
13 did site walks.

14 MR. DONNELLY: But it's something we're going to be
15 mindful of, to make sure that that is.

16 MR. MILLER: Okay.

17 CHAIRMAN EWASUTYN: Karen, bullets

18 MS. ARENT: I have one question. I think most of my
19 comments are for Findings. For example, the comment about
20 measuring and inventorying trees within the border, that
21 could be done later and there could be a goal of trying to
22 preserve the large trees within this 50-foot area wherever
23 possible.

24 I have a question, though. For example, the grading
25 plan shows grading deep within the borders of the site,

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2 whereas the words says a lot of the existing trees throughout
3 the site will be preserved. So the plans kind of contradict
4 what the words are saying in the document. So how does that
5 get resolved or when does that get resolved?

6 MR. MILLER: The grading plan for this project was done
7 a couple years ago. Since then, we've had meetings with DEC
8 and Martin Ginsberg and the architects. And it's the
9 intention, when we submit these detail site plans, that we
10 will be able to reduce the wholesale grading internal to the
11 site so that we can preserve clusters of trees. You know,
12 you've made a good comment, and I have no objection to
13 setting that up as an objective to pursue.

14 MS. ARENT: Yes, that would be good.

15 MR. MILLER: So if we have areas where there's a cluster
16 of significant trees, I mean that just doesn't make any sense
17 to take those down. It makes more sense to work with them
18 because they add value to the landscape and they add value to
19 the aesthetics which means they add value to the units that
20 we want people to live in. And so that, again, as a goal for
21 Site Plan review, gives the Board, I think, some real teeth
22 to say to the Applicant: Show us how you're accomplishing
23 this. Where are you going to be able to accomplish that? It
24 will be on the Applicant's shoulders to say: Here's how we
25 have, or here's how we have it and here's why if we can't.

1 - THE PONDS AT BRITAIN WOODS -

2 So if that's a workable way of approaching it, I think we're
3 good with that.

4 CHAIRMAN EWASUTYN: Karen, do you like the teeth in
5 that?

6 MS. ARENT: I like it. I guess I'm confused about if
7 the plans say one thing and the words say another, you're
8 going to further clarify that with objectives that you're
9 planning to meet.

10 MR. MILLER: Yes. And I think I need to also be clear
11 on what this plan is because the plan is an older plan.

12 MS. ARENT: Right, right. And that would be helpful
13 because the words don't match the plan too well.

14 MR. MILLER: I hear you, yes.

15 MS. ARENT: That's it.

16 CHAIRMAN EWASUTYN: Were you satisfied with the next
17 step approach to the visual?

18 MS. ARENT: The line of sight drawing from Snake Hill
19 and words that describe the treatment of phasing and soil
20 stockpile, I think yes, I am satisfied. I think that Bryant
21 has a point too, that you should have a couple visuals just
22 to show the public. From your six points that you have
23 within your document, maybe three of those you show some kind
24 of line of sight, or some kind of visual to give the public
25 an understanding of what the project will look like.

1 - THE PONDS AT BRITAIN WOODS -

2 MR. MILLER: Okay.

3 MS. ARENT: That would be helpful.

4 MR. DONNELLY: You had nice six vantage point photos
5 before. If you could do something other than the two
6 paragraphs about what we'll see after, that would permit the
7 public to digest your project and make meaningful comment.

8 MR. MILLER: All right. We can do that as a cross
9 section. Right, Fred?

10 MR. FRED: Clarify the cross section?

11 MR. DONNELLY: Well, if, for instance, one location has
12 an intervening hill within a line of sight diagram, that's
13 going to show us that it can't exceed. If your intent is to
14 preserve some of those trees, I think something, whether it's
15 an artist rendering or a simulated photo, will give us the
16 flavor of what it looks like. Do we have to do the most
17 sophisticated model from all six vantage points? No, I don't
18 think so. But I think the roadway in the front, 207, if you
19 had two or three spots there, I think would helpful looking
20 both directions toward the project is what one might see in
21 the post-construction phase. And I would suggest of the full
22 build-out rather than phase by phase so the public has some
23 ability to digest what the project will look like when it's
24 done.

25 MR. MILLER: Okay.

1 - THE PONDS AT BRITAIN WOODS -

2 BOARD MEMBER MENNERICH: I would add, too, to the
3 residential areas that will abut this, if there were four
4 views, it seems like there should be some after views because
5 these are the people who will come in to the public hearing
6 and want to know what it looks from my neighborhood.

7 MR. FRED: Pat Road?

8 BOARD MEMBER MENNERICH: Yes. And also from Stoney
9 Road.

10 MR. FRED: We've been working closely with them and
11 meeting with them.

12 MR. MILLER: All right, we can add that.

13 CHAIRMAN EWASUTYN: Mike, do you want to conclude? Do
14 you have anything you want to add?

15 MR. DONNELLY: When we were talking at work session of
16 the SEQRA standard, that it's complete, in one sense that
17 you've addressed each of the Scoping items; in the second
18 sense that it's complete enough to start public view. When
19 you measure it, the one that stuck out to me in our
20 discussion that was missing was you had nice photos before,
21 you didn't have anything other than two paragraphs that
22 describe it after, and that's not enough for the public to
23 have meaningful review.

24 Most of the rest of this, I agree, it's a scale. We
25 don't need you to design everything. But as Pat said, he

- THE PONDS AT BRITAIN WOODS -

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2 might need enough to know there's adequate space on site to
3 store and treat and collect the stormwater. That may be
4 influenced by Gerry's point about the width of the roadway.
5 So a lot of these things kind of tie together. But yes, we
6 need it to be conceptual enough that we can address the
7 impacts and not so technical that we're designing right down
8 to the height of every lamp on the site. We've got to find
9 that balance. I think that's what the Board wants to do.

10 MR. MILLER: I appreciate that.

11 Well, I guess in terms timing, we would --

12 CHAIRMAN EWASUTYN: Let me pole the board members.

13 MR. MILLER: Sure.

14 CHAIRMAN EWASUTYN: And you're following my train of
15 thought. Let me complete with them and then we'll get back.

16 Frank Galli.

17 BOARD MEMBER GALLI: No other comments.

18 CHAIRMAN EWASUTYN: Cliff Browne.

19 BOARD MEMBER BROWNE: No.

20 CHAIRMAN EWASUTYN: Ken Mennerich.

21 BOARD MEMBER MENNERICH: No.

22 CHAIRMAN EWASUTYN: Joe Profaci.

23 BOARD MEMBER PROFACI: No.

24 CHAIRMAN EWASUTYN: Well, let me say this and then we'll
25 get to the last page that you're working on.

1 - THE PONDS AT BRITAIN WOODS -

2 I would move for a motion from the Board to set this up
3 for the consultants' meeting of the 24th of February

4 MR. COCKS: 25th.

5 CHAIRMAN EWASUTYN: The 25th? I was mentally going
6 through. See, Tim, I'm like you, I got distracted mentally.

7 MR. HINES: It is the 24th.

8 CHAIRMAN EWASUTYN: It is the 24th?

9 BOARD MEMBER PROFACI: So moved for the 24th.

10 MR. COCKS: You're right. I'm sorry.

11 CHAIRMAN EWASUTYN: I'm scared now. I move for a motion
12 by Joe Profaci. Do I have a second?

13 BOARD MEMBER MENNERICH: Second.

14 CHAIRMAN EWASUTYN: Second by Ken Mennerich.

15 I'll ask for a roll call vote starting with Frank Galli.

16 BOARD MEMBER GALLI: Aye.

17 BOARD MEMBER BROWNE: Aye.

18 BOARD MEMBER MENNERICH: Aye.

19 BOARD MEMBER PROFACI: Aye.

20 CHAIRMAN EWASUTYN: Aye. So moved.

21 The only other question is during SEQRA is Mike Donnelly
22 has told us we have 45 day to respond and then there's a 30
23 day response. Do you think you'll ready for the 19th of
24 March?

25 MR. MILLER: We -- no.

- THE PONDS AT BRITAIN WOODS -

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2 MR. DONNELLY: Forty-five days is for us to deliver to
3 them our comments on inadequacy. And I think that we've said
4 is it's the memos as they are modified at the consultants'
5 meeting. So I think you probably satisfied your time frame
6 unless you need to hear back from your consultants after
7 that's done. But I think the flavor of what you want to see
8 happen is probably taken care of. That's in their court.
9 They can take as long as they want to get back to you.

10 MR. MILLER: You've made a determination it's not
11 complete so the timing issue is off table the for the Board.
12 And my thinking is we'll probably need, after this meeting of
13 the 24th, a couple of weeks to turn it around which would
14 give us an document to be back into the Board sometime in
15 March. The best that we could hope for would be an April
16 discussion on completeness. That's going to up to us to turn
17 the document around after we resolve all the comments and so
18 forth. So my hope is that we get back to you in March, and
19 if there's a possibility in April for the consultants to
20 review the changes, for you to review the changes, a
21 completeness determination, super. And if not, super. It'll
22 be what it will be.

23 CHAIRMAN EWASUTYN: Okay. I move for a motion from the
24 Board to deem the Draft Environmental Impact Statement for
25 The Ponds at Britain Woods to be incomplete at this time.

- THE PONDS AT BRITAIN WOODS -

1 BOARD MEMBER MENNERICH: So moved.

2 BOARD MEMBER PROFACI: Second.

3 CHAIRMAN EWASUTYN: I have a motion by Ken Mennerich.

4 I have a second by Joe Profaci.

5 Any discussion on the motion?

6 (No verbal response.)

7 CHAIRMAN EWASUTYN: I move for a roll call vote starting
8 with Frank Galli.

9 BOARD MEMBER GALLI: Aye.

10 BOARD MEMBER BROWNE: Aye.

11 BOARD MEMBER MENNERICH: Aye.

12 BOARD MEMBER PROFACI: Aye.

13 CHAIRMAN EWASUTYN: Aye, myself. So carried.

14 We haven't had a chance to talk with you, but we did
15 visit the Fairway site and we found that to be a very
16 aesthetically pleasing site.

17 MR. EVANS: Thank you. I'd like you very much to visit
18 when we have the flowers out and the trees are in bloom.

19 BOARD MEMBER GALLI: The flowers are out.

20 CHAIRMAN EWASUTYN: What?

21 BOARD MEMBER GALLI: The flowers out.

22 CHAIRMAN EWASUTYN: It's fairly decent weather, yes.

23 MR. EVANS: You see the hawks coming down eating our
24 hundred dollar fish?
25

- THE PONDS AT BRITAIN WOODS -

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2 BOARD MEMBER GALLI: John shot one, and Ken ran the
3 other one over.

4 MR. GALLI: Thank you very much. We really appreciate
5 that.

6 (Time noted: 7:41 p.m.)

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REPORTER'S CERTIFICATION

I, ROSEMARY A. MEYER, a Shorthand Reporter and Notary Public in and for the State of New York, do hereby certify:

That the foregoing transcript is an accurate record of the proceedings herein, to the best of my knowledge and belief, having been stenographically recorded by me and transcribed under my supervision.

I further certify that I am in no way related to any of the parties to this action and that I have no personal interest whatsoever in the outcome thereof.

ROSEMARY A. MEYER

Date Transcribed: March 16, 2009

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

In the Matter of:

GATEWAY COMMONS
(2008-29)
NYS Route 17K and Skyers Lane
Section 89; Block 1; Lot 85.22
B Zone

CONCEPTUAL SITE PLAN

Date: February 19, 2009
Time: 7:41: P.M.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

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

APPLICANT'S REPRESENTATIVE: TIM MILLER

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

Reported by: Rosemary A. Meyer

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2 MS. HAINES: The next business we have is Gateways
3 Commons. It is a conceptual Site Plan located on Route 17K
4 and Skyers Lane in a B Zone. It is being represented by Tim
5 Miller.

6 MR. MILLER: John, we're up.

7 Good evening, Mr. Chairman. Tim Miller representing
8 Gateway Commons at Stewart. Since our last meeting, we have
9 ask John Kerekes, who's the architect and planner for this
10 project, to modify the drawings with the intention of
11 bringing them more into compliance lines with the design
12 guidelines that the Town of Newburgh has set forth for the
13 commercial area of the town. And John is going to take a few
14 minutes to talk a little bit about where he has come with the
15 design. And also, I want to sort of talk a little bit about
16 this commercial project and what our hopes are, what our
17 intentions are.

18 Just like what's happening with in the residential
19 market, we're finding that the commercial market is just as
20 tentative, if you will, given the circumstances today.
21 Tenants that we thought we were likely to be able to get
22 letters of interest from are now reevaluating whether they
23 want to take action at this time, particularly with the first
24 phase of this project which is the supermarket. We're
25 working very hard to secure a letter of interest because we

- GATEWAY COMMONS -

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2 believe that that first phase is very important for us to
3 move a project like this forward. What we're finding with
4 the national tenants, the people that we're talking to, is
5 they do have criteria, their wish list if you will, as to how
6 their sites get laid out and where parking is situated with
7 respect their front doors, things of that nature. And one of
8 the items that we're constantly trying to deal with is it's
9 design guidelines that exist at the local level versus what
10 tenants want to do when they're sitting down and looking at a
11 piece property. We're competing with towns, if you will, to
12 attract tenants.

13 Every year there's multiple conventions, shopping center
14 conventions and commercial conventions, where people
15 basically present their sites, their location, their possible
16 development scenario, in the hopes of attracting the
17 three-star tenants or a AAA tenant, I guess they're called,
18 to locate at a particular location. And the tenants look at
19 it with respect to traffic, with respect to visibility from
20 major roads, with respect to the ease of development, with
21 respect to the amount of time it takes to get an approval,
22 how far along you are in an approval process. And they base
23 their decisions in comparison to other locations that we're
24 competing with. New York is a pretty tough place to do
25 business, and a lot of people recognize that. We work with

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2 major tenants like Home Depot and Lowes and Stop and Shop
3 Supermarket Company, Walmart, B.J.'s, Costco. When they come
4 to New York there's a different set of standards. It's very
5 different than when they're going to Kansas or when they're
6 going to Ohio. The level of review and the amount of time it
7 takes to secure approvals is a whole different story in New
8 York. So what we're wanting to do here is to be able to move
9 this project forward in a way that we can go to a tenant and
10 say: We've dealt with the big picture environmental issues.
11 We've got a concept plan that is consistent with zoning that
12 may not be perfected and we may not perfect it before we come
13 in with the tenant and a detailed Site Plan, but we've been
14 moving this thing forward. We know that we've got feasible
15 utilities, we've got feasible traffic situations, we've got
16 feasible stormwater. And it's sort of a similar story to
17 what I talked about for the Ginsberg project.

18 John has been working on modification to the plan. I
19 think some of the memos that we got from your consultants
20 said it hasn't changed that much, and to a certain extent,
21 that's true. But what I want to do is have John talk about
22 how he's tried to modify, in response to and with an eye
23 towards satisfying your design guidelines and why it's the
24 animal that it is as it's shown on the plans right now.

25 MR. KEREKES: Thank you very much. Mr. Chairman,

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Members of the Board, distinguished consultants.

I just wanted to start with, just for perspective because we had, of course, we did have a plan up the last time, I'm hoping you'll be able to, at this level see the --

CHAIRMAN EWASUTYN: Do you people want to come around? Can you see it?

MR. KERKEKES: With respect to Tim and his comments regarding where we, we looked at it. And you don't see a 180 degree change. Part of why that is, and it has to do with the tenant mix and everything. But there's a document that when I first start working on a site plan, it's called Growing Greener, which I'm sure your consultants are well aware of. One of the really key things in here is there's a section on conservation subdivision design. It's a four-step process. I don't want to get into the details of that, but just by steps, Step 1: Identify primary conservation areas. I do that large scale looking at the wetlands, hills, trees, the streams, view corridors, things like that. Part 2 of Step 1: Identify secondary. And you mark that all up. The next step, Part 3 of Step 1: Potential development area. Block out areas based upon those areas that you don't want to be working in or designing in. Step 2. Step 2 and Step 3, for residential you do the homes first, then you put the roads in. For retail and commercial development, I usually like to

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2 put the roads in and then site the buildings. And the fourth
3 step is quite honestly, drawing the lot lines. So with that
4 type of analysis, the heavy analysis behind, the reason why,
5 the entrance maintains in both of them. And by the way, this
6 is the prior submitted plan, this is the newly submitted
7 plan. So things such as where the entrances, where the
8 boulevard is located, where the buildings are grouped
9 together, at this point, based upon my review using that four
10 part analysis, from a conservation standpoint and also from a
11 design standpoint, I can't change that substantially. So
12 keeping in mind the design guidelines which I'm trying to be,
13 I believe I'm in compliance, but trying to be more compliance
14 and respectful to the consultants' comments, which many of
15 them are quite valid and I try to address them, you begin to
16 see tweaks, nudges, turns, nip and tucks instead of wholesale
17 changes. I believe there may be only one wholesale change,
18 and that just happens to be at the end of the boulevard, and
19 Mr. Cocks has addressed that in his memo. I think I
20 actually, on that particular one, I do agree with his
21 comments. But we'll get to that as I move through the plan.

22 So substantially, what we have is really a three part
23 design: A neighborhood commercial retail center up front
24 oriented toward 17K, with 17K being the primary and the
25 secondary road being the boulevard with other uses along it

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2 that are not retail: Primarily hospitality, office. And
3 then on the other side of the wetlands, a component that
4 could either be multistory office or residential and some
5 entertainment tucked away in the back corner of the lot.

6 If we just focus on the retail component, what I try to
7 do is to begin to take apart that long mass, that long L
8 shape. The supermarket is the supermarket. And then I try
9 to break the smaller retail into smaller masses, thereby in
10 the separations creating spaces that would allow for
11 different outdoor uses and activities.

12 And Mr. Chairman, if you wouldn't mind, I just have two
13 samples of ideas of what we've looked at and done in the past
14 in those separations is to try to focus coffee shops, little
15 delis, food places at essentially what would be like these
16 ends caps, and then therefore, in the spaces between the
17 buildings, get some outdoor seating areas so the outdoor
18 seating areas don't wind up in the front and then you start
19 bottlenecking the front sidewalk.

20 What we tried to do also is also by taking away that
21 long mass is to try to group as much of the buildings in the
22 front to block a lot that's going on in the back on this
23 portion of the site. So the Retail G building effectively
24 doubled in size, but at the same time, allowing visibility
25 from the intersection back towards the supermarket, which the

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2 supermarket clearly needs and wants to always have is the
3 visibility. And what we were trying to do is by designating
4 a certain front field area for the supermarket that they're
5 comfortable with, but at the same time providing in
6 landscaping spines and potentially pedestrian spines that you
7 can walk from the supermarket to Retail G, Retail G to Retail
8 A, and then come back around go to the fast food.

9 There is also, on the other side of the boulevard, that
10 I would consider part of the retail component, a bank and a
11 fast food restaurant. In the prior plan -- excuse me.
12 Casual dining. The casual dining was closer to the extended
13 stay. My thought there was the extended stay has kitchens so
14 the possibility of people eating there is more likely. So
15 what we did was we tried to move that casual dining into the
16 retail component. So we just pulled that one up.

17 Now, I could just quickly jump, since we're discussing
18 that, is that one of the things that I've tried to do was
19 then to identify, in the front, how, when the buildings are
20 laid out in this format, that there is a clear connection
21 between all of them. This can be achieved. And right now we
22 do have sidewalks along the boulevard. There are walkways
23 from the sidewalks along the boulevard to all the uses. The
24 yellow areas represent potential outdoor areas. And there
25 happens to be one portion of the parking lot, right here at

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2 the corner, which I would say that is the parking lot part to
3 code? I believe it is. If it isn't, then it's off by maybe
4 10 or 20. But this is a piece of the parking lot that
5 probably is going to be the least used by the supermarket and
6 the other smaller retail tenants being up here. So I've been
7 to other neighborhood shopping centers where that type of
8 area is used for some type of tent sale, for some type of
9 community activity that goes on there on a Saturday.

10 Sometimes there's a local farm market and they do that right
11 outside. There's a number of things that could occur there.
12 It happens to be in a well protected area, away from this,
13 from the boulevard and from this main drive by. So it's
14 fairly secure, it's far enough away where it doesn't impede
15 any of the parking, and it also has some exposure here if the
16 event is looking for some small exposure.

17 Moving to the back of the site, one of the things when
18 it was laid out, now this plan, here is that one, is that we
19 began to look at some open space areas. And believe me, this
20 is not the Emerald Necklace in Boston. But it started to
21 appear where we had potentially passive areas popping up
22 between uses, behind uses, near uses, and that we had this
23 rigid walkway that allowed you to come along the road to get
24 to any of these buildings, which was very straight and
25 linear. So what we looked at was trying to put some type of

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2 a more natural meandering path behind so that if one chooses
3 to walk from this hotel to the restaurant, they can come out,
4 walk quickly down here. If they want to take a leisurely
5 stroll because they want to walk their meal off, they can
6 come back and they can walk along the back and eventually get
7 back to their hotel. If they want to take a lap, as they
8 say, they can go take a lap and then come back to their
9 hotel. But it allows for certain passive areas for people to
10 sit, if they want to just sit outside. For instance, at the
11 office building there's an area, at the hotels. So it begins
12 to incorporate some of that green space that's out there to
13 be utilized and to be interactive with the users in the
14 building so there's an inside, outdoor kind of activity.

15 Some of the other smaller things we did with the
16 buildings in the back, quite honestly, the extended stay is
17 pretty much the way it is. Initially, we had the two limited
18 service hotels with their prototypical parking around and
19 detention that will be required at the rear. What we looked
20 at was pushing the buildings back, getting 85, 80 to 85
21 percent of the parking along the sides and at the rear, and
22 bringing that detention basin up front which may actually be
23 able to be used. We're looking at it as potentially as a
24 water feature, and it would be a nice softer image between
25 the road and the hotel. And the same is true for this

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2 limited service and this limited service.

3 Across the street from that, as we had in this plan, we
4 centered one casual dining between two office buildings and
5 the two limited service. What I tried to do, again, this is
6 very office park like, very rectilinear. So I began to try
7 to, again, soften that up utilizing some curves, trying to
8 provide some other areas, reshaping the building, once again,
9 in order to take away the box. There are at least some views
10 now where a whole corner is potentially cut off. There are
11 bigger views now through to the back of the site where the
12 wetland area is in the back. So what I begin to do there is,
13 again, just try to not necessarily do a 180 degrees, but try
14 to soften it up a bit, make it a little smoother, make it a
15 little bit more sensitive, make it a less orthogonal, a lot
16 with right angles.

17 And then lastly, I think the biggest change is before, I
18 had the, at the end of the boulevard at this roundabout, was
19 the hotel where it's a full service hotel so it will have
20 restaurant, bar, it'll have conference and banquet
21 facilities. And what I did here was I changed it where I
22 turned it to the side and tried to put the mass closer to the
23 highway. Mr. Cocks has pointed out that in the first plan,
24 this had a better punctuation to the end of the building, and
25 I do agree with him in that respect. I also like it in that

- GATEWAY COMMONS -

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2 format, as well.

3 And Mr. Chairman, you made a comment about the height of
4 the building, how would it be perceived. One of the things I
5 was trying to do is keep, the further it is away from the
6 residential neighborhood, it begins to diminish as you move
7 further away. But I think even in this sense, we may have a
8 creative way of stepping the building down where it doesn't
9 look like a big slab coming out of the ground.

10 For that matter, the difference between this area which
11 was either going to be office or residential, once again, we
12 just softened up the parking, provided some other sitting
13 areas, picnic areas. You can see it here in this plan. It
14 offered more green in there and at the back of the site,
15 which was the entertainment center, the miniature golf and
16 the potential go-cart track, which we just didn't touch at
17 all, quite frankly.

18 But as I stated, I've tweaked it, I've tried to massage
19 it. I believe I've accomplished getting it more in
20 compliance with the design guidelines. There are some valid
21 comments from Mr. Cocks' memo that I will change and address
22 in the next go-round. And then what I'd just like to quickly
23 do for you is just show you kind of what we're thinking about
24 conceptually for this site.

25 The first view is at the intersection and quite high up.

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2 The corner fast food, the retail. Oh, and by the way, I'm
3 sorry. These, this, these renderings are based off of the
4 originally submitted plan. We did not change the renderings
5 to match the new submitted plan. It's just to give a flavor
6 for the architecture. We tried to bring in elements of the
7 Empire State. There are certain design aspects with roof
8 treatments, with materials. The materials we're trying to
9 use here, there are shingles, canopies, cloth canopies.
10 We're using fieldstone at the bases, masonry along the sides
11 and the back. When we get down into some closer views, this
12 has a clapboard feeling. Not even a feeling. It's a
13 clapboard design. There's some planking going on here. And
14 again, you begin to see how the boulevard is this kind of
15 grand entrance to this, quite frankly, 88 acre site. It's
16 not just a driveway onto 88 acres, it's a fairly substantial
17 boulevard.

18 What we're also trying to do is by putting some of these
19 buildings up front, some of these buildings here, is that so
20 from the street what you're beginning to do is you begin to
21 diminish that idea or perception that there is a sea of
22 parking there.

23 This is moving in closer. This was that area I talked
24 about as being potentially used for some type of outdoor
25 activity. We have, in this instance, the fronts of the

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2 stores are on this side. However, in the other design, that
3 building has frontage on this side, this side and that side.

4 And as one moves closer, and again, these images really
5 are more for some of the architectural elements and
6 materials. This rendering is of this building up here.
7 We're looking at doing block, clapboard with trim at certain
8 areas, using fieldstone accents. Once again, shingled roofs.
9 And we're really playing with depths. In some instances,
10 it's a covered walkway to just a canopy rising above to
11 another one where it's a covered walkway. And again, the
12 architectural, the massing, is not only moving in this plane,
13 but we're also trying to move it in that plane with the
14 different roof heights. So we're trying not to make it look
15 like the front of the Home Depot, the front of a Walmart.
16 We're trying to give character to this development in the
17 vertical and in the horizontal.

18 And lastly, once again, right now I'm just focusing on
19 the retail component because really, the supermarket is the
20 only thing before the Board, is the bank and the other casual
21 dining. The bank, and then the casual dining after the bank.
22 And once again, now you're at that ground level, and all of a
23 sudden, this view down here, from here, is looking back here,
24 and you begin to get, now granted, these are mature trees,
25 you begin to see how it starts. Once you start getting down

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2 to ground level, a lot of that, those things in the back,
3 avoiding this God's eye view, starts to disappear. Once you
4 start getting lower in here. And then, again, I think the
5 trees, I think there's going to be more trees proposed in the
6 islands. The islands will also potentially be widened a bit
7 in order to get a walkway from the supermarket to these
8 stores and going back that way.

9 And I think for the most part, that's all I have for the
10 Board right now.

11 CHAIRMAN EWASUTYN: Thank you. Let's start with any
12 thoughts from any board member. Frank Galli.

13 BOARD MEMBER GALLI: The piece in the back, the
14 recreation center, when you have a public hearing you're
15 going to hear a lot of comments from the home park. How is
16 that going to be screened, noise wise, screened from them?
17 How's it going to be set up? I mean they're going to land
18 blast you. They'll pack the room.

19 MR. KEREKES: And we need to talk about that internally
20 about that. But just for the Board's sake, since I kind of
21 brushed over it, this particular use is all internal so it's
22 an internal use. Once you come to the other side of the
23 wetland, and there is some growth within here, and I believe,
24 if I'm not mistaken, again, I believe the elevation way back
25 down here, between these homes and this area is fairly equal.

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2 From these homes to this portion of the site, this is higher,
3 naturally, than this is. This is a miniature golf so there's
4 no real noise associated. But when you get back to where the
5 go-carts are, we tried to place that in that section which is
6 the furthest back. It's something we're looking at. But
7 right now, it's in there and we realize that it may be a
8 point of issue.

9 BOARD MEMBER GALLI: And the other section there you
10 have blocked off that would affect them, have you determined
11 whether it was going to be office, housing, commercial,
12 residential?

13 MR. KEREKES: It can go either way. The concept, the
14 reason why they look the same is because quite frankly, those
15 office buildings and then whatever multistory, multifamily
16 residential would go there, literally the skin would be
17 exactly the same. This would have a residential look to it
18 whether it was a residential building or it was an office
19 building. And I think, and Mr. Cocks had pointed out, that
20 he thought this from a single family neighborhood to this
21 commercial, that a multifamily would be a good use, a nice
22 transition as one goes through. I agree with him on that.
23 Though while interior wise that's true, exterior wise, you
24 can still make, even if that did turn into an office, what
25 the concern is is what they're seeing, not really what's

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2 going on inside. If what they're seeing looks as
3 residential, it would be no different than if somebody
4 decided to make this a residential development back here.
5 But to his point, I do somewhat agree.

6 BOARD MEMBER GALLI: That's all I have.

7 CHAIRMAN EWASUTYN: Cliff Browne.

8 BOARD MEMBER BROWNE: You mentioned the extended stay.
9 If I'm not mistaken, all the units have kitchens?

10 MR. KEREKES: I believe so, yes.

11 BOARD MEMBER BROWNE: Okay. That would be a zoning
12 problem.

13 MR. KEREKES: Okay.

14 BOARD MEMBER BROWNE: What's our code on that?

15 MR. DONNELLY: Not more than 25 percent can have
16 kitchens.

17 BOARD MEMBER BROWNE: And so far, two applicants have
18 been turned down, I think, on zoning requests. So take that.

19 MR. KERKEKES: We will take that into consideration.

20 BOARD MEMBER BROWNE: The go-cart thing, I think you
21 want to come back to that, the back of the lot, that's going
22 to be a major issue, major. If you find something else
23 that's going to be quiet, that would be a good thing, like
24 something that. Part of that also can be screened out, the
25 noise. But also, residential residents, residential folks

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2 along that back line there, will be super concerned about
3 people just being able to just meander off into their
4 property. That's going to have to be something to be looked
5 at really closely, how you're going to separate you
6 physically to keep people from going into their backyard.
7 That's the major issue.

8 I don't know. Just my own curiosity, where are the
9 other people coming from to go there? Who's going to come
10 out to this location, to these stores? I'm looking. Who's
11 going to go out there? Where are you drawing from?

12 MR. KEREKES: The upfront retail is clearly a
13 neighborhood base because it's a supermarket anchored
14 shopping center. There will be small tenants along with the
15 supermarket. So that, and I don't want to step on R.J.'s
16 territory, but that services a much smaller radii. And at
17 this point, the supermarkets are saying that there is enough
18 density in this area for a supermarket. With respect to the
19 back half of the site, it's oriented because of the
20 interstate: Hotels, office,

21 BOARD MEMBER BROWNE: And the airport if it ever gets
22 anything going on out there.

23 MR, KEREKES: There's that possibility, as well.

24 BOARD MEMBER BROWNE: As far as the basic concept, I
25 personally like it.

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2 MR. KEREKES: What it does offer, sorry for
3 interrupting, a lot of times when we hear mixed use it means
4 two or more, and 90 percent of the time it's usually just two
5 things. It's stores and housing, stores and office. This
6 goes beyond that. This has four uses in the mix

7 BOARD MEMBER BROWNE: There's a motel I used over in
8 Rhode Island. There's shops over there that is somewhat
9 similar, I think, in concept. It's larger. It's got the
10 main road going down. You have residential down, way down in
11 the back, condos and stuff. There are all businesses along
12 there. It works good. Physically, I like the way it's laid
13 out. Okay

14 CHAIRMAN EWASUTYN: Ken Mennerich.

15 BOARD MEMBER MENNERICH: I guess the real question is
16 has the latest plan gone far enough in meeting the design
17 guidelines, and that's a judgment call. I think our design
18 consultants are going to have some comments relative to that.

19 In particular, like the parking for Retail A has the
20 parking right up against 17K. What are you proposing to do
21 along 17K to minimize the impact of that?

22 MR. KEREKES: As we were looking at this, one of the
23 elements, that we tried make this entrance as grand as
24 possible by trying to provide, at least in the first or maybe
25 even the second spine, more landscaping, potentially, some of

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2 the larger or more trees species. Then we began to look at
3 stone walls at the corner with some picket fencing. And in
4 this particular design study, we only brought it, looked at
5 accent at the corner. We are looking at bringing that along
6 the entire front, as well. There's an opportunity, because I
7 believe, and I just have to double-check this, but 17K is
8 actually at a lower elevation than what the finished floor of
9 what this building is. So even a slight berm with a stone
10 wall and some landscaping potentially screens all of the
11 cars, and let's call it potentially a lower portion of these
12 buildings when moving in this direction. The key to the
13 supermarket as far as visibility to them was through here.

14 And I didn't mention it before, but there is a right in,
15 right out entrance here which can bring people, without
16 having to come down to the light, onto the site.

17 We have been looking at those things: A stone wall
18 across the entire front, the fence, landscaping. This is
19 just a small area we did this design study on. But that
20 could be extended. We brought down turns here, at this
21 intersection.

22 BOARD MEMBER MENNERICH: My thought was relative to the
23 design guidelines is if the parking for that retail building
24 could be moved behind the building, then the parking lot for
25 the retail grocery store would not be such a big issue

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2 because basically you have buildings that are before, from
3 17K. Looking from 17K, you have two buildings that will be
4 between there and where the parking lot starts for the
5 supermarket.

6 MR. KEREKES: Yes. I'm sorry. This was the old plan.
7 What we did was actually we don't have parking along the
8 front of the building. Again, to make the counts, what we
9 basically did is that assume this is it, with the parking
10 here. We've taken the building and actually pulled it
11 forward to allow for parking, for additional parking at the
12 rear. Again, we get more space this way because, again,
13 we're trying to be as either at or near what the parking is.
14 We are a little low right now. But again, if the Board would
15 be willing to entertain some lesser totals, that's something
16 we can look at. But we have to be careful, too, is that for
17 a building that's about 12,000 square feet, to have only 20
18 or 15 spaces isn't going to do good. But we may be able to
19 work with that.

20 CHAIRMAN EWASUTYN: Before I turn to Joe Profaci for his
21 comments, I'll have Mike Donnelly respond to your question as
22 far as less parking. And I think in one particular case,
23 there was a reading of the code as we looked at it for
24 Walgreen's. Is that not the case?

25 MR. DONNELLY: Yes. Under --

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2 CHAIRMAN EWASUTYN: I have to excuse myself for one
3 second.

4 MR. DONNELLY: The way the parking is set up in the
5 Newburgh code, there are a listing of commercial uses and
6 types of uses, retail, so on and so forth, and the parking
7 requirements for them. But there's a provision that says
8 that for uses that aren't specifically listed, for instance,
9 whether it was retail and we had a Walgreen's pharmacy with a
10 drive-in, the Planning Board determined that was one not
11 specifically listed, then the Planning Board is authorized to
12 fix the parking requirements based upon the ITE manuals for
13 the uses that are there. So there may be some ability, they
14 may hurt you and they may help you, when you get more
15 specific to address some of those.

16 One of the other issues that we talked about in the work
17 session is how to move forward here. Normally, the Planning
18 Board likes to work up a concept and give conceptual approval
19 before it moves on even with environmental review. I know
20 you're going to hear some more comments from the consultants
21 as to where you are with the design guidelines. And I think
22 unless you are willing to make those changes, the Board may
23 need to move forward with the environmental review without
24 approving your concept because, indeed, some of what you
25 proposed has environmental impacts that the Board is not yet

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2 ready to endorse. I don't know if I'm making that clear, but
3 I think you'll hear more from the consultants themselves.
4 If you are trying something that is a bit out of the
5 ordinary, I think that may advantages both in terms of
6 marketing and appeal, but it's hard to make it mesh with the
7 intent of some of the design guidelines. This is a
8 particularly sensitive area given the mature residential
9 areas immediately alongside of you. From a traffic point of
10 view, obviously, you have a significantly important roadway
11 there that you're coming onto. The good news is there's a
12 lot of traffic studies of that area. You only need to build
13 on them and you don't have to create them.

14 I think John wants to start with the other consultants.

15 BOARD MEMBER PROFACI: I'll just ask my question.

16 Realistically, what kind of time horizon do you have
17 with this project? Fifteen, twenty, thirty years?

18 MR. SMITH: Well, fortunately, the developers are in for
19 the long haul. It's not jump in, build it, and sell it.
20 They're a family enterprise that builds and maintains
21 ownership. And when you talk about a site that not only has
22 a neighborhood shopping, four hotels, not one or two, but
23 four hotels, obviously, that's an extended time. It could be
24 10, 15 years before you build four hotels.

25 One thing I find intriguing is the effort to incorporate

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2 a full service hotel. From my perspective, there's not
3 another one of those in Orange County, and the closest
4 continuing to it would possible be the Hotel Thayer where you
5 have a banquet hall, a top end restaurant. You're talking
6 about a Sheraton, a Hilton or those kind of hotels. I mean
7 we don't have that. We have all these convenience hotels
8 without any dining, without any conference center or business
9 meeting area and things like that. That's really unique
10 because if the market's mature enough, and the consultants
11 have suggested, if it isn't, it's very close to being mature
12 enough, especially with the extent and the speed to which
13 Stewart might develop, this would be a great location for it
14 because of the business travel. And then you've got office
15 buildings. And then if we mix in the residential as has been
16 suggested, it truly is a mixed use with all those kind of
17 uses, and the restaurants which is part of the hospitality.
18 So it is a long-term. It is a 10 or 15 year. It could be a
19 20-year build out before you get the fourth hotel in there.
20 But the whole thing is being designed so unlike some others,
21 they go in there with a developer, they expect to build a
22 shopping center, get it done, and flip it, to a re. That's
23 not. This is a long term build out project.

24 BOARD MEMBER PROFACI: That's exactly what I wanted to
25 know.

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2 CHAIRMAN EWASUTYN: Comments, Gerry Canfield.

3 MR. CANFIELD: I have nothing.

4 CHAIRMAN EWASUTYN: Pat Hines.

5 MR. HINES: Again, at the concept, we don't have a lot
6 of technical comments here. Just I know there was some
7 subdivisions proposed here. Now that you confirm that it's
8 private road, each of the lots will have to own a piece of
9 that private roadway when you lay that out.

10 I did note some variances for lot coverage, for the
11 amount of impervious surface. You need to take a look at
12 that. The different uses in that zone have different
13 coverages, and that maybe a breakdown of that may prove out
14 that you don't need those. But take a look at that. I don't
15 think it's just a straight 50 percent.

16 The go-cart track, we heard from the Board on that. I
17 don't know if they're highly in favor of that. But there was
18 no access to that other than walking, it looks like. So that
19 will need to be revised in the future as you come out here.

20 Phasing is going to become an important part of this.
21 As we just discussed, it's almost got that time frame. It
22 sounded like off of 17K, the corporate park there, that was
23 developed over 20 years pretty successfully, I think. So a
24 phasing plan will need to be implemented into the design
25 plans, as well as the environmental review.

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2 And just the design guidelines. And I'm going to defer
3 to Karen and Bryant on that, how those are going to be
4 implemented. But we're really waiting for further
5 technical plans to develop in the future.

6 CHAIRMAN EWASUTYN: Bryant Cocks.

7 MR. COCKS: I had a lot of comments on the Site Plan,
8 some in regards to the design guidelines, some for just site
9 design in general.

10 One is I think the Applicant should take a look at using
11 shared parking for a lot of these spaces. For instance,
12 Retail A and Fast Food 1. If the Fast Food 1 parking was
13 flipped you might be able to combine some of those spaces in
14 there and minimize the impacts since that's right on 17K.
15 Also, say Casual Dining 1 and the extended stay hotel, I mean
16 Casual Dining 1 had 112 spaces there and Hotel tell 4 has 91
17 rooms. I mean quite potentially, they could both use the
18 same parking lot if they're just combined. There's just a
19 strip in between, which I'm not even sure if that was going
20 to be landscaping or what. And the area of the offices, the
21 two offices and the casual dining, the parking lot around the
22 casual dining I think could really be flipped with the picnic
23 and park area. If you move the casual dining up towards the
24 street a little more, put the picnic and park area right in
25 the middle of those and put all those parking spaces in the

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2 back in another row, I think the park area will be better
3 utilized and it'll look better when you're going in, and also
4 give the offices a place where people can just look out their
5 window and see that instead of a parking lot there.

6 The Applicant already talked about the hotel at the end,
7 which I agree should probably be moved back so that it would
8 kind of face the street and create an end to the boulevard.

9 The pedestrian connections on site, they have provided
10 sidewalks around everything. I just don't know how many
11 people actually utilize it. If you're going to one of the
12 retail shops up in front, or the supermarket, you're probably
13 going to have a lot of bags. I don't really see them walking
14 to one of the casual dining spots. A lot of these uses, if
15 you are going to use some, even say if you're in Hotel 2, I
16 mean it's going to be a long walk to get up to the corner of
17 the retail stores up here, so I don't know how many people
18 utilize it or how many people will just hop in the car and go
19 from place to place, which is really something we try to
20 discourage.

21 A sea of asphalt, I mean I think that's going to be a
22 really big problem. I know that you said that the
23 supermarket wants to be able to be seen from the road. On
24 this, really, when you're looking from this intersection of
25 the site, it's going to be pretty far away and there's going

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2 to be a long distance where you're just going to see either
3 the tops of parked cars, depending on the grading, or just
4 empty asphalt. I don't know if you could shift the buildings
5 around. I mean I don't want to redesign the whole site here,
6 but I just feel there's some way that you could try to break
7 that up somehow.

8 The buffer area on the top in between Wynwood Avenue and
9 what's going to be either the offices or the residential up
10 here, there is a sewer easement going over that, and you
11 aren't going to be able to plant anything on top of the
12 easement so the buffer area really isn't going to be a
13 buffer. You guys are going to have to look at either pushing
14 these offices away to be able to use the buffer area that's
15 required by zoning. So that's really going to have to be
16 looked at.

17 You talked about conservation of green space. And
18 really, I don't see much green space on here. I don't see
19 what is actually being conserved besides the wetland areas
20 which aren't able to be built on anyway. So I think that
21 should be looked at a little closer.

22 As mentioned with the entertainment center, I don't
23 necessarily think that's a bad idea to have mini golf course
24 and go-carts. I just don't know how it would have been
25 built, how any kind of construction equipment would cross the

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2 wetlands over there, so I just think that that might not be
3 feasible. But I'm all for putting some type of entertainment
4 in here. That's the Applicant's and the Board's decision,
5 though. That was just my recommendation.

6 And I guess for right now that's about it.

7 MR. KEREKES: Mr. Chairman, just one thing. One of the
8 things that potentially that the consultants, in particular
9 to Bryant, I'm sorry I forgot your first name.

10 MS. ARENT: Karen.

11 MR. KERKEKES: Karen. Sorry, Karen. Is that we show no
12 topo. And Bryant just mentioned one thing: Would there be
13 strips between. In fact, those are some of the areas where
14 we make up grade. The site naturally falls towards the back.
15 So we're creating a number of plateaus and it steps down.
16 While I would tend to agree that yes, it would be good to be
17 able to combine some in order to provide shared parking
18 there, and has been done, there are places where I need to
19 get the grade right. And unfortunately, it happens to fall
20 between the uses. That's something that's not on here and
21 it's not evident unless you know the site. So I just wanted
22 to make that obvious to everyone right now so that further
23 comment won't go in the wrong direction.

24 CHAIRMAN EWASUTYN: Karen Arent.

25 MS. ARENT: My comments are very similar to Bryant. I

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2 would encourage you to explore various ways to try to meet
3 the design guidelines. For example, pushing some of the side
4 yards of the buildings close to your access drive so that
5 there could be green space between the access drive and the
6 building.

7 Some of the most successful uses of green space is the
8 campus design, and I see a lot of opportunity on your site
9 for doing more of a campus design. For example, your offices
10 and your casual dining could have a campus design. There
11 could be green space in the middle of those buildings. The
12 same is with your offices in the back. Many areas have this
13 type of campus design where the office has a green space out,
14 connecting all the other offices. And it creates not only an
15 attractive office space, but I think it also creates more of
16 a higher, I shouldn't say higher class, but I don't know the
17 right words. But anyway, a nicer situation. So I see a lot
18 of opportunity for that right now is spoiled by all the
19 parking that's all around everywhere. So if you could just
20 look at possibly ways to incorporate green space within your
21 design and kind of a campus type of design. And also look at
22 ways to maybe bring buildings closer to the road or green
23 space or something. Or even by making sure your parking is
24 double loaded so you're not wasting a drive aisle for only
25 one parking road would help save some more green space.

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2 And then I also have the same comment as Bryant in
3 reference to design guidelines. In reference to the buffer
4 regulation, it's Section 185 (c). It says: No use or
5 structure, parking light, sign or outdoor storage shall be
6 located within the buffer, fences, walls, barriers,
7 underground infrastructure, provided it does not prevent
8 surface vegetation growth, landscaping. So obviously,
9 that sewer easement cannot be counted as buffer because you
10 can't grow plant material on top of the sewer easement. And
11 they also want, if there an easement or use with that buffer,
12 to be perpendicular to the buffer, and this is parallel with
13 the buffer. So there's a couple of areas within that buffer
14 regulation that explicitly say that you can't count the sewer
15 easement as part of the buffer.

16 And one more thing is the six story building, I think
17 the Planning Board might to see visual studies of that before
18 determining whether or not that should be allowed or a plan
19 should be considered with a six story building. A very
20 important area would be the neighborhood next to this project
21 because a six story building becomes a focal point in the
22 landscape. I know in Middletown they're building a hospital.
23 I believe that's six stories. When you drive around you can
24 see that from lots of different areas, especially at night
25 when it's lit up. So that's something to be mindful of. And

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2 that's it.

3 CHAIRMAN EWASUTYN: Mike, as far as it relates to, we
4 have a few things right now that we are discussing, there's
5 been some opinion that the Concept Plan of a mixed use is
6 respected and has some good concepts to it. We're also at a
7 point where we should be taking action as far as declaring
8 our intent for Lead Agency. And there's a possibility with
9 this also, I think what we're hearing is you did say you
10 tweaked this as much as possible based upon the first plan
11 that you presented. We had discussed at the work session
12 furthering it with a try or so as far as one or two other
13 concepts to blend in with what you have here and finding some
14 other balance of what Karen and Pat had said. I think the
15 Board, overall, is in agreement with this mixed type of use
16 as being blended out that would work in the area, I think
17 everyone with the understanding is that we're at a point in
18 time where really, no one knows for sure what could be
19 possible within a year from now, two years from now, five
20 years from now. So we are trying to apply that principal to
21 a few concepts that only time will tell.

22 But Mike, with SEQRA, do you know where we are?

23 MR. DONNELLY: Yes. I think we should issue a Notice of
24 Intent as Lead Agency. The Applicant has already submitted a
25 scoping outline conceding the need to do an Environmental

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2 Impact Statement. I wonder if we're not going to bring the
3 plan into conformance with the design guidelines whether we
4 should at least have an alternative addressed in the scoping
5 outline that is compliant with the design guidelines. That
6 might be helpful for both the Applicant in articulating and
7 the Board in reaching their Finding as to why certain, the
8 design guidelines might appropriately be waived. But to the
9 extent that you can take the comments from this evening to
10 heart and move it to a closer compliance, that would be
11 helpful. We need to wait the 30 days on the Lead Agency. In
12 any event, the next order of business after that time is
13 passed it to get to work on the scoping outline.

14 MR. HINES: I don't know that we received the scoping
15 outline yet Ken Worster (ph.) had developed.

16 MR. DONNELLY: Oh, I'm sorry. That's the one I had.

17 CHAIRMAN EWASUTYN: It was discussed.

18 MR. DONNELLY: And I think that was your concession was
19 that it would need an impact statement.

20 MR. MILLER: Yes.

21 CHAIRMAN EWASUTYN: Does anyone have any more comments?

22 BOARD MEMBER BROWNE: In the location where you're
23 putting this and the potential that you have here, I think it
24 really important that if you upgrade the facade so it's what
25 I would call more upgraded type of look. What I'm seeing

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2 here with this presentation, those facades look like, to me,
3 they're 20, 30 year old designs. I would personally like to
4 see something more upscale.

5 MR. KEREKES: I don't mean to say this the wrong way,
6 but like 130 years old?

7 BOARD MEMBER BROWNE: Whatever.

8 MR. KEREKES: I know I wasn't really being clear about
9 that because what this first study was really looking at was
10 trying to take some, quite frankly, buildings from this era,
11 predominately for smaller houses, smaller buildings. You
12 didn't have buildings of this scale. And if they were, they
13 were just massive brick or stone structures. I'm not sure
14 you necessarily want to see these massive brick or stone
15 structures. So what we were trying to do is trying to take
16 architectural elements from some of the smaller ones and be
17 able to pull them on and bring them across some of these
18 larger --

19 BOARD MEMBER BROWNE: I just wanted to mention it
20 because as it moves forward, that you can be thinking in
21 those kind of terms because I think it could be a gorgeous
22 project. It could be the way it's laid out here. And I
23 would hate to see it, say minimized because of the facades.

24 MR. KEREKES: No problem.

25 BOARD MEMBER BROWNE: It's my opinion.

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2 CHAIRMAN EWASUTYN: Okay. Additional comments?

3 (No verbal response.)

4 CHAIRMAN EWASUTYN: Okay. I'll move for a motion to
5 declare our intent for Lead Agency.

6 BOARD MEMBER GALLI: So moved.

7 BOARD MEMBER MENNERICH: Second.

8 CHAIRMAN EWASUTYN: I have a motion by Frank Galli. I
9 have a second by Ken Mennerich.

10 I'll ask for a roll call vote.

11 BOARD MEMBER GALLI: Aye.

12 BOARD MEMBER BROWNE: Aye.

13 BOARD MEMBER MENNERICH: Aye.

14 BOARD MEMBER PROFACI: Aye.

15 CHAIRMAN EWASUTYN: Aye, myself. So carried.

16 You will be attending the Planning Board work session on
17 the 24th. Is that correct? Or is it changed to the 26th?

18 MR. HINES: Yes.

19 CHAIRMAN EWASUTYN: Would you like to also take the
20 opportunity to highlight, clarify some points that were
21 discussed this evening so you can move forward with a better
22 understanding?

23 MR. MILLER: Sure. We did submit a Draft Scope with
24 Pat.

25 CHAIRMAN EWASUTYN: Okay. Then I'll move for a motion

- GATEWAY COMMONS -

1
2 to set this up for a Planning Board consultants' meeting on
3 the 24th of February.

4 BOARD MEMBER GALLI: So moved.

5 BOARD MEMBER PROFACI: Second.

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

9 BOARD MEMBER GALLI: Aye.

10 BOARD MEMBER BROWNE: Aye.

11 BOARD MEMBER MENNERICH: Aye.

12 BOARD MEMBER PROFACI: Aye.

13 CHAIRMAN EWASUTYN: Aye, myself. So carried.

14 MR. MILLER: So will Bryant's office circulate the
15 intent to be Lead Agency?

16 CHAIRMAN EWASUTYN: And you'll supply him with --

17 MR. MILLER: The EAF and drawings and whatnot.

18 CHAIRMAN EWASUTYN: Right.

19 MR. MILLER: And this is a Type 1 Action and we will be
20 doing a coordinated review.

21 CHAIRMAN EWASUTYN: Okay.

22 MR. MILLER: Great. Thank you.

23 (Time noted: 8:36 p.m.)

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2 **REPORTER'S CERTIFICATION**

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4

5 I, ROSEMARY A. MEYER, a Shorthand Reporter and
6 Notary Public in and for the State of New York, do
7 hereby certify:

8 That the foregoing transcript is an accurate record
9 of the proceedings herein, to the best of my knowledge
10 and belief, having been stenographically recorded by me
11 and transcribed under my supervision.

12 I further certify that I am in no way related to
13 any of the parties to this action and that I have no
14 personal interest whatsoever in the outcome thereof.

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19 ROSEMARY A. MEYER

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24 Date Transcribed: March 16, 2009

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

----- X
In the Matter of:

**ORCHARD HILLS
(2003-41)**

----- X

BOARD BUSINESS

Date: February 19, 2009
Time: 8:40 P.M.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

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

----- X

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

Reported by: Rosemary A. Meyer

1 - ORCHARD HILLS -

2 MS. HAINES: The first item we have is Orchard Hills.
3 We received a letter from Ross Winglovitz, dated February 6,
4 2009, requesting to set this project for a consultants' work
5 session of February 24, 2009.

6 CHAIRMAN EWASUTYN: Okay. And in this case, again,
7 based upon market conditions, Orchard Hills, I think it was
8 safe to say was a contract vendee for a parcel of land that
9 was made up of single-family residential homes on the site.
10 And over a period of time, that agreement fell apart so now
11 the plans have to be revised. We did a SEQRA on this, EIS.
12 So Ross thought it would be beneficial to meet with the
13 consultants, see how they can address it from this point
14 forward.

15 Any discussion on that? You have a letter to that
16 effect.

17 (No verbal response.)

18 CHAIRMAN EWASUTYN: Okay. Then I'll move for a motion
19 to set Orchard Hills for the Planning Board work session of
20 the 24th of February.

21 BOARD MEMBER MENNERICH: So moved.

22 BOARD MEMBER PROFACI: Second.

23 CHAIRMAN EWASUTYN: I have a motion by Ken Mennerich. I
24 have a second by Joe Profaci. A roll call vote. We'll start
25 with Frank Galli.

- ORCHARD HILLS -

BOARD MEMBER GALLI: Aye.

BOARD MEMBER BROWNE: Aye.

BOARD MEMBER MENNERICH: Aye.

BOARD MEMBER PROFACI: Aye.

CHAIRMAN EWASUTYN: Aye, myself. So carried.

(Time noted: 8:41 p.m.)

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3 **REPORTER'S CERTIFICATION**
4

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6 Notary Public in and for the State of New York, do
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13 any of the parties to this action and that I have no
14 personal interest whatsoever in the outcome thereof.
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19 _____
20 ROSEMARY A. MEYER
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24 Date Transcribed: March 16, 2009
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STATE OF NEW YORK : COUNTY OF ORANGE
TOWN OF NEWBURGH PLANNING BOARD

----- X
In the Matter of:

LANDS OF DIANE TAYLOR
(2006-54)

----- X

Date: February 19, 2009
Time: 8:42 P.M.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

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

----- X

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

Reported by: Rosemary A. Meyer

1 - LANDS OF DIANE TAYLOR -

2 MS. HAINES: The next item on Board business is the
3 Lands of Diane Taylor. We received a letter from the
4 Department of Health dated February 4, 2009, and Mike
5 Donnelly and Pat Hines will lead discussion on that letter.

6 CHAIRMAN EWASUTYN: I really was not sure when I read it
7 if he was passing more responsibility onto the Planning Board
8 than we normally would be thinking would be the
9 responsibility of the Health Department. I may have just
10 misinterpreted. That's why I brought it forth.

11 And the other issue I wanted to bring up was he talked
12 about tapping into the town water supply in that area which I
13 didn't think was possible. So there were two parts to it.

14 MR. HINES: Yes. A lot of this is a form letter. I
15 think they're adding some of this to cover themselves because
16 the county, although they require for subdivisions, major
17 subdivisions, one well, and for subdivisions greater than ten
18 lots, one for each additional ten lot. So they requested two
19 of the wells be drilled on this site. They test those only
20 for water quantity and quality. They don't pump test
21 residential wells like we would a community water system or a
22 commercial well to test its impacts on surrounding wells.
23 And they're putting that in here. I think they may have been
24 telling people. People assumed, in the past, that they were
25 checking impacts, water levels on other wells. Residential

- LANDS OF DIANE TAYLOR -

1
2 wells typically have enough recharge area, and your zoning
3 should take that into consideration by having larger lot size
4 on wells so that you won't cause a quantity issue in this
5 area. I know Mike's familiar with Monroe where they have
6 different issues because they have very shallow soils over
7 some bedrock. It's not very fractured. But this is pretty
8 much a standard letter.

9 The second part of the letter, and I'm probably a little
10 more familiar with this because working for both the Town of
11 Newburgh and the Town of New Windsor, the Town of Newburgh is
12 designing, right now, a water treatment facility near, in the
13 vicinity of the aqueduct tap on Latin Town Road. That
14 project is under an EPA consent order for the filter. They
15 lost their filtration avoidance on the Delaware Aqueduct so
16 they need to implement that by 2013. The Town is proceeding
17 with that design, but they are looking at other options for
18 water supply right now. Quite frankly, the EPA wants the
19 Town to connect to the Delaware Aqueduct, but there's a
20 potential for the Delaware Aqueduct to be shut down for an
21 extended period of time. That puts all the Town's eggs in
22 one basket. Several towns in the area are working together
23 on a possible project to interconnect their water systems and
24 obtain water supplies from multi aqueducts jointly. So it
25 could potentially cause that filter plant to be relocated

1 - LANDS OF DIANE TAYLOR -

2 somewhere else, either in the Town of Newburgh, Town of New
3 Windsor, somewhere out by the Catskill Aqueduct. That's not
4 approved yet. The Town is still proceeding along with the
5 Delaware Aqueduct tap. If that facility was built, the
6 existing water mains, Latin Town Road, Holmes Road area,
7 would have potable water in them. Currently, there's water
8 mains there with fire hydrants, but it's not potable water
9 because the chlorine contact time from the Delaware Aqueduct
10 tap down Latin Town Road to Holmes Road isn't there. They're
11 utilizing the volume and time of travel time in the pipe for
12 the water treatment disinfection. Normally that's done with
13 a tank where you get your contact time of required three
14 hours in the tank. The Town doesn't have a tank so they use
15 the travel time in the pipes so the water is not usable, I
16 think until somewhere near Fostertown Road. The water then
17 has sufficient disinfection contact time to be potable. And
18 although there's water mains there, they're not used for
19 potable water right now. If that filter plant is built,
20 there will be contact time constructed, associated with it,
21 and that water would then be potable. But that's a ways off.
22 These houses may be constructed by then.

23 CHAIRMAN EWASUTYN: Mike.

24 MR. DONNELLY: The issue of groundwater and surface
25 water is that in the law we call it riparian rights. It's

- LANDS OF DIANE TAYLOR -

1
2 actually a very fascinating area of law. But in a nutshell,
3 insofar as applicable here, every owner of property who
4 wishes to use the property for domestic use, regular
5 household domestic use, had the absolute right to develop his
6 groundwater supply from the ground and to take such water as
7 is necessary for normal household use. And if that draws
8 down his neighbor's well, or his neighbor runs out of water,
9 that's just too bad; his neighbor has to drill another well.
10 It's not true for a commercial use where you might be taking
11 more. It certainly isn't true for a factory or something
12 else. And it's clearly not true when you're developing a
13 communal or a central water supply for a larger area. So in
14 the normal case, there's no need or there's no legal support
15 for requiring monitoring your drawdown, interference testing
16 of local wells. It is appropriate, I think, however, in
17 SEQRA, at least for a large subdivision, that the County now
18 has the regulations Pat talked about, to test a certain
19 number of wells on the site with an eye toward making sure
20 there's enough groundwater in the area to support the
21 subdivision.

22 Pat mentioned, and I mentioned to you earlier, the Town
23 of Monroe has a number of unusual water issues so they have a
24 hydrogeologist on the consultant team all the time. They
25 realize two important things. One is there are areas where

- LANDS OF DIANE TAYLOR -

1
2 water is inadequate. They developed, and I enclosed a copy
3 of a well testing law they devised before the County adopted
4 their own regulations. The year says 2009, but it's really
5 1999 is when it was enacted, that law.

6 They found another issue in Monroe, and that is well
7 drillers typically drill, when they drill wells, until they
8 hit a certain number of gallons per minute.

9 MR. HINES: Five gallons per minute.

10 MR. DONNELLY: Then they go a little bit deeper and
11 leave it at that. Monroe's water supply, when the
12 hydrogeologist mapped them all out, what we found is normal
13 drought fluctuations have, in those type of wells, tremendous
14 variations in the height of the groundwater supply. Now, it
15 always happens at a public hearing that somebody comes to the
16 hearing and says: Well, when that development or that guy
17 built his house, suddenly my water went away. There's a lot
18 of science that goes into that. Generally, that's not what
19 the cause is. What the cause is in the Town of Monroe is
20 that you, yourself, can run your well dry, and when drought
21 occurs it's going to appear as if the groundwater supply
22 disappeared. It's because the well drillers haven't gone
23 deep enough. So they have a local law. This piece of it
24 they haven't yet enacted, but I think they're going back to
25 it. They could require a minimum well depth of 350 feet,

- LANDS OF DIANE TAYLOR -

1
2 which you can see politically why that is not terribly
3 popular. It would also require anybody who redrilled a well
4 to also go to that minimum depth of 350 feet. Now, there are
5 exceptions. If you hit a high yield earlier, then you can go
6 a certain number of additional feet, and so on and so forth.
7 But the idea is the source of the problem cannot be the new
8 guy in town who drills a normal house well. But they're
9 trying to find ways to legislate, to make sure that we're not
10 creating subdivisions that aren't going to have enough
11 groundwater for themselves and that might not, on that scale,
12 interfere with existing water supply, and to ensure that
13 wells are drilled to a sufficient depth by the developer, not
14 by the landowner two years later, to make sure that they will
15 have a reliable water source for a period of years.

16 The only reason I point that out is one of the
17 suggestions in the Health Department letter is that we should
18 be looking at well testing for interference or drawdown of
19 the neighbors. I really disagree with that conclusion for
20 normal routine residential subdivisions. In a very large
21 project, in a central water supply project, certainly in a
22 factory or a commercial project, all of that makes sense.
23 But unless you have some reason to believe that there is an
24 inadequacy or a connection because you have some
25 hydrogeological mapping, I don't recommend that. I don't

- LANDS OF DIANE TAYLOR -

1
2 think it's consistent.

3 CHAIRMAN EWASUTYN: Comments from the board members.

4 BOARD MEMBER GALLI: It's pretty well self-explanatory.

5 CHAIRMAN EWASUTYN: Ken, Joe.

6 BOARD MEMBER PROFACI: Makes sense.

7 CHAIRMAN EWASUTYN: Thank you. That was my reading of
8 it, I thought it should be something we should discuss and be
9 clear on.

10 (Time noted: 8:51 p.m.)

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REPORTER'S CERTIFICATION

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I further certify that I am in no way related to any of the parties to this action and that I have no personal interest whatsoever in the outcome thereof.

ROSEMARY A. MEYER

Date Transcribed: March 16, 2009

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

----- X
In the Matter of:

**PROPOSED AMENDMENT TO THE
TOWN OF NEWBURGH COMPREHENSIVE PLAN
AMENDMENT AND LOCAL LAW
CHAPTER 185
REZONE SECTION OF MEADOW AVENUE
REZONE PARCELS ON PAVILION DRIVE**

----- X
BOARD BUSINESS

Date: February 19, 2009
Time: 8:51 P.M.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

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

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

Reported by: Rosemary A. Meyer

- AMENDMENT TO CHAPTER 185 -

1
2 MS. HAINES: Michael Donnelly is going to discuss the
3 proposed amendment to the Town of Newburgh Comprehensive Plan
4 Amendment and Local Law amending Chapter 185 entitled Zoning
5 of the Code of the Town of Newburgh and the Zoning map of the
6 Town of Newburgh to rezone a section of Meadow Avenue.

7 MR. DONNELLY: As you know, when the Town Board makes
8 zoning map or law changes they need to refer those to you for
9 a report and recommendation. You have two such local laws
10 before you. They're both a little different as to source.
11 The first one dealing with Meadow Avenue is an attempt to now
12 bring the ordinance into conformance with certain conclusions
13 that were reached at a Comprehensive Development Plan.
14 There's a number of thesis to it.

15 Some properties in the Meadow Avenue area are going to
16 be rezoned to B that are currently IB, and two that are R-3
17 are proposed to go to B, as well. And the rationale is
18 obviously set forth in the Comprehensive Development Plan and
19 mentioned briefly here. There's a map attached, as well.
20 Normally, what you would do is have Bryant or myself write a
21 letter to the Town Board saying that you considered these
22 laws and that you then make any recommendations that you see
23 fit. By and large, you have not made pointed
24 recommendations. There was one particular local law. I
25 think it had to do with heavy equipment in a particular area

- AMENDMENT TO CHAPTER 185 -

1
2 where you felt it was a good idea to make concrete
3 recommendations. I guess maybe you want to take action on
4 these separately so I'll stop talking and wait until you're
5 done with this one, then we'll go to the other one.

6 CHAIRMAN EWASUTYN: Okay. And I think doing it that way
7 with the thought in mind that I'll pole the board members if
8 they have any comments, and if not, then make the
9 recommendation that Mike Donnelly respond to the Town Board
10 that we've given consideration.

11 Frank, do you have any comments on this?

12 BOARD MEMBER GALLI: No comment from me. I'm going to
13 pass on it. It is what it is.

14 CHAIRMAN EWASUTYN: Okay.

15 BOARD MEMBER BROWNE: I'm just kind of curious. It's
16 been quite a while since the Comprehensive Plan. I guess.
17 My comment would be what's driving this at this point in
18 time? There's got to be something driving it. They wouldn't
19 Just come out in thin air and say: Oh. There's got to be
20 something moving behind it. Does anybody know any background
21 other than ...

22 CHAIRMAN EWASUTYN: I'm not in the loop on that.

23 BOARD MEMBER BROWNE: Okay. That's all.

24 CHAIRMAN EWASUTYN: Ken.

25 BOARD MEMBER MENNERICH: Well, the only question I have,

- AMENDMENT TO CHAPTER 185 -

1
2 the one where they were rezoning from B to AR, is the rest of
3 that property all around there AR? I couldn't really tell
4 from the map that they put on there.

5 MR. DONNELLY: By the way, that one is a little
6 different. That's at the request and the petition of two
7 landowners. This is not one that's comprehensive.

8 CHAIRMAN EWASUTYN: 9W, that's different

9 MR. DONNELLY: And I think one of the issues that you
10 might want to point out is to make sure that if there is a
11 change, that the change is consistent with the recently
12 modified Master Plan, because just because a landowner wants
13 their land to be rezoned doesn't necessarily make it consist
14 with the plan.

15 I can't read the map myself.

16 MR. COCKS: John, if I may, to answer Mike or Ken's
17 question, that second one, the property off of 9W, Pavilion
18 Drive, that has been, I believe, before this Board. That's a
19 two lot subdivision for Keene is the name of it. The
20 property in question, the zone line goes right through the
21 property. And that area of 9W, for a distance, which I
22 believe is three or five hundred feet, to the west of 9W is
23 Zone B, and the bordering zone is AR. To answer your
24 question, yes, from there all the way west, would run up the
25 hill and run into Kosman's Orchard. So it is an AR.

- AMENDMENT TO CHAPTER 185 -

1
2 MR. DONNELLY: They're trying to make the entire parcel
3 one zone rather than split.

4 MR. COCKS: That's correct.

5 MR. DONNELLY: And if there's an adjoining zone of each
6 type, then I'm sure it's not inconsistent with the Master
7 Plan to realign that zoning district boundary, follow a
8 property line. That's, indeed, a good idea.

9 CHAIRMAN EWASUTYN: So in actuality, now you've covered
10 both.

11 MR. DONNELLY: I did.

12 CHAIRMAN EWASUTYN: Joe, any comments?

13 BOARD MEMBER PROFACI: No.

14 CHAIRMAN EWASUTYN: Okay. Then I would move for a
15 motion to have Mike Donnelly prepare a written letter in
16 response to both the proposed local laws to the Local Law on
17 behalf of the Planning Board.

18 BOARD MEMBER GALLI: So moved.

19 BOARD MEMBER PROFACI: Second.

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

22 MR. DONNELLY: I take it the letter would be no
23 particular concerns to bring to their attention.

24 CHAIRMAN EWASUTYN: Correct. I call for a vote on the
25 motion starting with Frank Galli.

- AMENDMENT TO CHAPTER 185 -

1 BOARD MEMBER GALLI: Aye.

2 BOARD MEMBER BROWNE: Aye.

3 BOARD MEMBER MENNERICH: Aye.

4 BOARD MEMBER PROFACI: Aye.

5 CHAIRMAN EWASUTYN: Aye, myself. So carried.

6 And just as a closing, Drury Heights will be before us
7 on March 5th. They received the Health Department approval
8 for water and sewer.

9 And Mike, I believe you're working on --

10 MR. DONNELLY: They're supposed to be getting me a
11 package.

12 CHAIRMAN EWASUTYN: So any questions or comments from
13 the board members?

14 (No verbal response.)

15 CHAIRMAN EWASUTYN: And for those of you who may have
16 forgotten, yesterday was my birthday. If you came in a
17 little short on gifts or anything and you'd like to call Dina
18 tomorrow and find out what evenings I'm normally on the
19 Planning Board. I thank you all. Karen will eat the apples.

20 A motion to close the Planning Board meeting of February
21 19th.

22 BOARD MEMBER PROFACI: So moved.

23 BOARD MEMBER MENNERICH: Second.

24 CHAIRMAN EWASUTYN: I have a motion by Joe Profaci. I
25

- AMENDMENT TO CHAPTER 185 -

1
2 have a second by Ken Mennerich. I'll ask for a roll vote
3 starting with Frank Galli.

4 BOARD MEMBER GALLI: Aye.

5 BOARD MEMBER BROWNE: Aye.

6 BOARD MEMBER MENNERICH: Aye.

7 BOARD MEMBER PROFACI: Aye.

8 CHAIRMAN EWASUTYN: Aye.

9 (Time noted: 9:57 p.m.)

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3 **REPORTER'S CERTIFICATION**
4

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19 _____
20 ROSEMARY A. MEYER
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23 Date Transcribed: March 16, 2009
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