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

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In the Matter of

MADISON ROSE PROPERTIES
(2018-21)

119 Foxwood Drive South
Section 16; Block 3; Lot 11.1
R-2 Zone

----- X

PUBLIC HEARING

Date: January 3, 2019
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
STEPHANIE DeLUCA
KENNETH MENNERICH
DAVID DOMINICK
JOHN A. WARD

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

APPLICANT'S REPRESENTATIVE: CHARLES BROWN

----- X

MICHELLE L. CONERO
PMB #276
56 North Plank Road, Suite 1
Newburgh, New York 12550
(845)541-4163

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CHAIRMAN EWASUTYN: Good evening, ladies and gentlemen. We'd like to welcome you to the Planning Board meeting of the 3rd of January 2019. We have two items of business this evening, each one is a public hearing, and we have one Board business item.

At this point we'll call the meeting to order with a roll call vote.

MR. GALLI: Present.

MS. DeLUCA: Present.

MR. MENNERICH: Present.

CHAIRMAN EWASUTYN: Present.

MR. DOMINICK: Present.

MR. WARD: Present.

MR. DONNELLY: Michael Donnelly,
Planning Board Attorney, Present.

MS. CONERO: Michelle Conero,
Stenographer.

MR. CANFIELD: Jerry Canfield, Code
Compliance Supervisor.

MR. HINES: Pat Hines with McGoey,
Hauser & Edsall Consulting Engineers.

CHAIRMAN EWASUTYN: At this point in
the meeting Stephanie will lead the meeting for

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us.

(Pledge of Allegiance.)

MS. DeLUCA: Turn off or silence your cell phone.

CHAIRMAN EWASUTYN: During the introduction we mentioned that there are two public hearings this evening. At this point we'll turn to Mike Donnelly, Planning Board Attorney, to speak to us on public hearings.

MR. DONNELLY: Before the Planning Board takes action on the two proposals before it, it wants to hear from the public. After Mr. Brown gives a presentation of what is proposed on the first public hearing, the Chair will ask those that wish to speak to raise your hand. When you are recognized will you please come forward. It would be helpful if you told us where you live in relation to the project so we can better understand your perspective. Give us your name, spell it for the stenographer if you would. The purpose of the hearing is for you, the people that live in the area, to be able to bring issues or matters to the attention of the Board that the Board may not be aware of. If you have

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a question that can be easily answered, the Chairman will ask either the applicant's representative or one of the Town's consultants to answer the question.

On this first matter I just want to point out that this, though it is a subdivision, it is not creating any new lot. The lot in question already exists. At the time of the original subdivision it was restricted as not being available for building purposes. The request of the applicant, and he'll explain the basis for it, is to remove that restriction.

CHAIRMAN EWASUTYN: At this point I'll turn the meeting over to Ken Mennerich.

MR. MENNERICH: "Notice of hearing, Town of Newburgh Planning Board. Please take notice that the Planning Board of the Town of Newburgh, Orange County, New York will hold a public hearing pursuant to Section 276 of the Town Law on the application of Madison Rose Properties, amended subdivision/buildable lot, project 2018-21, for an amended subdivision to remove a "not for residential purposes at this time" note. The project is located at 119

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MADISON ROSE PROPERTIES

Foxwood Drive South in the Town of Newburgh,
designated on Town tax maps as Section 16,
Block 3, Lot 11.1. The project involves a
not for residential purposes lot which has
received approval for a subsurface sanitary
sewer disposal system and an amended
subdivision map must be filed. A public
hearing will be held on the 3rd day of
January 2019 at the Town Hall Meeting Room,
1496 Route 300, Newburgh, New York at 7 p.m.
at which time all interested persons will be
given an opportunity to be heard. By order
of the Town of Newburgh Planning Board,
John P. Ewasutyn, Chairman, Planning Board
Town of Newburgh. Dated 11 December 2018."

CHAIRMAN EWASUTYN: At this point it is
being represented by Talcott Engineering.
Charles Brown is the PE.

Mr. Brown.

MR. BROWN: Thank you, John.

Again, this lot was created with the
subdivision in 1993. The map was filed. There
was a note on this lot that said not for building
purposes at this time. In 2015 Mike Aiello,

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another engineer, got the septic system approved with the Orange County Health Department for this lot.

Back in `93 the rules for septic systems were different. They've actually since then reduced the design flow for bedrooms and allow alternate systems with reduction, which is why the system could be designed for this at this point.

We're looking for the Planning Board to get that note removed so that the lot can be built.

There is already a water valve at the property line. We're tapping into Town water.

The septic system is an Eljen system at the rear of the property.

The proposal is for a two-bedroom single-family residence only.

CHAIRMAN EWASUTYN: As Mike Donnelly had said in the beginning, if there anyone here that has any questions or comments, please raise your hand and give your name and your address.

MS. O'CONNOR: My name is Carmen O'Connor, I live exactly across the street on 120

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Foxwood Drive South.

I've been living there for twenty-four years. I remember this lot from '94 when the builder built the houses "Foxwood Estates" and he did not build on that property. He said he couldn't build on it. Later on, a few years later I guess, he decided to sell it or build a house. So he decided to build a house but then he couldn't build a house because of the shale, so he dropped it. Nothing happened with that. Years went by. A few months ago all of a sudden I saw two lots with for sale signs across the street. The last thing I saw was a little sticker with a little piece of paper about this hearing.

My question is -- I have no issue with a house, but the fact is that the original guy who owned the property -- I mean the builder who built those homes couldn't build a house. How can you put a house in a place that he couldn't build twenty-four years ago but now you can? Like what's changed to make it so?

CHAIRMAN EWASUTYN: Charlie, do you want to answer that?

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MR. BROWN: Yes. The criteria for septic systems has changed. It went from 130 gallons per day per bedroom to 110. That reduces the size of the septic system. In addition to that, the Health Department now recognizes what they call alternate systems. This is an Eljen system which is a prefabricated unit that sits on a sand bed. With that type of system we can again reduce the septic area even more. So twenty-four years ago this lot probably couldn't support a septic system. Now it can.

UNIDENTIFIED SPEAKER: What type of system is that, sir?

MR. BROWN: Eljen.

CHAIRMAN EWASUTYN: Excuse me. For the record, sir --

MR. COOMBS: I'm sorry. John Coombs.

CHAIRMAN EWASUTYN: Let's keep in order.

MR. COOMBS: I just wanted to ask --

CHAIRMAN EWASUTYN: I understand what you're saying. We're actually working with Carmen. Carmen had a question to the engineer. The engineer is responding to Carmen's question.

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When Carmen is finished with her questions we'll introduce you. Thank you.

Carmen.

MS. O'CONNOR: I have no questions. I mean I face this. My house faces right across the street and I've seen this empty lot all these years. I just worry because there's huge mounds of dirt. I mean huge. You have his house on one side and you have the other neighbor's house there. You can see that if you build something there, the runoff is going to go that way. I mean I'm concerned more for my neighbors than I'm concerned for myself because it doesn't affect me, just my view.

My thing is I understand the new septic, but I remember him saying that no house -- it has to be -- like you couldn't have a house less than half an acre because of the fact that the leach fields would go into -- because of the lake, it would go into the ground and go into the water table and you had to protect the lake. Me, I just want to make sure. That's all.

CHAIRMAN EWASUTYN: What are the size of the lots?

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MR. BROWN: This lot is a half acre. A little over a half acre.

CHAIRMAN EWASUTYN: Pat Hines who represents the Town and the Planning Board, do you want to speak any further on the system?

MR. HINES: When this application came in I did a little research with the 1993 subdivision. There was a note on the map stating not for building purposes. We did review the soil testing that was done at that time. At that time the soils were not adequate for a subsurface sanitary disposal system based on the 1993 guidelines for septic systems.

The design guidelines have changed, as the applicant's engineer said. This is only a two-bedroom house proposed. The septic systems are sized based on the number of bedrooms at the 110 gallons per day per bedroom.

The regulations did change to allow shallow absorption trench systems, which means you can bring in fill. They're bringing in approximately two feet of fill in the area of the septic and then they're utilizing a proprietary product that was described called an Eljen

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2 in-drain system. That is a conventional system
3 allowed. However, because of the note on the
4 plans, the applicant submitted plans to the
5 Orange County Health Department. The Health
6 Department has reviewed and approved the septic
7 system for this lot. With that, they were able
8 to come before this Board and have that note
9 removed.

10 It does have Town water. It is about
11 -- it is a half an acre lot.

12 The piles of dirt are proposed to be
13 graded out as part of this subdivision and the
14 plot plan that's been submitted. Those piles of
15 dirt will be graded out on the site.

16 The site meets the Public Health Law
17 for a septic system in 2019 but it didn't in
18 1993.

19 I actually spoke to one of the
20 designers of the 1993 to confirm the issues with
21 the soils. I'm familiar with him. He was able
22 to describe the history from 1993 and why it was
23 a not for building purposes. With the Health
24 Department approval, that note can be removed
25 with Planning Board approval.

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MS. O'CONNOR: Okay.

CHAIRMAN EWASUTYN: Sir?

MR. COOMBS: My name is John Coombs, I live right next door to the proposed empty lot. I live on 117 Foxwood Drive South. I've lived there for twenty-six years. I actually built my house on the lot prior to the development coming in. I knew when the development was coming in. In fact, I faced my house toward the perspective road so that when the development came in I would have a normal access to my house.

I don't really have a problem with a house being built next door. I'm not arguing that point at all. What I'm really concerned about is the health issues to my house and my property. I want to explain some characteristics of my house that might help to let you understand my concerns.

My house does have a finished basement -- a basement that's not quite finished. It was poured concrete. When they built the house they had to do some scraping to get the full basement in. I was one of the few fortunate ones to have a full basement. In fact, I do not believe the

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people behind me or behind that property have a full basement. I happen, for some reason, was able to get a full basement in.

The shale ledge for this area peaks at that property and then begins to come back down. Through the years I know that the developers have come in multiple times trying to get it to perc, and I know the reason why it perked is because it ran off too quickly. What ended up happening would be that it would just flow out.

My concern with the septic system is we know it's designed to be sitting there filtering through the soil and removing -- and helping to eliminate the contaminants that cause problems.

I do have an aspect of my home that is uncomfortable, and that is that occasionally my basement floods. I would say in the twenty-seven years that I've been there I've had some flooding probably six times. It happens under certain situations and conditions. One example is if the ground is frozen and we have a couple of feet of snow on there and then in the springtime all of a sudden there's a lot of rain, what will happen is the permafrost breaks, the water seeps into the

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ground and it just is so saturated it flows --
some of it flows into my basement. I've lived
with that for the years that I've lived there.
Again, it's only happened about six times.

There's another characteristic that
I've noticed in my property. Can I point out the
spot on the map?

CHAIRMAN EWASUTYN: By all means.

MR. COOMBS: My house is right here.
In fact, there's a diagram of the house here.
This is my porch. Right here, in this spot here,
I have this depression in my property that occurs
and reoccurs over and over through the years.
I've had to bring in dirt to fill that void back
up because there is ground flow somehow of water
that is currently just acting up at certain times
of the year. So as I fill it back up, I re-seed
it, everything is fine, and then over a few years
it begins to dip. It gets a dip. What that
tells me is that there is water flowing from the
top toward my property, and that is the high
spot.

The perc failed. They couldn't build
for all these years. They lowered the standards.

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I'm afraid, to be perfectly honest, because if I have waste coming into my basement, my house is no good anymore. I don't mind the property being built on, I just need assurances and guarantees that if there is a problem with waste characteristic water coming into my basement, that I have someplace to go to say I need help. I don't think anybody in this room would want wastewater coming into their basement. I've been clean for the twenty-six years I've been there. I just don't want that to happen again.

They did at one point place a clay barrier on the property -- around the property to try to get it to perc to allow the flow of water to maybe come up to this clay barrier. That's good but it's not working because why would I still be getting that washout after the clay barrier has been put up?

I'm afraid that my house will be affected directly by a leach field in a property that was never suited to be built on for years.

CHAIRMAN EWASUTYN: In a general sense who is the permitting authority on this?

MR. HINES: The Orange County Health

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Department reviewed the septic system for this.

MR. DONNELLY: This Board doesn't have jurisdiction to second guess that. That's their approval.

MR. COOMBS: Okay. So are you saying what I've said has no bearing at all and that I would have to go to the Health Board and ask them to recheck the engineering behind the leach field to protect my property or is the Town responsible for helping to protect the interest of a taxpayer who has lived here all his adult life?

MR. DONNELLY: In this circumstance where the Health Department has jurisdiction, it's not an issue for the Town. It's done by the Health Department. You can speak to them about it and see.

MR. HINES: Charlie, I'm just looking at the grading. The swale between the septic system and this gentleman's property line, I think that could be extended up towards the house.

MR. BROWN: We can do that, or I could put a curtain drain over here and connect it to the swale.

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MR. HINES: That could also help.

MR. BROWN: I mean that actually
wouldn't affect the grading at all.

MR. HINES: Either way. The curtain
drain will discharge to that swale or that swale
extending on the grade which will add a level of
protection.

MR. COOMBS: I'm just asking for some
consideration. I mean I know I'm coming here at
the eleventh hour, mainly because I didn't know
the hours existed and something was going on. I
love my home.

MR. HINES: This is the purpose of a
public hearing.

MR. COOMBS: I want to protect my home.

MR. BROWN: I might also add that the
roof drains and footing drains are being piped to
the street, so that's going to divert a
substantial amount of water too that would
otherwise be running onto your property.

We'll put the curtain drain in between
the residence and the swale over here.

MR. GALLI: Where is that, Charlie?

MR. BROWN: Closest to the rear of the

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property.

MR. GALLI: Which drains into?

MR. COOMBS: I also do know that the property behind us has problems with flooding occasionally too. They're not here today. I actually think -- I think they're away.

The point being that if the flow of material is quick, it's not getting filtered and cleaned, it runs across the top of the shale. It may run even into their property in their situation. We care about existing homes. I mean that's all. I just want to protect my home. That's what it is.

CHAIRMAN EWASUTYN: Okay. Additional questions or comments from the public?

MR. KOZAK: Dan Kozak, K-O-Z-A-K, I live at 121 Foxwood Drive, right next door to this.

I have some concerns because this property was unable to pass a perc test about twenty years ago and now it is just because of the relaxed Department of Health rules using this shallow trench design.

The septic field on this parcel sits

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2 approximately two feet higher than my property.
3 On page 4 of the schedule of sanitary elevations,
4 I see that the septic tank outlet is scheduled to
5 be approximately a foot higher than the elevation
6 of my property, which is just ten feet away. The
7 laterals are at the same elevation as my
8 property. I understand that the design calls for
9 a clay berm around the field, but nonetheless I
10 have concerns, much like Mr. Coombs does, that
11 this is going to leach or to seep over onto my
12 property, again particularly in times of heavy
13 rain or snow melt.

14 Just recently we had a lot of rain. I
15 mean I had puddling in my yard. I'm pretty much
16 at the top of a hill, the only house that's just
17 under this elevation. The rain should have
18 plenty of opportunity to just wash off but yet I
19 still get puddling. The soil just can't absorb
20 all of that water.

21 So because of the shallow septic
22 system, I realize the plans call for a two-
23 bedroom house. There's not a big demand for
24 those types of homes. I don't see a whole lot of
25 new homes that are being built with just two

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bedrooms.

My guess is that the house that's going in here, being that it's only going to be two bedrooms I doubt it's going to be like a 1,200 square foot home. More than likely they're going to add additional rooms that are not considered bedrooms, like a home office, a study, a bonus room, an exercise room, an unfinished basement. How many bathrooms are there going to be? What is the square footage of this home? At some point somebody that's living there, are they going to convert these bedrooms -- these additional rooms or unfinished spaces into bedrooms? Now, you know, you're potentially going to have an overloaded septic system which sits above my property.

Maybe in times of heavy rain -- I mean where is this water going to go? It's going to come onto my property, or his property, or the neighbor that's behind there who does have flooding because I've helped him clean up his basement, we both have, when he did have flooding in his basement.

I guess I have more questions of what

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type of home is going to go in there? Is it truly going to be a two-bedroom house? What happens in ten years if somebody decides to, you know, have more than just a handful of people living in there?

I know somebody else that lives nearby, they have no legal two-family house. A septic that's designed for three bedrooms, there's eight people living there. Is that what's going to happen here?

CHAIRMAN EWASUTYN: What is being proposed now -- I don't think we can actually question what might happen in ten years time. That's not the scope of what we're doing. We'll balance this out.

Mr. Shulkin, what do you plan on building here? Do you have a design in mind?

MR. SHULKIN: Yes. It will be on a slab. It will be two bedrooms. We are still finalizing the design but it will be a very cute house. It will be an addition to the neighborhood.

My feeling is if Charlie makes a few changes here during construction, I think it will

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improve the situation by regulating the flow of water with swales once you construct on the property.

CHAIRMAN EWASUTYN: Jerry Canfield, do you want to talk about the building permit process and what you'll be reviewing?

MR. CANFIELD: Sure. The way it works is once and if this application is approved, this subdivision plan is signed by the Planning Board Chairman. When that happens that allows the owner or the developer to come forward to the Code Compliance Department or the Building Department to apply for a building permit. It then becomes our responsibility to monitor the construction of the residence to see that it complies with what was approved by this Board, the number of bedrooms, the septic system, the design.

Additionally, the septic system needs to be signed off by the engineer that designed the system and also inspected by the Building Department.

With respect to your comments and questions regarding future changes; as we all

1
2 know, yes, people do change their houses, make
3 renovations, alterations without building
4 permits. My suggestion would be if down the road
5 you see this type of activity, contact the
6 Building Department and we can do what's known as
7 an investigation. If there is something being
8 changed in the house that was not originally
9 planned on and accounted for and approved, of
10 course it becomes an enforcement action that the
11 Town then takes the responsibility of pursuing.

12 MR. KOZAK: I just have one other quick
13 comment. On page 151 of the New York State
14 Department of Health guidelines for septic
15 systems, it does have a table that shows the
16 minimum daily design flows based on the number of
17 bedrooms. "Designs may also need to account for
18 additional factors such as high water use
19 products." I'm not going to get into details
20 about that but I'll fast forward to the part that
21 says, "Rooms which may be converted to additional
22 permanent bedrooms in the future." So I mean
23 obviously if the State put it in here regarding
24 that septic design, I think we have a legitimate
25 concern.

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CHAIRMAN EWASUTYN: Legitimate in what sense?

MR. KOZAK: That that could possibly happen in the future. I mean I know -- I realize none of us have a crystal ball and none of us can guarantee what's going to happen. I said ten years. Maybe it will just be two years, maybe twenty years.

CHAIRMAN EWASUTYN: Educate us. The Health Department looked at the design, they approved it.

MR. KOZAK: Correct.

CHAIRMAN EWASUTYN: Do you think they should have had a caveat in their approval noting something that would elaborate upon what you're discussing now?

I think, as Mr. Donnelly had said, they are the approving authority and we have no jurisdiction over how and what they write except to say that they're approving it. I mean we're here to help you but what Mr. Donnelly is saying, no differently than what he said to Mr. Coombs, this would be something that you may want to follow up with the Health Department.

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MR. KOZAK: Okay.

CHAIRMAN EWASUTYN: We're trying to listen but --

MR. COOMBS: Do you know the Health Department's person that was responsible for this particular project?

MR. HINES: It was signed by the director of environmental health, Ed Simms. He's retired.

MR. BROWN: He's now retired. Orange County Health Department. It's the luck of the draw. When it comes in it goes into a pile and whoever frees up first is who reviews it.

MR. HINES: Ed Simms would have signed it as the director but there are other engineers who would have done the review.

MR. COOMBS: I have another question.

MR. HINES: It was called -- just for clarity, it was called Snaggletooth Development at that time.

MR. COOMBS: I have another question. Understanding that we're having this meeting, that your authority doesn't reach beyond what the Health Department has deemed as adequate, what

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would be the criteria for you, as the governing body having this meeting, to decide about whether this lot will be approved for building? What is that criteria that you would say yes or no to? I'm just trying to understand, because if the Health Department says it's okay, that's the end or -- I'm just trying to understand. That's all.

MR. DONNELLY: When this subdivision was approved there was a map note placed that said this lot could not be built on. That note is filed and it announces to the world, lenders, purchasers, that this is a non-buildable lot. The reason why it is non-buildable is because at the time the septic couldn't be designed that fit Health Department -- that satisfied Health Department regulations.

MR. HINES: The issue at that time was depth of soil. At that time you needed four foot of usable soil and they would not allow the shallow absorption trenches. They were not allowable to the State Health Department at that time. Now with the shallow absorption trench they're allowed to bring in a volume of soil which then gives you the four foot of usable

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soil.

MR. DONNELLY: Although the Health Department has now approved the new design, there is still a public record telling the world it can't be built. The action before this Board is in view of the Health Department approval of the system, the removal of the restrictive note from the filed map and the filing of a new map that doesn't have that note.

MR. COOMBS: Which results in allowing them to build. Correct?

My other question is this. We have a raised bed that they've produced and it's two or three feet above my property level. Okay. So let's just say for the sake of argument that approval wouldn't pass. They built it up four feet, five feet, six feet and then all of a sudden we have a lot that's stacked up to make a septic system work. It still doesn't necessarily deal with the aspect of the quick runoff of the material in terms of gravity and the shale ledge. So I'm just -- I'm just scared. I'm just concerned that even though it may have been approved by the Health Department because the

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specs of this particular drainage system work, they may not have even considered the fact that there's a shale ledge under it. I just -- I don't know if the Health Department even looks at that.

MR. HINES: They do. They dig test pits and they review those test pits with regard to the septic systems. The results of the test pits are on the approved plans. That's one of the things the Health Department looks at, and that's why they evaluate the shallow absorption trench system versus the proposed system. Also, the applicant's engineer has to certify -- because of the Health Department approval, the applicant's engineer needs to certify to the Health Department as to the construction. The septic system is designed with a fifty-percent expansion area. Should something happen the Health Department has that belt and suspenders where you design for the design flow plus fifty percent. So there's room for an additional lateral to be built day one and in reserve. It's called a reserve portion of the system. So there is some extra capacity should there be an issue. If

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there is an issue with the septic system in the future, it is a Health Department enforcement action.

The question is whether they raise it up too much. There needs to be a design survey submitted to both the Town of Newburgh as part of the building permit and to the Health Department as part of the Health Department's approval.

MR. COOMBS: My last question, and Mr. Donnelly you may be able to answer this question. Let's say you approve the lot. They put in the system that they say is approved. The Health Department has approved it. It goes in and in five years all of a sudden I'm getting waste in my home. What's my recourse?

MR. DONNELLY: An action against your neighbor. That would be a trespass or a nuisance.

MR. COOMBS: Or the potential that the house is condemned because of pollution. Is that not an option?

MR. DONNELLY: Say it again.

MR. COOMBS: My house being condemned because waste material came into my basement?

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2 MR. DONNELLY: If you talk about
3 condemnation in that sense you're talking about a
4 taking by government. That wouldn't be taking by
5 government, it would be an action by your
6 neighbor. It would be the flow from his property
7 onto yours. That would usually be regarded in
8 New York as either a trespass or a nuisance, a
9 private nuisance.

10 MR. COOMBS: Okay. So it would be the
11 owner of the property's responsibility at that
12 point?

13 MR. DONNELLY: Yes.

14 MR. HINES: But the first step would be
15 a complaint to the Health Department regarding
16 the inadequate septic for an enforcement action.

17 MR. COOMBS: I just want to understand.
18 If you go forward, I just want to understand what
19 my recourse is. I'm not a lawyer. I'm a
20 computer guy. I know nothing about the laws --
21 those aspects of the law. I'm just very
22 concerned, especially with the fact that I keep
23 having to fill in more dirt in this one area
24 right next to the property where the flow of
25 water is coming through. It would just seem to

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me that it would be a very high potential that that flow would contain other materials that aren't there at this time.

CHAIRMAN EWASUTYN: Thank you.

Carmen, you had your hand up?

MR. O'CONNOR: Yes. I remember when Dominick who built the houses in our neighborhood, when he went and he decided to build a house he brought dirt in and put it on the property to build the house. After he put all this dirt into the property he found out that he couldn't still build because of the shale. So of course that's where those mounds probably come from. The shale is still underneath. He couldn't build. I mean I understand that times change, modern technology, everything is up to different codes. The fact remains there's a huge bed of shale underneath that property. I mean I'm just giving you my perspective from being across the street, knowing what's going on with the property. Every time somebody went near it I observed and asked questions. I saw once they were putting leach fields and I said -- I went over and said what are you doing? We're putting

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in leach fields, putting a septic. I said you are? He said yeah. Then I went to the Town. I didn't know you were building a house across the street from me. The Town checked and there was no house being built. Those people disappeared. I don't know what happened to the so-called people who were putting in those leach fields on the property. They disappeared.

It's like because of the history nobody really knows what the property is. It's just that it's acceptable but no one knows the background of what that property is, that piece of property, why it's been there like that for so long. There's a reason. You know, I understand the lot was for sale, somebody bought it, they want to build a house. That's fine, it's an empty lot. Who knew what's the story and the history behind that property. That's my two cents.

CHAIRMAN EWASUTYN: Questions or comments from Board Members?

MR. GALLI: Mr. Coombs' comment there, I think what you said as far as if it's approved, if the Board of Health says it's approved it's

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okay. The purpose of the public hearing is to hear you're getting water runoff, you're getting water runoff. We're here to try to mitigate some of that to help in the future for you. Like putting the swale in, running it to the back, running it to the front, making sure the roof drains are in and things like that. We don't know this unless we have the public hearing and you bring it to us. We view the property, we see what it's like and that kind of stuff but we don't walk on your property to see if it's soft and stuff like that.

I think the purpose of the public hearing is to hear the comments from the public, get your perspective on it and then this way we can take steps with the engineer, the developer, whoever it is, and try to mitigate some of that if it's like water runoff and stuff like that.

The second question I have, I think for either Jerry or Charlie, is what's the square footage maximum of the house that can be built on that property?

MR. BROWN: There's no maximum. There's a minimum of 900 is the smallest.

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There's no maximum.

MR. GALLI: There's no maximum square footage of the house?

MR. HINES: Other than the setback and lot codes.

MR. CANFIELD: The buildable area is predicated on the setbacks. The dotted lines indicate --

MR. BROWN: The dashed lines.

MR. CANFIELD: -- how big the house can be within there.

MR. GALLI: It says minimum/maximum. Okay.

Jerry, when the building department gets the building plans, and the one gentleman said well you have two living rooms, two family rooms, two bedrooms and a kitchen and three bathrooms or two bathrooms or whatever you have. I mean do they look at that and see red flags and say, you know --

MR. CANFIELD: With something this close, typically we'd ask for a stakeout prior to digging of the foundation. Keeping in mind this lot size is 22,000 square feet, it meets the

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requirements, the bulk use table requirements. The lot size required is 17,500 square feet. It's still pretty close. We would require that the foundation be staked out and certified as far as it's location, that it complies and meets all the setbacks. Then the house is built. Again based on the requirement or the restriction of two-bedroom, that would be a very large factor that we would look at. Upon closure and before -- I should say completion, not closure but completion of the residence, prior to issuance of a certificate of occupancy we need an as-built survey, which again the engineer must certify for the Building Department that the house is located within it's setbacks as was depicted on this plan. So there is a checks and balances program in place to assure that what is built is what was approved.

That answers your question, Frank?

MR. BROWN: We do have a note on the plans requiring the survey of the stakeout. Note number 1 under lot notes.

MR. GALLI: I just wanted the public to know that there's a procedure that we follow, the

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Building Department follows on how many rooms can actually be there. If he says it's two bedrooms and three offices, a garage, a kitchen and a living room, it sets off a flag. So they're looking at that. They'll look at that kind of stuff.

That's it, John.

CHAIRMAN EWASUTYN: Stephanie?

MS. DeLUCA: I appreciate your input because it does give a broad perspective of perhaps the underlying things that may be there that we don't know about. I appreciate you coming out for that. As Frank was saying, I'm glad that we have in place these kinds of procedures for the benefit of all of us.

Thank you.

CHAIRMAN EWASUTYN: Ken?

MR. MENNERICH: I heard a couple times that they arbitrarily reduced the gallons for each bathroom. I don't think it was arbitrary. I don't know exactly what occurred but I would think --

MR. HINES: The changes in the Plumbing Code required the use of water saving fixtures.

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So the current Plumbing Code significantly reduced the amount of water use through plumbing fixtures in the house for toilets, showers and such. In 1993 it was I think 5 gallons of flush where current toilets are 1.2. That's why the reduction was allowed from the 130 gallons per day per bedroom to 110 gallons per day per bedroom.

MR. MENNERICH: I think the public should be aware that there was a reason.

CHAIRMAN EWASUTYN: That's a form of energy conservation?

MR. HINES: Water conservation.

CHAIRMAN EWASUTYN: Mr. Coombs, the Board is now speaking.

MR. COOMBS: Okay.

CHAIRMAN EWASUTYN: Dave?

MR. DOMINICK: I just want to appreciate the comments from the residents, ma'am, sir. I hope you have a better understanding of the process. As our Code Compliance Officer, Jerry Canfield said, the checks and balances are in place for you. I hope that between the project engineer and the Town

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engineer, that he addressed the water runoff concerns with you and that it be resolved. I just appreciate you bringing that to our attention.

Just echoing what Frank said, we don't know this unless we hear from you to take that into consideration and try to be the mediator.

MR. COOMBS: I do actually have one question.

CHAIRMAN EWASUTYN: Mr. Coombs, again, the Board has the floor now.

MR. COOMBS: I got it. I just want you to know I have a question.

CHAIRMAN EWASUTYN: Mr. Coombs, I do come around and do a summary of any last questions. There is a formal process to the whole thing.

MR. COOMBS: Okay.

CHAIRMAN EWASUTYN: Thank you.

John Ward?

MR. WARD: I'm going to ditto what Dave and Frank said. The process, that's why we're sitting here. You have two engineers, they're professional, they know their stuff and they're

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protecting you. They're not protecting the owner. They're protecting you right now.

My question for the owner is do you know the square footage that you're building for the house?

MR. SHULKIN: Off the top of my head, it will probably be around -- I think the house is 56 foot wide overall. Somewhere around 2,000.

MR. WARD: Okay.

CHAIRMAN EWASUTYN: Mr. Coombs, your last question?

MR. COOMBS: I have one other question. When I built my home I was given the option from the builder to have what they call a gray water and a dirty water out flux of my home. What that meant was sink water, washing machines, things like that. I'm not sure what the separation was but there was a separation of something called gray water and what he called dark water. It was an option. I don't know what that means. I don't know. All I know is I told him at the time I built the house no, I didn't really want to do that.

My question is would something like

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that be an option to try to eliminate the volume of flow of materials from the dirty water scenario, to try to help reduce those?

MR. HINES: Those type of systems are no longer permitted. Everything goes through the treatment system.

MR. COOMBS: Thank you. I just was curious.

CHAIRMAN EWASUTYN: Any further questions from the public?

(No response.)

CHAIRMAN EWASUTYN: Then I'll move for a motion to close the public hearing on the Madison Rose Properties.

MR. MENNERICH: So moved.

MS. DeLUCA: Second.

CHAIRMAN EWASUTYN: Motion by Ken Mennerich. Second by Stephanie. I'll ask for a roll call vote starting with Frank.

MR. GALLI: Aye.

MS. DeLUCA: Aye.

MR. MENNERICH: Aye.

MR. DOMINICK: Aye.

MR. WARD: Aye.

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CHAIRMAN EWASUTYN: Aye.

Motion carried.

At this point we'll turn the meeting over to Mike Donnelly, Planning Board Attorney, to give us conditions for approval for the Madison Rose Properties.

MR. DONNELLY: The approval will be amended subdivision. The purpose of the amendment is to remove the non-buildable lot condition that was part and parcel of the original approval.

You issued a negative declaration on December 6, 2018. You reaffirmed the negative declaration, therefore SEQRA is complied with.

The conditions of the resolution will be that any condition of the original approval except as herein modified continues and will be in force and effect. We'll add a second condition that the plat shall not be signed or released for filing until you receive a letter from Pat Hines that reports that the plans have been amended to show the curtain drain that was discussed earlier and it's in a satisfactory location and design.

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MADISON ROSE PROPERTIES

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CHAIRMAN EWASUTYN: Questions or
comments from Pat or Jerry?

MR. HINES: Nothing.

MR. CANFIELD: Nothing additional.

CHAIRMAN EWASUTYN: Planning Board
Members?

(No response.)

CHAIRMAN EWASUTYN: Would someone make
a motion to approve the amended subdivision for
Madison Rose Properties subject to the conditions
presented by Planning Board Attorney Mike
Donnelly?

MR. MENNERICH: So moved.

MR. DOMINICK: Second.

CHAIRMAN EWASUTYN: Motion by Ken
Mennerich. Second by Dave Dominick. Can I
please have a roll call vote starting with Frank
Galli?

MR. GALLI: Aye.

MS. DeLUCA: Aye.

MR. MENNERICH: Aye.

MR. DOMINICK: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Aye.

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Thank you.

(Time noted: 7:42 p.m.)

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

I, MICHELLE CONERO, a Notary Public
for and within the State of New York, do hereby
certify:

That hereinbefore set forth is a
true record of the proceedings.

I further certify that I am not
related to any of the parties to this proceeding by
blood or by marriage and that I am in no way
interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto
set my hand this 14th day of January 2019.

Michelle Conero

MICHELLE CONERO

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

----- X
In the Matter of

233 QUAKER STREET/DRIVANOS
(2018-19)

233 Quaker Street
Section 2; Block 1; Lot 15
AR Zone

----- X

PUBLIC HEARING

Date: January 3, 2019
Time: 7:43 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman
FRANK S. GALLI
STEPHANIE DeLUCA
KENNETH MENNERICH
DAVID DOMINICK
JOHN A. WARD

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

APPLICANT'S REPRESENTATIVE: LINDA ZWART

----- X

MICHELLE L. CONERO
PMB #276
56 North Plank Road, Suite 1
Newburgh, New York 12550
(845)541-4163

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CHAIRMAN EWASUTYN: The second item of business we have this evening is 233 Quaker Street/Drivanos. It's here before us for a public hearing on a two-family dwelling.

At this point I'll have Mr. Mennerich read the notice of hearing.

MR. MENNERICH: "Notice of hearing, Town of Newburgh Planning Board. Please take notice that the Planning Board of the Town of Newburgh, Orange County, New York will hold a public hearing pursuant to the Municipal Code, Chapter 185-57, Section K of the Code on the application of 233 Quaker Street/Drivanos two-family, project 2018-19, for a site plan approval. The site is located at 233 Quaker Street in the Town of Newburgh, designated on the Town tax maps as Section 2; Block 1; Lot 15. A public hearing will be held on the 3rd day of January 2019 at the Town Hall Meeting Room, 1496 Route 300, Newburgh, New York at 7 p.m. at which time all interested persons will be given an opportunity to be heard. By order of the Town of Newburgh Planning Board. John P. Ewasutyn, Chairman, Planning Board Town of Newburgh. Dated

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10 December 2018."

CHAIRMAN EWASUTYN: For the record
would you introduce yourself?

MS. ZWART: I'm Linda Zwart. I'm the
architect for the project. Mike Aiello is the
engineer. He was unable to come tonight due to a
Town of Montgomery Board meeting.

CHAIRMAN EWASUTYN: Is there anyone
here this evening that has any questions or
comments on the application before us?

(No response.)

CHAIRMAN EWASUTYN: Let the record show
that there was no public participation.

Pat, where are we in this review?

MR. HINES: We circulated to the Orange
County Planning Department as well as the Town of
Plattekill. We heard back from Orange County
Planning with a Local determination. They had
comments regarding workforce housing and a
previous variance application which has been
withdrawn regarding a structure on the site that
has been removed.

We asked for the architectural
renderings. Your code requires that two-family

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houses look or appear as single-family houses. Typically they have one entrance and then the residences come off either side. In this case it's a conversion of an existing structure but the entrances are on different sides of the building. Looking at the structure from the "front", it does sit way back on a flag lot. You would only see one front door. I think it meets the intent of that, that it looks like a single-family residential structure.

We reviewed the septic systems and found those to be acceptable.

We don't have any outstanding comments.

CHAIRMAN EWASUTYN: Jerry Canfield?

MR. CANFIELD: Like Pat said, the existing structure that was there has been removed. That's not an issue. The zoning complies.

We have nothing outstanding.

CHAIRMAN EWASUTYN: Comments from Board Members. Frank Galli?

MR. GALLI: I just have one. I wasn't here for the initial presentation. Is it going to be occupied by the owner on one side and the

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233 QUAKER STREET/DRIVANOS

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other side rented out?

MR. HINES: The owner owns the residence in the front.

MR. DRIVANOS: We own the property right in front of this property. We'll be living there. This will be full rentals.

CHAIRMAN EWASUTYN: For the record your name?

MR. DRIVANOS: My name is Scott Drivanos, I live at 235 Quaker Street.

CHAIRMAN EWASUTYN: Stephanie?

MS. DeLUCA: No.

CHAIRMAN EWASUTYN: Ken?

MR. MENNERICH: I have no questions. I think the architecture looks good, though.

MS. ZWART: Thank you.

CHAIRMAN EWASUTYN: Just a curious question. The driveway leading into the homes, are you going to upgrade the driveway?

MR. DRIVANOS: We have plans to upgrade that and allow for the parking as well for the two units, which is on the other plan that we have.

CHAIRMAN EWASUTYN: The structure that

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was demo'd, do you have any intention on adding some fill material and seeding that?

MR. DRIVANOS: It's going to be seeded. It's actually filled. I'm waiting for it to dry out at this point to grade it fully. It will be seeded as a front yard to this property.

The well sits in that area from the previous property, so that will be located there.

The septic will be behind the structure to meet the requirements.

CHAIRMAN EWASUTYN: Dave?

MR. DOMINICK: No. It's a very attractive house. Good job.

MR. WARD: Ditto on that. Thank you.

CHAIRMAN EWASUTYN: We still have to do both a site plan approval and ARB?

MR. HINES: Yes.

CHAIRMAN EWASUTYN: I'll move for a motion to close the public hearing on 233 Quaker Street.

MR. GALLI: So moved.

MR. MENNERICH: Second.

MR. DOMINICK: Second.

CHAIRMAN EWASUTYN: Motion by Frank

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Galli. Second by Ken Mennerich and Dave Dominick.

MR. DOMINICK: I didn't hear him.

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

MR. GALLI: Aye.

MS. DeLUCA: Aye.

MR. MENNERICH: Aye.

MR. DOMINICK: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Aye.

At this point I'll turn to Mike Donnelly to give us conditions for approval for the site plan and also for ARB approval.

MR. DONNELLY: You issued a negative declaration in November. You have received a Local action report from the Orange County Planning Department.

The resolution is for both site plan and Architectural Review Board approval.

The conditions will be your standard ARB condition which in essence says you can't build anything that's different from what's shown on the architectural plans. The second condition will be your standard outdoor fixtures and

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amenities condition which says they may not build any other structures that are not shown on the plans. Finally, the Town requires the payment of multi-family dwelling fees per multi-family dwelling unit in the amount of 2,000 each bringing the total to \$4,000.

CHAIRMAN EWASUTYN: Questions or comments?

(No response.)

CHAIRMAN EWASUTYN: Would someone make a motion to approve the site plan and ARB subject to the conditions presented by Planning Board Attorney Mike Donnelly?

MR. WARD: So moved.

MR. DOMINICK: Second.

MS. DeLUCA: Second.

CHAIRMAN EWASUTYN: Motion by John Ward. Second by Dave Dominick and Stephanie. I'll ask for a roll call vote starting with Frank.

MR. GALLI: Aye.

MS. DeLUCA: Aye.

MR. MENNERICH: Aye.

MR. DOMINICK: Aye.

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MR. WARD: Aye.

CHAIRMAN EWASUTYN: Aye.

Thank you.

(Time noted: 7:50 p.m.)

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

I, MICHELLE CONERO, a Notary Public
for and within the State of New York, do hereby
certify:

That hereinbefore set forth is a
true record of the proceedings.

I further certify that I am not
related to any of the parties to this proceeding by
blood or by marriage and that I am in no way
interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto
set my hand this 14th day of January 2019.

Michelle Conero

MICHELLE CONERO

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

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In the Matter of

WALMART - ELECTRIC VEHICLE CHARGING STATIONS

Discussion

----- X

BOARD BUSINESS

Date: January 3, 2019
Time: 7:51 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman
FRANK S. GALLI
STEPHANIE DeLUCA
KENNETH MENNERICH
DAVID DOMINICK
JOHN A. WARD

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

APPLICANT'S REPRESENTATIVE: CHARLES BROWN

----- X

MICHELLE L. CONERO
PMB #276
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(845)541-4163

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CHAIRMAN EWASUTYN: We discussed during our work session -- Pat, why don't you talk about what we discussed, what would be required.

For the record, Talcott Engineering, Charles Brown, will be conveying the message back to his team as far as assessing for site plan approval.

MR. HINES: We received an inquiry from a nationwide electric vehicle charging provider regarding a proposed charging station to be located in the Walmart parking lot on the Applebee's -- generally on the Applebee's side.

We had one before at the Cosimo's in the vicinity of this and it did require amended site plan approval for the installation of the system, including an analysis of loss. I think they're losing one parking space. That will need to be addressed.

MR. BROWN: They're losing six.

MR. HINES: They are still parking spaces, though. When we did the Cosimo's we credited them with that parking count for the electric vehicles.

MR. BROWN: There's ten there. There's

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only going to be four.

MR. HINES: I didn't know that. We need to look at the parking count.

An amended site plan application from -- I think it will have to be from Walmart, or at least a proxy from whoever owns that property so you can represent them and we can do an amended site plan review.

CHAIRMAN EWASUTYN: While we have the opportunity with Charles Brown being here, questions from Board Members?

MR. GALLI: On these units, the public just pulls up for free and plugs in?

MR. BROWN: I don't know how the payback works. We didn't get into that. This is promoted by Volkswagen. They predict by 2030 half the vehicles are going to be electric.

Again, they're proposing over 200 of these throughout New York State.

MR. GALLI: Are they going to be for different cars? I know Tesla you can only do a Tesla.

MR. BROWN: I'll ask that question.

MR. GALLI: Is it for multi -- like

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Nissan, Chevy?

MR. DOMINICK: Universal.

MR. GALLI: And if the customer gets charged.

We're not happy with the fence that they want to put up.

CHAIRMAN EWASUTYN: What was that?

MR. GALLI: The vinyl fence.

MR. HINES: It looks like they're proposing a Trek material that they're going to build their own fence out of. The one at Cosimo's -- it may be difficult to match the Walmart. The one at Cosimo's was designed to match the architecture of that building.

We're probably going to want to see a color rendering of the facility as proposed.

MR. BROWN: Okay.

MR. GALLI: That's all I had, John.

CHAIRMAN EWASUTYN: Stephanie?

MS. DeLUCA: No.

MR. MENNERICH: Nothing at this time.

MR. DOMINICK: Charlie, would you find out if there's going to be any type of signage near this?

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MR. BROWN: I was going to recommend they put signs up to say non-electrical vehicles will be towed at the owner's expense.

MR. DOMINICK: That wasn't the signage I was inquiring about.

MR. BROWN: What they have is shown on the drawings now. I'll see if there's going to be any additional signage.

MR. HINES: The Board was wondering how you know where these are. Is there an app or is there some way they direct people to these?

MR. BROWN: There will be an app.

MR. WARD: My question, I think they asked it, but is it universal, that all the makes can use it?

MR. BROWN: I'm going to find out about that. It would make sense.

MR. GALLI: I know by 2020 Volkswagen says all of their cars are going to be electric.

MR. BROWN: That's next year.

MR. GALLI: There was an article in The Wall Street Journal. 2020 Volkswagen is going to be all electric.

MR. HINES: That's next year.

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MR. GALLI: They're putting charging stations in.

MR. BROWN: This was fast paced.

CHAIRMAN EWASUTYN: I know there was something in The Wall Street Journal recently, I think it was Japan having a big push on electric cars.

MR. GALLI: I think over in Europe Volkswagen is all diesel, too.

CHAIRMAN EWASUTYN: That's it?

MR. BROWN: I'll get answers and put it in letter form to the Board.

CHAIRMAN EWASUTYN: What Pat Hines said, it's important we have a proxy from Walmart signed.

MR. BROWN: Okay. Very good. Thank you.

CHAIRMAN EWASUTYN: We accomplished a lot.

Pat, that was a great answer to find out now with water saving devices you go from 5 gallons to 1.5. It's interesting how all this is coming together.

MR. HINES: Orange County was one of

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the latest ones to accept it. Other counties were adopting it very early. Orange County held with the 130 gallons for much longer than the other surrounding counties.

CHAIRMAN EWASUTYN: I'll move for a motion to close the Planning Board meeting of January 3rd.

MR. GALLI: So moved.

CHAIRMAN EWASUTYN: Motion by Frank.

MR. WARD: Second.

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

MR. GALLI: Aye.

MS. DeLUCA: Aye.

MR. MENNERICH: Aye.

MR. DOMINICK: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Aye.

(Time noted: 7:58 p.m.)

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