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

----- X

In the Matter of

EUGENE GHIKAS SUBDIVISION  
(2011-26)

Highland Avenue & Fern Avenue  
Section 67; Block 8; Lot 1.21  
R-3 Zone

----- X

PUBLIC HEARING  
THREE-LOT SUBDIVISION

Date: January 19, 2012  
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  
THOMAS P. FOGARTY  
JOHN A. WARD

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

APPLICANT'S REPRESENTATIVE: VINCENT DOCE

----- X

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

1  
2 MR. BROWNE: Good evening, ladies  
3 and gentlemen. Welcome to the Town of Newburgh  
4 Planning Board meeting of January 19, 2012.

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

8 MR. GALLI: Present.

9 MR. BROWNE: Present.

10 MR. MENNERICH: Present.

11 CHAIRMAN EWASUTYN: Present.

12 MR. FOGARTY: Here.

13 MR. WARD: Present.

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

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

21 MS. CONERO: Michelle Conero,  
22 Stenographer.

23 MR. CANFIELD: Jerry Canfield, Code  
24 Compliance Supervisor, Town of Newburgh.

25 MR. HINES: Pat Hines with McGoey,

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Hauser & Edsall Consulting Engineers.

MR. COCKS: Bryant Cocks, Planning Consultant.

MR. BROWNE: Thank you. I'll turn the meeting over to John Ward.

MR. WARD: Please stand to say the Pledge.

(Pledge of Allegiance.)

MR. WARD: Please turn off your phones or put them on vibrate. Thank you.

MR. BROWNE: The first item of business we have this evening is a public hearing. It's a three-lot subdivision, Eugene Ghikas Subdivision.

Be we start that, I would ask Mike Donnelly to give us a brief dissertation.

MR. DONNELLY: Before the Planning Board can take action on a subdivision application, the first application before us is a subdivision application, although an amended one, the Planning Board is required to hold a public hearing. The purpose of the public hearing is for the Planning Board to hear from you, the members of the public, concerns and issues you may have about the project itself, particularly

1 because those of you who wish to speak are likely  
2 from the immediate surrounding neighborhood.

3 This project has been before the Planning Board  
4 for a period of time. The old subdivision was  
5 approved some years back. The Planning Board has  
6 heard from the various consultants. The public  
7 hearing will begin by a presentation made by the  
8 applicant's engineer. After that, when the  
9 Chairman calls for the public hearing, we'd ask  
10 you to raise your hand if you wish to be heard.  
11 The Chairman will recognize you. We ask you to  
12 come forward, tell us your name, spell it for the  
13 Stenographer, tell us where you live in relation  
14 to the project so the Planning Board has an idea  
15 of the perspective you bring to bear. Direct your  
16 comments and questions, if you have them, to the  
17 Chairman. He will then, if it's appropriate, ask  
18 either the applicant's representative or the  
19 Town's consultants to answer your question.

20  
21 MR. BROWNE: Thank you. At this time I  
22 would ask Ken Mennerich to take care of the  
23 notice of hearing.

24 MR. MENNERICH: "Notice of hearing,  
25 Town of Newburgh Planning Board. Please take

1 notice that the Planning Board of Town of  
2 Newburgh, Orange County, New York will hold a  
3 public hearing pursuant to Section 276 of the  
4 Town Law on the application of lands of Eugene  
5 Ghikas Subdivision for a three-lot subdivision on  
6 premises Highland Avenue and Fern Avenue in the  
7 Town of Newburgh, designated on Town tax map as  
8 Section 67; Block 8; Lot 1.21. Said hearing will  
9 be held on the 19th day of January 2012 at the  
10 Town Hall Meeting Room, 1496 Route 300, Newburgh,  
11 New York at 7 p.m. at which time all interested  
12 persons will be given an opportunity to be heard.  
13 By order of the Town of Newburgh Planning Board.  
14 John P. Ewasutyn, Chairman, Planning Board Town  
15 of Newburgh."

16  
17 MR. BROWNE: Frank Galli, the mailings?

18 MR. GALLI: The notice of hearing was  
19 published in The Mid-Hudson Times and in The  
20 Sentinel. The applicant made out sixteen  
21 letters, twelve were returned, one was  
22 undeliverable. Everything is in order.

23 MR. BROWNE: Again, this project is  
24 known to us as the Eugene Ghikas Subdivision,  
25 project number 2011-26. It's a public hearing

1  
2 for a three-lot subdivision. It is being  
3 presented by Vincent Doce Associates. Vincent  
4 Doce is present.

5 MR. DOCE: My name is Vince Doce, I  
6 have an engineering and surveying business  
7 located in the Town of Newburgh. I'm here this  
8 evening with my clients, Vaughn and Gene Ghikas,  
9 to present a modification of a previously  
10 approved three-lot subdivision.

11 About six-and-a-half years ago this  
12 subdivision came before the Town and was approved  
13 as you see it on the board before you. It's a  
14 51,000 square foot lot that I'm circumscribing  
15 now. There is a 26,000 square foot lot and a  
16 32,000 square foot lot.

17 The parcel of property is bounded by  
18 the lands of, I think it's Thusbon, Marcione,  
19 Sneed, Hilltop Avenue, Breau and Michetti as I  
20 circumscribe it. It fronts on Highland Avenue  
21 and Fern Avenue just southerly of Route 52.

22 As I said before, the subdivision was  
23 previously approved just as it exists today and  
24 as it will continue in the future.

25 The only modification being requested

1  
2 this evening is that my client be allowed to move  
3 the proposed house location from where you see it  
4 crosshatched in red to a point that you see  
5 shaded in red closer to Highland Avenue. The  
6 reason for that was after I reviewed the  
7 subdivision for my clients, I found that it was  
8 immensely advantageous to move the house, because  
9 in its previously proposed location it required a  
10 retaining wall and reasonably heavy grading to  
11 the site. In moving the house from the  
12 crosshatched area to the red shaded area, it  
13 removes the need for the retaining wall and it  
14 eliminates the grading, the heavy grading that  
15 was necessary. Everything else on the  
16 subdivision will remain exactly the same. What  
17 was approved before is the same proposal that you  
18 have this evening with the exception of moving  
19 the house. Everything else is the same. The  
20 septic locations are the same, the entrance  
21 drives are in the same place, the lot  
22 configurations are the same.

23 We presented this application to the  
24 Board in December and they granted us preliminary  
25 approval, or I guess it's conceptual approval now

1  
2 as they call it, with the provision that we show  
3 the building envelop for the lot and also the  
4 usable land area, which we have done on the  
5 revised subdivision map.

6 Other than that, there's not an awful  
7 lot I can say about this subdivision. It was  
8 approved before. We just want to move the house  
9 location.

10 CHAIRMAN EWASUTYN: Thank you, Vince.

11 As Mike Donnelly, the Planning Board  
12 Attorney, said in the beginning of the meeting,  
13 now it's time to receive comments and questions  
14 from the public. If you would be so kind as to  
15 raise your hand, give your name and your address.  
16 We're here to listen.

17 (No response.)

18 CHAIRMAN EWASUTYN: Let the record show  
19 that there was no interest from the public  
20 tonight for the public hearing for the three-lot  
21 subdivision for the land of Eugene and Vaughn  
22 Ghikas.

23 At this point I'll turn to our Planning  
24 Board Members to see if they have any comments.  
25 Frank Galli?

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MR. GALLI: No additional.

MR. BROWNE: Just a comment about the improvement. The new layout is very good.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: No questions.

CHAIRMAN EWASUTYN: Tom Fogarty?

MR. FOGARTY: I have no comment.

CHAIRMAN EWASUTYN: John Ward?

MR. WARD: No comment.

CHAIRMAN EWASUTYN: At this point we'll turn to our consultants for their final comments. Jerry Canfield, Code Compliance?

MR. CANFIELD: I have nothing outstanding at this time.

CHAIRMAN EWASUTYN: Pat Hines, Drainage Consultant?

MR. HINES: We reviewed the revised house location. As Mr. Doce said, there's a substantial -- substantially less grading required on the site. Many of the large trees that would have been impacted under the previous plan will be able to remain. There will be no significant removal of bedrock, which was a concern last time. Retaining walls have been

1  
2 eliminated so the bonding of those can be removed  
3 from the plan.

4           The only outstanding comment we have is  
5 we would like a note stating that the house sites  
6 will be staked prior to the issuance of the  
7 building permits. The house location, especially  
8 the one that's moved, is at the front and side  
9 yard setbacks. To avoid any problems with  
10 potential zoning variances, we request a note be  
11 added to the plans staking that out. I believe  
12 that's been done on the plans, we just don't have  
13 the current copy.

14           We have no other issues with the  
15 subdivision.

16           CHAIRMAN EWASUTYN: Bryant Cocks?

17           MR. COCKS: My only outstanding comment  
18 was having the applicant demonstrate the lot area  
19 requirement, Section 185-48.5 of the Zoning Law.  
20 I did speak to Darren Doce today and he said he  
21 had included it in the revised plans so that they  
22 can have conditional approval.

23           CHAIRMAN EWASUTYN: We'll address the  
24 public one more time. Are there any questions or  
25 comments from the public?

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(No response.)

CHAIRMAN EWASUTYN: Okay. That being offered, I'll move for a motion from the Planning Board to close the public hearing on the three-lot subdivision for Eugene Ghikas.

MR. GALLI: So moved.

MR. MENNERICH: Second.

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

(No response.)

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

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: And myself yes. So carried.

At this point I'll turn to Mike Donnelly, Planning Board Attorney, to give us conditions in the resolution for final approval of the three-lot subdivision.

1  
2 MR. DONNELLY: The resolution is a  
3 final subdivision as amended. First we'll carry  
4 a condition that removes the condition that had  
5 been in the original approval resolution that  
6 required construction of that retaining wall. We  
7 will carry forward all of the other applicable  
8 provisions of the first resolution. We'll need a  
9 sign-off letter from Bryant Cocks on the issue  
10 relating to showing the usable area on the lots.  
11 We will carry forth the foundation staking note  
12 into the resolution of approval itself.

13 Vince, I believe I looked at the common  
14 driveway easement and maintenance agreement  
15 already. I'll leave it in the resolution for a  
16 checklist to make sure.

17 We will tie into the Town Board  
18 resolution that earlier allowed you to have three  
19 lots on a common driveway. The landscape  
20 security and inspection fee, we made provision  
21 for you to apply to the Town Board for its  
22 reduction because you had bonded the wall. The  
23 resolution will reflect you have already paid the  
24 recreation fees and no new fee is being imposed  
25 at this time.

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CHAIRMAN EWASUTYN: Any comments?

MR. DOCE: No. Thank you for your  
time.

CHAIRMAN EWASUTYN: Thank you.

Having heard the conditions for a final  
approval for the three-lot subdivision of Eugene  
Ghikas presented by Mike Donnelly, Planning Board  
Attorney, I'll move for a motion from the Board  
to approve that action.

MR. WARD: So moved.

MR. FOGARTY: Second.

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

(No response.)

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

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Myself yes. So  
carried.

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Thank you.

MR. DOCE: Thank you very much.

(Time noted: 7:12 p.m.)

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

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

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DATED: February 8, 2012

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

----- X  
In the Matter of

ROGAN SUBDIVISION  
(2011-33)

47 Lockwood Lane  
Section 8; Block 1; Lot 87.1  
AR Zone

----- X

CONCEPTUAL  
TWO-LOT SUBDIVISION

Date: January 19, 2012  
Time: 7:12 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  
THOMAS P. FOGARTY  
JOHN A. WARD

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

APPLICANT'S REPRESENTATIVE: MICHAEL MORGANTE

----- X

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

1  
2 MR. BROWNE: The next item of  
3 business is Rogan Subdivision, project number  
4 2011-33. This is a conceptual two-lot  
5 subdivision being presented by Arden Consulting  
6 Engineers.

7 MR. MORGANTE: Good evening, everyone.  
8 My name is Michael Morgante, I'm a project  
9 engineer with Arden Consulting Engineers  
10 representing the applicant, Margaret Rogan.

11 The project that's before you tonight  
12 is located near the intersection of Lattintown  
13 Road and Lockwood Lane near the border of Ulster  
14 and Orange County as shown on the location map.  
15 The property is approximately -- it's bounded by  
16 several lots on the west side, namely Bell,  
17 Werlau; on the easterly side by, it appears,  
18 DeQuarto and Bell, Pignatello; on the north side  
19 by CHG&E.

20 The current situation of the property,  
21 there's an existing one-story dwelling there with  
22 a detached garage in the back. We are looking  
23 to, as far as the project, subdivide the parcel  
24 into separate lots, one being a flag lot as you  
25 can see on the northerly and easterly side of the

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property.

We would look to extend the existing driveway and provide some kind of a shared driveway easement for that. This seems to provide the least amount of disturbance to the site. We have an existing driveway and we can simply extend it for the proposed dwelling.

We've done soil testing in the area of the proposed septic system, which the soils are shown to be adequate. The septic systems have been designed, and individual wells have been proposed also for the lot. We have located all sanitary facilities within 200 feet of the parcel to make sure we weren't impacting anything else.

I think that pretty much summarizes the project in a nutshell.

CHAIRMAN EWASUTYN: Okay. At this point I'll turn to our consultants. I'll turn to Bryant Cocks, Planning Consultant.

MR. COCKS: Sure. Michael, can you just explain, through the middle of the property it looks like there's two filed lots there but then the tax map parcel just shows it as one lot.

MR. MORGANTE: It is one lot. What

1  
2 happened was back in, I think approximately 1986  
3 the parcel was subdivided. So for reference  
4 purposes only we've shown that original lot line  
5 just to kind of give you a history of the project  
6 or the site. I think back in 1996 or so, roughly  
7 ten years later, the lots were combined. So you  
8 do have one existing lot. Here we are back  
9 before you today resubdividing again. The  
10 original subdivision almost kind of split the lot  
11 right down the middle. The easterly portion of  
12 the lot is bounded by wetlands and there's lost  
13 vegetation, the soils are wet. There's a pond.  
14 I don't know how useful that is for development  
15 purposes. I thought it would be useful for the  
16 Board to show it. It is one single lot.

17 MR. COCKS: We were confused because it  
18 said filed map number and we weren't sure if this  
19 was going to be a lot line change.

20 MR. HINES: That wasn't helpful.

21 MR. MORGANTE: I probably should have  
22 put that in the narrative.

23 MR. COCKS: You will have to show the  
24 10,000 square foot buildable area requirement,  
25 Section 185. There's plenty of room so I don't

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think it will be an issue.

The Ulster County Planning Department, because of its proximity to the Ulster County border.

The common driveway access and easement agreement must be submitted.

A surveyor's seal and signature will be required.

Also, I wasn't sure how Lockwood Lane was with the 911 addressing system. We had a problem with another lot that there wasn't an actual address for a two-lot subdivision with a flag lot. Do a little research and see if there's going to be an address available.

MR. MORGANTE: We'll contact the Town and figure that out. That's fine.

CHAIRMAN EWASUTYN: Jerry, who would they contact in the Town?

MR. CANFIELD: That would be my office. I did order that they research with respect to Bryant's comments. There's plenty of numbers in the database, the 911 database. The existing house is currently number 47. Should the Board approve this, the new residence in the rear would

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be 49. So there are numbers available for it.

MR. MORGANTE: Thank you.

CHAIRMAN EWASUTYN: Pat Hines, Drainage  
Consultant?

Jerry, did you have anything else to  
add?

MR. CANFIELD: No.

CHAIRMAN EWASUTYN: Pat Hines?

MR. HINES: Our first comment had to do  
with the lot issue that we discussed previously.

The common driveway access and  
maintenance agreement is required.

The detail sheet shows a deep test  
labeled number 3, and that's not labeled on the  
map. If you could just show where that is also.

MR. MORGANTE: It's in the middle of  
the field.

MR. HINES: That's all we have. We  
would recommend a neg dec and a public hearing be  
scheduled if there are no other significant  
comments.

CHAIRMAN EWASUTYN: Frank Galli?

MR. GALLI: No additional.

CHAIRMAN EWASUTYN: Cliff Browne?

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MR. BROWNE: Nothing.

MR. MENNERICH: No questions.

MR. FOGARTY: I have no comments.

MR. WARD: No comment.

MR. DONNELLY: We had earlier discussed this might qualify for treatment as a lot line change the Town of Newburgh has recently adopted. If you have the consolidation into a single lot nature of this, it is in fact a subdivision. It will require referral to the Orange County Planning Department as well as to the Town of Marlboro under 239-N, and a public hearing of course is required.

CHAIRMAN EWASUTYN: I'll move for a motion from the Board -- Michael, can we make a SEQRA determination at this point, unless we -- since we haven't heard back or we're just circulating to Orange County Planning?

MR. DONNELLY: You can make it if you choose to.

CHAIRMAN EWASUTYN: Thank you. I'll move for a motion from the Board to grant conceptual approval for the Rogan Subdivision, to circulate it to the Orange County Planning

1  
2 Department, and to declare a negative  
3 declaration.

4 MR. GALLI: So moved.

5 MR. WARD: Second.

6 CHAIRMAN EWASUTYN: I have a motion by  
7 Frank Galli. I have a second by John Ward. Any  
8 discussion of the motion?

9 (No response.)

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

12 MR. GALLI: Aye.

13 MR. BROWNE: Aye.

14 MR. MENNERICH: Aye.

15 MR. FOGARTY: Aye.

16 MR. WARD: Aye.

17 CHAIRMAN EWASUTYN: And myself. So  
18 carried.

19 I'll move for a motion to set this for  
20 the 16th of February for a public hearing with  
21 the understanding that we may not be able to take  
22 action the night of that public hearing because  
23 the County has thirty days to respond.

24 At this point I'll move for that  
25 motion.

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MR. GALLI: So moved.

MR. FOGARTY: Second.

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

(No response.)

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

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Myself. So carried.

If you'll see to contacting Bryant Cocks for maps to circulate.

Bryant, you'll discuss the notice of hearing as it relates to the public hearing.

MR. MORGANTE: Thank you very much for your time today.

(Time noted: 7:20 p.m.)

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

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

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DATED: February 8, 2012

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

----- X

In the Matter of

CRONK ESTATES II  
(2010-07)

Peaceful Court  
Section 1; Block 2; Lot 17.2  
AR Zone

----- X

AMENDED SIX-LOT SUBDIVISION

Date: January 19, 2012  
Time: 7:20 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  
THOMAS P. FOGARTY  
JOHN A. WARD

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

APPLICANT'S REPRESENTATIVE: JAMES RAAB

----- X

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

1  
2 MR. BROWNE: The next item of business  
3 is Cronk Estates II, project number 2010-07.  
4 This is an amended six-lot subdivision being  
5 presented by Jim Raab.

6 MR. RAAB: I also have the applicant's  
7 attorney with me tonight, Julian Schulman, and  
8 Morty Gluck who is a member of Fox Crest, LLC.

9 What I had proposed in a letter to the  
10 Planning Board back in November, and then again  
11 amended in December, was we could shorten the  
12 amount of pipe along the closed drainage, that  
13 was agreed to when we got the approval, along the  
14 easterly side of Peaceful Court. That is not to  
15 include the Harris's -- really to include the  
16 Harris's Drive. It starts just beyond the  
17 Harris's driveway and goes 240 feet versus the  
18 400 feet we would have taken in frontage.

19 The second -- really the second thing.  
20 The first thing was that the difficulty in trying  
21 to get the improvements done so that we could get  
22 building permits, we attempted very vehemently,  
23 both myself and Jim Osborne, to get the pole  
24 relocated so that we could redo the paving before  
25 the plants closed down. We didn't really think

1  
2 there was much hope in doing it but we gave it  
3 the college try. We had everybody helping us,  
4 too. Jim had some contacts at Central Hudson  
5 that he brought in. They got through but the  
6 hang up was the telephone company. So therefore  
7 we're not going to get this pole relocated for  
8 another two months.

9           With that said, we understand -- based  
10 on what I read in Pat's comments and after  
11 reviewing the minutes of the Planning Board  
12 meeting and the public hearing, I understand that  
13 -- I understand, and we understand Pat's point  
14 and the fact that we probably can't do anything  
15 about the length of the pipe now because it was  
16 mentioned -- that was asked of us during the  
17 public hearing and we said yes to it during the  
18 public hearing. The fact is if we could have had  
19 the other condition amended about the building  
20 permits and give it to -- and make it COs instead  
21 of building permits for the improvements on Cronk  
22 Road. Granted we are going to bond this, just as  
23 the bond amount was approved by the Town Board  
24 back in October or early November. We're going  
25 to bond it prior to asking the Planning Board to

1 stamp it but we need a little bit -- we would  
2 like to have some relief here on this. We would  
3 like to get some building permits in the next  
4 couple of months. It doesn't look like -- if we  
5 go the other way we're not going to get any  
6 building permits until probably April or May, the  
7 way things are going.  
8

9 I talked to Darrell Benedict today and  
10 he is not in favor of doing any paving for the  
11 next two months no matter where we bring it from.  
12 He was adamant about it, and he said if you need  
13 that in writing, he'd be glad to give it to the  
14 Board.

15 Right now we're looking for the one  
16 condition to be amended, if we could, so that we  
17 can get building permits once the map is filed  
18 and the fees have been paid and the bonds have  
19 been posted.

20 CHAIRMAN EWASUTYN: Any comments from  
21 Board Members. Frank Galli?

22 MR. GALLI: Since I'm the first one in  
23 line, I guess I'll make a couple comments that we  
24 were discussing. For such a small project we've  
25 had a lot of problems, okay. I think there's a

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stop work order on the project right now.

MR. RAAB: Yes.

MR. GALLI: We've had DEC issues constantly. We've had all kinds of issues. Whether some are valid and some aren't, we still have a lot of issues with this project. I just don't feel that we should do anything further until we actually correct what's there. I don't think we should waive anything. Keep the pole in place, blacktop in place and the pipe in place. That's my personal feeling.

CHAIRMAN EWASUTYN: Cliff Browne?

MR. BROWNE: If I remember from our discussion, part of the issues that were put in place originally were due to safety, not just because. It was a safety issue with the road and what not. So with that, that's not going away. That's going to be there. That was part of the reason for doing those particular conditions.

MR. RAAB: If I just could make something clear. We're not trying to get out from under doing them. We just want to change the way --

MR. BROWNE: The problem is the timing.

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2 Part of the thing with the safety part was for  
3 construction, period. If you're doing the  
4 construction and avoiding that requirement, the  
5 safety during that period, then you're going  
6 around what was approved and what was actually --  
7 again, we looked at it from the safety thing from  
8 our -- Ken also had the same concern that our  
9 consultants brought up, and it was also echoed by  
10 the public at the same time. Again it was agreed  
11 to that you would do that. So with that in mind  
12 also, I would not be in favor of doing it. At  
13 the same time I understand from a technical  
14 standpoint if you choose to you can go forward  
15 and have a public hearing.

16 MR. DONNELLY: Just to echo what Cliff  
17 is saying, you may remember our traffic  
18 consultant, who is not here tonight, had made a  
19 recommendation and it led to this somewhat  
20 unusual condition. We don't very often require  
21 public improvements like these be made before a  
22 building permit. There was a sight distance  
23 issue, there was a condition of the roadway  
24 issue, a school bus stop in the area that led him  
25 to recommend that before the construction

1  
2 vehicles start utilizing that area, that the road  
3 be improved, and that is why that unusual  
4 condition was there. Obviously if you're asking  
5 to have it revisited, we can send it to the  
6 traffic engineer and have him reevaluate it and  
7 see if his report and recommendation back to the  
8 Planning Board is otherwise. I just want you to  
9 recall where that came from --

10 MR. RAAB: I understand.

11 MR. DONNELLY: -- in the initial  
12 review.

13 MR. RAAB: I just want to reiterate the  
14 fact we made every attempt to try to get this  
15 done this year. I mean we're not trying to avoid  
16 it at all, okay. The fact that the way  
17 everything laid out, by the time we got the bond  
18 amounts set and approved by the Town Board, we  
19 were in noman's land, and then we rushed to get  
20 Central Hudson's approval of this, and we were  
21 just hoping -- my question here is then if we do  
22 have a public hearing, are you going to change  
23 your minds? What's the sense of having a public  
24 hearing if you're going to make the same  
25 restraints again?

1  
2 MR. DONNELLY: I think what you heard  
3 thus far is unless the Board's traffic engineer  
4 was somehow to take a different recommendation  
5 and opinion than he did the first time, and I'm  
6 not going to predict what the Board Members will  
7 vote, but I think you may want to take to heart  
8 what you hear.

9 MR. RAAB: I am taking to heart what I  
10 hear. I'm also trying to make a very big plea  
11 for my client who probably should have had --  
12 they should have been able to construct this this  
13 year. He's been given the okay to do so, okay.  
14 But all of that stuff was completely out of his  
15 control. Bond estimates were submitted in  
16 September. We didn't get them approved until  
17 sometime in mid October. We couldn't get them in  
18 front of the Board until November. So I'm just  
19 asking if the Board could work with us, we would  
20 really appreciate it. I understand the safety  
21 issue. I really do. If there's something -- if  
22 I could do this, if I could ask Ken to revisit  
23 this and give the Board some kind of  
24 recommendation, okay, then I might -- then we may  
25 rethink the point about the public hearing,

1  
2 because there's really -- again, there's no sense  
3 of us having a public hearing if nothing has  
4 changed. So if it's okay with the Board, we  
5 would like to visit this point with Ken and see  
6 if there was something we could do in the  
7 meantime, okay.

8           Something that comes to mind is no  
9 construction vehicles coming from Forest Road,  
10 okay. That eliminates the fact that a  
11 construction vehicle has to turn into Peaceful  
12 Court from coming the other way, which is the  
13 worst way.

14           MR. GALLI: You know that can't be  
15 bonded. That's a useless request. There's no  
16 way you can monitor that. We can't monitor  
17 what's on the site now.

18           MR. RAAB: Okay. To address those  
19 issues right now about the stop work order, we  
20 corrected the issues the stop work order were  
21 based on almost immediately after they were --

22           MR. DONNELLY: In fairness to you, I  
23 know Frank raised it, but realistically what  
24 happens on the site in terms of after approval,  
25 it isn't relevant to your request here tonight.

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MR. RAAB: Okay. All right. Then I understand what the Board -- where the Board is going with this. I don't really want to waste any more of your time.

Julian, is there anything you want to say?

MR. SCHULMAN: Julian Schulman. Good evening. The only thing I'd like to say is as I understand it, construction vehicles have been there building up the infrastructure. From the builder's standpoint, that's more of an investment that he put into it and more of a hardship of having to wait to start building the houses. There are one or two pre-solds in there that we'd like to close early summer. So all we're asking for is the right to obtain two building permits. I do understand now that the construction vehicles will be using that intersection. They won't be parking in that intersection or blocking anything. So perhaps the Board will consider that, and not just two building permits, so we can start building.

CHAIRMAN EWASUTYN: Ken Mennerich, we were going around the table getting opinions from

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Board Members.

MR. MENNERICH: I concur with what Frank and Cliff both had to say.

CHAIRMAN EWASUTYN: Tom Fogarty?

MR. FOGARTY: The only thing, I'm glad you went back on that 240 to the 400 because the rationale you gave is as long as the Harrises didn't complain, therefore we're not going to run it in front of their house, instead of saying what is the right thing to do. Whether a person comes to a public hearing and voices a concern should not be the reason why, you know, the situation is corrected.

MR. RAAB: Again, we weren't -- we were going to -- we were going to adhere to the fact that we were going to pipe in front of Cascianos. That would have been a death wish.

MR. FOGARTY: It shouldn't be the one with the squeaky wheel that's concerned. You should be taking a look at the project and saying what's the correct thing to do here.

MR. RAAB: Okay.

CHAIRMAN EWASUTYN: John Ward?

MR. WARD: We understand your

1  
2 condition, what you're trying to ask, but at the  
3 same time you came in front of us and we went  
4 with safety, with what the public said about a  
5 school bus stop and everything else. Basically  
6 you're asking us to do something else.

7 MR. RAAB: Understood. It's  
8 understood.

9 CHAIRMAN EWASUTYN: Comments from the  
10 Consultants. Jerry Canfield?

11 MR. CANFIELD: As Code Compliance  
12 Supervisor I have to advise the Board that I  
13 frown upon these type of conditions, simply  
14 because my department will be charged with the  
15 responsibility to enforce any conditions that are  
16 imposed. The restricted accessibility for a  
17 construction vehicle, in the real world we all  
18 know, Jim, that's not going to happen. Whose  
19 going to have to police that? My department?  
20 I'm taxed with manpower and our situation right  
21 now.

22 I would plea with the Board and suggest  
23 to them that any type of concession to this  
24 scenario, I'm not in favor of it. I am not. We  
25 are overburdened right now with what all we have

1  
2 to do, and then to impose specific conditions  
3 that we have to further babysit is going to be a  
4 difficult task. It's a very difficult task now.

5 CHAIRMAN EWASUTYN: Thank you.

6 Pat Hines, Drainage Consultant?

7 MR. HINES: Our comment had to do with  
8 the closed pipe drainage system. That apparently  
9 has been taken off the table.

10 We did recommend that a public hearing  
11 be held since that issue was or grew out of  
12 public hearing comments.

13 I think referring it to Ken Wersted for  
14 his opinion, because he was involved in the  
15 initial review, he's not here this evening but I  
16 think his opinion would be valuable to the Board.

17 CHAIRMAN EWASUTYN: Bryant Cocks,  
18 Planning Consultant?

19 MR. COCKS: These requests had nothing  
20 to do with any house locations or setbacks, so I  
21 have no comments.

22 MR. RAAB: Let me save the Board any  
23 further trouble with this. You don't need to  
24 contact Ken. I don't see the Board's opinion  
25 changing, and I really don't know of any

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alternative thing we could do here. I threw that out there only because -- as a bad example I guess. The fact is that I can understand that the Board isn't willing to back off of that condition, so I really don't see any sense in contact with Ken. We'll just have to finish it up the way it is.

So thank you very much for your time. I really appreciate you letting us appear before you and giving us a chance to plea our case. Thank you.

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

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

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

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DATED: February 8, 2012

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

----- X  
In the Matter of

IHOP AT CROSSROADS PLAZA  
(2011-32)

Route 17K  
Section 97; Block 2; Lot 7.22  
IB Zone

----- X

ARCHITECTURAL REVIEW

Date: January 19, 2012  
Time: 7:34 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  
THOMAS P. FOGARTY  
JOHN A. WARD

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

APPLICANT'S REPRESENTATIVE: DAVID HIGGINS and  
JOSEPH BOYLAN

----- X

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

1  
2 MR. BROWNE: The next item of business  
3 we have before us is IHOP at Crossroads Plaza,  
4 project number 2011-32. This is ARB being  
5 presented by David Higgins of Lanc & Tully.

6 MR. HIGGINS: Good evening. Thank you  
7 very much. As you mentioned, my name is David  
8 Higgins with Lanc & Tully Engineering. I'm here  
9 for the application tonight which involves the  
10 renovations and a new business to move into an  
11 existing restaurant. You may know it as the Harp  
12 & Whistle, the old Harp & Whistle Restaurant  
13 which is located on New York State Route 17K.  
14 It's about a mile east of New York State Route  
15 300.

16 The building is 4,350 square feet.  
17 It's located on a lot which is roughly 12.3 acres  
18 in size. The rear portion of the lot is occupied  
19 by a strip mall, a building. Target is the  
20 anchor of that shopping plaza there known as the  
21 Crossroads Plaza.

22 What the applicant is proposing to do  
23 is to renovate the building, some work on the  
24 exterior and some work on the interior, which  
25 we'll get to in a few minutes.

1  
2 With regard to the exterior, the  
3 improvements involve the renovation of a handicap  
4 access ramp. Currently there exists a paved  
5 asphalt ramp that goes from the parking area up  
6 to the sidewalk. Currently it doesn't meet ADA  
7 standards for handicap accessibility, so we would  
8 be removing that asphalt ramp and replacing it  
9 with a concrete ramp on the front portion of the  
10 building that does meet the ADA standards.

11 Also, there's an existing awning along  
12 the front of the building and some railroad tie  
13 walls, very short walls, maybe a foot in height.  
14 Those are proposed to be removed, and placed  
15 along with the handicap ramp would be a  
16 landscaping -- basically shrubs along the front  
17 and a few shrubs along the side of the building  
18 as well.

19 With the application, we submitted the  
20 site plan drawings and the architectural plans,  
21 and a long EAF.

22 Tonight with me also is Mr. Joseph  
23 Boylan from Boylan Services, and he'll be  
24 providing some information regarding the  
25 architectural improvements that are proposed to

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be built.

MR. BOYLAN: These are just blowups of the architectural plans that were previously submitted. I thought it might be easier to reference them.

My name is Joe Boylan, I'm a project manager at Croce Management, a franchisee for the IHOP in Newburgh. I'll talk about the architectural components, as Dave had spoken about the site information.

First I want to just go over the scope. What we're proposing to do is to gut the entire interior of the building and to build a brand new restaurant with significant changes to the exterior of the building. We're proposing to remove, on the old Harp & Whistle, the mansard parapet and also the -- around that building there's a very deep overhang that runs the perimeter of the building. We're looking to cut that back to the original building line. What we're going to do is install -- we're going to put a new fascia and parapet element on. The parapet will be approximately five feet high off of the roof and will screen all rooftop

1  
2 equipment. So as you approach this building no  
3 rooftop equipment will be visible.

4 The entry portico element here, this is  
5 a plastic IHOP element that is incorporated into  
6 all the buildings. What it does is it identifies  
7 where the building entrance is as well as  
8 provides some protection to our customers as they  
9 enter and leave the restaurant.

10 The color palette is one that's made up  
11 of blues and earth tones, which is compatible  
12 with the existing shopping center materials that  
13 are already there. The materials that we're  
14 using, the existing cut face block will be  
15 painted the IHOP scheme color. The stucco efface  
16 material on the fascia and parapet wall, the  
17 cultured stone which are located on the chimney  
18 elements that houses our signage, and also on the  
19 entry columns. The portico roof is a blue  
20 standing seam metal roof. On the fascia of the  
21 portico are copper panels. The awnings are a  
22 Sunbrella canvas awning. They're not the plastic  
23 type of awnings and they're not illuminated  
24 underneath.

25 The signage that we're proposing, we're

1  
2 proposing to have the same amount or less than  
3 what the Harp & Whistle currently has on the  
4 building. The two cabinet signs are  
5 approximately 2 foot 8 high by 8 foot 4 wide,  
6 which comes to a little bit over 31 1/2 square  
7 feet. It's 31.56 square feet per sign.

8 I do apologize, the rendering that we  
9 have does not show the improvements that Dave had  
10 spoken about with the ADA handicap ramp. Due to  
11 the fact that the slope to the current entrance  
12 right now is not ADA compliant, we're installing  
13 the ramp area. Previously this patio area, this  
14 would be removed as it's shown on the plan, but  
15 everything else on the building is correct.

16 I can tell you a little bit of the  
17 history about IHOP restaurants. IHOP first  
18 opened in 1958 in Tuscaloosa, California. Two  
19 years later, in 1960, it franchised its first  
20 restaurant. Ninety-nine percent of the  
21 restaurants with IHOP are franchised. Everyone  
22 recognizes and remembers the IHOP restaurants,  
23 the old A-frame building. That building was  
24 around for twenty years. In the early 1980s the  
25 company revamped the whole concept and introduced

1 a menu for lunch and dinner, and they found that  
2 the existing prototype wasn't conducive to it  
3 because it was really perceived as a coffee shop.  
4 So a new prototype was created and quite a bit of  
5 expansion was done during the `80s and `90s.  
6 Twenty years have gone by again and in the early  
7 2000s the company decided again it was time to  
8 come up with a new prototype, so the icon  
9 prototype came up. Most of what we see here,  
10 even though this is a conversion, looks like an  
11 icon presentation. Through that design of the  
12 icon building there was a tremendous amount of  
13 customer research and they found that the  
14 previous prototype -- they were distancing  
15 themselves from the A-frame because it was  
16 perceived as a coffee shop. All of the research  
17 showed the A-frame was a very positive thing with  
18 the customers. It was received very well. So  
19 the new prototype has incorporated that back.  
20 This element is very important for the IHOP  
21 building since it is such a signature element.

22  
23 If there's any questions that the Board  
24 has about the construction of the building or  
25 about the restaurant, I'd be happy to answer them

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as best I can.

CHAIRMAN EWASUTYN: Cliff Browne does most of the traveling for us. Cliff, where did you have breakfast?

MR. BROWNE: Nashville. Actually, I see a lot of IHOPs but I've never seen this particular design any place yet.

MR. BOYLAN: Okay.

MR. BROWNE: I don't go to too many of them but I see a lot of them. Sorry.

CHAIRMAN EWASUTYN: How many are there right now?

MR. BOYLAN: Good question. As of the last count update this past November, it was 1,532. That is throughout the United States, Canada, Mexico.

MR. GALLI: I have a question on the signage. The IHOP signs on the building are going to be internally lit?

MR. BOYLAN: Yes.

MR. GALLI: And then are you going to have -- are you going to be part of the --

MR. BOYLAN: The Harp & Whistle had its own sign. What we would like to do is keep that

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cabinet and that pole and to paint it the IHOP and basically put the same logo in the panel. Just change out the panels and paint the sign.

MR. GALLI: Jerry, do they have enough for the signage and everything?

MR. CANFIELD: If they're putting back what's originally there, they would be okay.

MR. GALLI: That's all the questions I have.

CHAIRMAN EWASUTYN: Cliff Browne?

MR. BROWNE: I like this a whole lot better than what's there now.

MR. BOYLAN: To your point about liking what's there, it's very important. It's very important for the business, for IHOP, and it's equally as important for the Town, that when this building is redeveloped, there is no reminiscence to the previous businesses there, that this looks like a completely new concept in building and not tied to that.

MR. BROWNE: It's interesting for me. What percentage of IHOP's business is breakfast versus lunch, dinner?

MR. BOYLAN: It's a much larger

1  
2 percentage. It varies from location to location,  
3 but it could be 60 to 80 percent.

4 MR. BROWNE: Another very curious  
5 thing. With all the restaurants in the area,  
6 demographics proved out this is feasible for this  
7 type of establishment?

8 MR. BOYLAN: The franchisee would never  
9 put their own money up if they thought it wasn't.  
10 IHOP has a very loyal customer base.

11 MR. BROWNE: What I find when I go  
12 there is I know what to expect. When I go to one  
13 of these kinds of businesses, I know the menu so  
14 it's not a surprise. But yes, okay. Thank you.

15 CHAIRMAN EWASUTYN: Ken Mennerich?

16 MR. MENNERICH: Under the A-frame is  
17 there going to be lighting or something?

18 MR. BOYLAN: Yes. There is lighting  
19 that lights up the -- basically it's a gabled  
20 roof area. There are lights that do light that  
21 up. On the inside, not the exterior.

22 MR. MENNERICH: Okay. Thank you.

23 CHAIRMAN EWASUTYN: The franchisee owns  
24 how many in this general area?

25 MR. BOYLAN: The franchisee owns the

1  
2 IHOP in Middletown and also they own one in New  
3 York City.

4 MR. FOGARTY: In as far as the parking  
5 lot is concerned, is that going to be resurfaced,  
6 restriped?

7 MR. BOYLAN: The parking lot around the  
8 IHOP building will be -- will have a sealer coat  
9 put on it and be restriped before we open.

10 MR. FOGARTY: I haven't seen --

11 MR. BOYLAN: Actually, the parking lot  
12 is in fairly good shape. On the other side where  
13 the service area is, the sidewalk is cracked up.  
14 We're going to be replacing that as well, a good  
15 portion of the sidewalk in the back where the  
16 parking goes up to the backside of the building.  
17 The sidewalk there is cracked. We're going to be  
18 replacing anything that is any type of potential  
19 hazard.

20 MR. FOGARTY: Good. Thank you.

21 CHAIRMAN EWASUTYN: John Ward?

22 MR. WARD: The parking lot lights, I'm  
23 asking you to coordinate with Target so they're  
24 the same height, no higher.

25 MR. BOYLAN: Actually, the parking lot

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lights are all existing.

MR. WARD: They're there? I'm looking at your -- that's why I'm asking.

MR. BOYLAN: I don't know how high they go.

MR. WARD: It went right off the picture.

CHAIRMAN EWASUTYN: It's a phased lighting plan.

Jerry Canfield, Code Compliance?

MR. CANFIELD: I didn't submit any formal written comments but I just have two questions.

One, on the elevations that you've submitted, the exteriors, it looks like the gas meter on the rear of the building --

MR. BOYLAN: That's existing.

MR. CANFIELD: If it would be possible to put some bollard there, concrete filled bollard. That's right near the loading zone, just so a vehicle can't get up in there.

MR. BOYLAN: Actually, that is -- can I just take a look? The way that the site is, that's in the rear of the building.

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MR. CANFIELD: That would be the south side of the building?

MR. BOYLAN: No.

MR. CANFIELD: East side?

MR. BOYLAN: It's the east side. What happens is there is a big lawn area that comes down away from the parking lot and that's up against the building. There's a sidewalk. There really is no cars back there. We can install them but there's no cars really there.

MR. CANFIELD: You feel you have enough distance between the actual loading zone --

MR. BOYLAN: Actually, the loading zone is on the side. That would be the north side.

MR. GALLI: They have a door.

MR. BOYLAN: That's where the service door is. I would say it's a good 20 feet of grass area in between that and the sidewalk, then you have the sidewalk and then you have the parking lot.

MR. CANFIELD: Okay.

MR. HIGGINS: Here's a picture here. I don't think you can see the meter. From the map that's the side of the building. If you look at

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the site plan, that shows the gas meter right here.

MR. CANFIELD: Okay. And there's an elevation there. Okay. Strike that. I'm sorry, I was looking at the wrong side.

The other question I had is just the dumpster enclosure. It looks like the dumpster will be like about 15 feet off the corner of the building. Is that about right?

MR. BOYLAN: That's existing.

MR. CANFIELD: What we show on the site. Your dumpster won't be there then?

MR. HIGGINS: The dumpster and enclosure are existing already. They're on the back corner of the building.

MR. CANFIELD: That's where you intend to put yours as well?

MR. BOYLAN: Yes. What we're going to be doing there is the pad. That's the side of the building where the sidewalks are all cracked. That pad that goes into the dumpster is pretty cracked pretty badly. We're going to be replacing that as well.

MR. CANFIELD: What are the walls of

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that enclosure?

MR. BOYLAN: It's a concrete block.

MR. CANFIELD: It is block?

MR. BOYLAN: Mm'hm'.

MR. CANFIELD: It's noncombustible then. My concern was the proximity of the dumpster to the building. Typically dumpsters have occasion to catch fire. We're looking for a separation. If it's noncombustible block, that's fine.

CHAIRMAN EWASUTYN: Pat Hines, Drainage Consultant?

MR. HINES: We have no comments on this reconstruction. There's no changes to the site.

CHAIRMAN EWASUTYN: Bryant Cocks, Planning Consultant?

MR. COCKS: In regard to the signage, we usually require just the signage chart on the site plan and just showing what's allowed and what's proposed. I know it's going to be the same but just so the building department has it.

And this will need to be referred to the Orange County Planning Department.

Other than that, I have no comments.

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MR. BROWNE: What about the -- we would need a spec sheet on that.

MR. HINES: Do you have a chart?

MR. BROWNE: We're looking for just the materials, what they are, so when the inspectors go out they know what they're looking for.

CHAIRMAN EWASUTYN: David, we have an architectural form that will need to be completed and then you can list the materials, the manufacturers and numbers.

We'll also need a cost estimate for the landscape material. Karen Arent will review the cost estimate associated with that.

MR. HIGGINS: Okay.

CHAIRMAN EWASUTYN: And I guess I'm assuming with the dumpster enclosure, the cinder block that you're constructing with will be of the same color as the building itself.

MR. HIGGINS: Joe, are we changing the color of the block, the dumpster enclosure?

MR. BOYLAN: The dumpster enclosure is going to be painted the same color as the concrete block of the building. That will blend in together.

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2 CHAIRMAN EWASUTYN: You'll get the  
3 plans to Bryant Cocks so he can circulate to the  
4 Orange County Planning Department.

5 At this point I'll move for a motion to  
6 grant ARB approval for the IHOP at Crossroads  
7 Plaza.

8 MR. WARD: So moved.

9 MR. FOGARTY: Second.

10 CHAIRMAN EWASUTYN: I have a motion by  
11 John Ward. I have a second by Tom Fogarty. Is  
12 there any discussion of the motion?

13 (No response.)

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

16 MR. GALLI: Aye.

17 MR. BROWNE: Aye.

18 MR. MENNERICH: Aye.

19 MR. FOGARTY: Aye.

20 MR. WARD: Aye.

21 CHAIRMAN EWASUTYN: Myself. So  
22 carried.

23 Mike, there's no SEQRA issue?

24 MR. DONNELLY: It's a site plan, as I  
25 understand it. So yes, we'll need SEQRA and

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referral to the Orange County Planning Department.

CHAIRMAN EWASUTYN: We can make a negative declaration?

MR. HINES: Yes.

CHAIRMAN EWASUTYN: I'll move for a motion that we grant a negative declaration for the IHOP at Crossroads Plaza and circulate to the Orange County Planning Department.

MR. HINES: John, can I jump in for a minute? I know you're calling it a site plan but it's currently a restaurant now. I thought it was here for ARB.

CHAIRMAN EWASUTYN: That's what I thought, too.

MR. DONNELLY: If it is, then we're done. It wouldn't need to go to the County.

CHAIRMAN EWASUTYN: I wondered why it was going to the County.

MR. DONNELLY: If it's ARB only, then it doesn't need to go to the County.

MR. HINES: Changing a handicap walk is not something normally we would --

CHAIRMAN EWASUTYN: That's what I

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thought.

MR. CANFIELD: Most of the improvements can be handled with a building permit.

CHAIRMAN EWASUTYN: The only action before us is what we just made, ARB approval.

You'll work with Bryant Cocks as far as the necessary submittals that are needed for ARB. Bryant will work with Jerry Canfield so we know we have everything. You'll work on some kind of landscape estimate for the plant materials.

MR. BOYLAN: Thank you very much.

I have a question to ask. Will we be able to submit for a building review at this point?

MR. HINES: Tomorrow morning.

CHAIRMAN EWASUTYN: Jerry?

MR. CANFIELD: If the ARB is approved, that's the only thing that would limit me from issuing a permit.

MR. GALLI: We approved it tonight.

MR. HINES: Just for Karen's paperwork to follow up.

MR. HIGGINS: Thank you very much.

CHAIRMAN EWASUTYN: You'll have some

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means of securing the building itself as far as public safety goes?

MR. BOYLAN: During construction?

CHAIRMAN EWASUTYN: During construction.

MR. BOYLAN: Absolutely.

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

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

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

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DATED: February 8, 2012

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

----- X  
In the Matter of

SHOPPES AT UNION SQUARE  
(2007-05)

Route 300 and Orr Avenue  
Section 96; Block 1; Lot 6  
IB Zone

----- X

AMENDED SITE PLAN

Date: January 19, 2012  
Time: 7:55 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  
THOMAS P. FOGARTY  
JOHN A. WARD

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

APPLICANT'S REPRESENTATIVE: JOSEPH MINUTA

----- X

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

1  
2 MR. BROWNE: Next is Shoppes at Union  
3 Square, project number 2007-05, an amended site  
4 plan being represented by Joe --

5 MR. MINUTA: Joseph Minuta, Minuta  
6 Architects.

7 Good evening, Mr. Chairman, ladies and  
8 gentlemen of the Board, consultants. Joseph  
9 Minuta with Minuta Architecture. I am here  
10 tonight for the Shoppes at Union Square. For the  
11 phase 1 plan we have an amendment. I have with  
12 me this evening Mr. Adrian Goddard and Mr.  
13 Nicholas Sotara, both owners of the project.

14 We have received the comments from all  
15 the consultants. We have received your  
16 responses. All of the items seem to have been  
17 buttoned up.

18 I did receive Mr. Hines' comments of  
19 late, and I do have responses to them if you  
20 would like to hear them this evening. They're  
21 pretty simple.

22 Pat, to answer your questions: Number  
23 one, there was a general note number 11 on the  
24 plan. The response to that is no, the existing  
25 structures will be demolished in each phase prior

1  
2 to the issuance of a building permit for that  
3 phase as long as it's permissible by the Code  
4 Compliance Department.

5 MR. HINES: That's fine. It was a red  
6 flag. I didn't want you guys to get into a  
7 situation where the back building is 1,000 feet  
8 behind this phase of the project and have to be  
9 taken down. A lot of mine are note changes.

10 My second comment was with the Board I  
11 discussed at work session utilizing asphalt curbs  
12 for blocking off the future phases. I don't have  
13 a problem with it, I just wanted to call it to  
14 the Board's and Jerry's attention that that's  
15 what they were proposing. As long as the Board's  
16 okay with it, I'm fine with it. It's not going  
17 to visually look like the other curbs but it is  
18 temporary and significantly cheaper than pouring  
19 concrete curbs that are just going to be torn  
20 out.

21 There's a conflict in the notes you  
22 worked out between Karen regarding the landscape  
23 berm. There was a remnant of the other plan that  
24 we gave you notes to use. We don't want 25 foot  
25 stockpiles on these phases. The 5 foot note

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should remain.

The other one is just a note for Jerry's office, that the Cosimo's sprinkler system will be extended into these structures. Jerry does believe that's fine.

There's a sanitary manhole identified as manhole 3. It says will be installed as phase and it's written over. I believe it's phase 1. Just confirm that.

These are minor clean-up comments that can be done. I don't have any others.

MR. MINUTA: Jerry, with regard to the sprinkler, that was confirmed by my office that there is sufficient capacity there. We'll be extending the line for that.

MR. CANFIELD: That's currently an 8-inch, Joe?

MR. MINUTA: I want to say it's 6 but I'll have to confirm.

MR. CANFIELD: In any event, you'll prove hydraulically the system can be expanded upon?

MR. MINUTA: We have all the calculations. That's all been accomplished.

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CHAIRMAN EWASUTYN: Jerry, do you have anything else to add?

MR. CANFIELD: No. I have nothing outstanding.

CHAIRMAN EWASUTYN: Bryant Cocks, Planning Consultant?

MR. COCKS: I have nothing further.

CHAIRMAN EWASUTYN: Comments from Board Members. John Ward?

MR. WARD: No comment.

MR. FOGARTY: Going the other way. The only thing that I didn't get a chance to talk about in the work session, as you go through these different phases, all right, how do you prevent the phase that's under construction from interfering with the completed sections? I mean is there -- will that be part of the plan? Is that written out, how that's all phased?

MR. HINES: It is. The phasing plan matches it. It's conducive to the way the site lays out with the stream in the center for the rear phase and the two access drives into this parcel. I think it will flow pretty well on the site.

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2 MR. CANFIELD: I think also, and I  
3 might add, that the phasing for a project of this  
4 type is very important for our department because  
5 it gives us a start and a finish. You know, what  
6 section -- that section the phase is complete,  
7 and we have definitive parameters, what's to be  
8 complete, and then you go on to the next phase.  
9 It's worked in the past with other projects  
10 similar to this.

11 MR. FOGARTY: I just have one other. I  
12 know in phase 2 there's Staples. Is there  
13 anything added to that? I know there used to be  
14 a bank. Was there anything beyond just --

15 MR. GODDARD: We're working on it.

16 MR. FOGARTY: Good luck. Thank you.

17 CHAIRMAN EWASUTYN: Ken Mennerich?

18 MR. MENNERICH: There was a note  
19 relative to the timing of the lot consolidation.  
20 You were going to be discussing that.

21 MR. MINUTA: Yes. I'm glad you brought  
22 that up. That was my next point. I do have a  
23 lot line consolidation plan that has been  
24 prepared. It had been signed by the owners. At  
25 this time we are seeking the Planning Board

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Chairman's signature and approval if deemed appropriate, as well as the Town engineer's signature.

MR. DONNELLY: The Real Property Tax service wants to see a map signed by the chair before they'll do this. I think appropriate you do so.

Ken's question was when. The original resolution required that it be done before the plans were signed. I take it that's still what you propose to do before the site plan is signed.

MR. MINUTA: Before the site plan is signed. We have -- we would appreciate if it can be done to have --

MR. DONNELLY: Sign them all at once.

MR. MINUTA: And get them in. That's really --

CHAIRMAN EWASUTYN: What you could do is leave that, I'll stamp it when I go over this evening and you can pick it up tomorrow morning, if the Board is in agreement.

MR. GALLI: Sure.

MR. MINUTA: Thank you.

CHAIRMAN EWASUTYN: Do you want to

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leave it with me now?

MR. MINUTA: Yes, please.

MR. HINES: I'm not sure that you're going to not need more than one, too.

MR. MINUTA: My understanding is we would photocopy this.

CHAIRMAN EWASUTYN: You can do that. Leave that and I'll stamp it.

MR. DONNELLY: The Real Property Tax service, they're the only ones that need it.

CHAIRMAN EWASUTYN: Do you want to look at that to make sure it's what I can sign?

MR. HINES: I'll look at it while you guys are continuing on here.

MR. MINUTA: The plans there. All of the written descriptions are on the plan as well.

MR. HINES: It's a three-story Staples?

MR. GODDARD: No, no.

MR. DONNELLY: Do you want me to outline the resolution?

CHAIRMAN EWASUTYN: Please.

MR. DONNELLY: As you know, this has been granted approval before. This resolution will be the third amended site plan approval.

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2 I'm going to carry forward the first  
3 condition that except as modified by this  
4 resolution, all the earlier conditions will  
5 apply. We'll need a sign-off letter from Pat  
6 Hines' office, and we also need a sign-off letter  
7 from Karen Arent with her memos of January 13th  
8 and January 10th. As we did before, we'll note  
9 the variance granted by the Zoning Board of  
10 Appeals. We will list the other agency approvals  
11 required in checklist fashion and tabled the way  
12 we did before. Some of them I'm sure are already  
13 satisfied but I'll include them all. The usual  
14 condition that you copy us on all correspondence.  
15 The lot merger condition will be carried over.  
16 The restrictions on outdoor sales, potential  
17 future roadway connection. There's no new ARB  
18 approval. That's already done. There will be  
19 further ones for the new sites. In the phasing  
20 condition for the most recent resolution, it  
21 said, as it will now, no certificate of occupancy  
22 shall be issued for any building unless the  
23 improvements for that phase have been completed.  
24 We then said specifically in phase 1 this shall  
25 include under parking storage and water quality

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control surface sand filters.

Is that still in play here?

MR. HINES: Yes.

MR. MINUTA: Yes.

MR. DONNELLY: That still needs to be completed as part of phase 1. I didn't want to include something that wasn't required.

All of the other conditions, Vehicle and Traffic Law enforcement, landscape security, stormwater, et cetera, are all going to be carried forward.

MR. CANFIELD: Mike, just the securities include the inspection fees.

MR. DONNELLY: Yes. I'm sorry. Yes.

CHAIRMAN EWASUTYN: Having heard the conditions for the amended site plan for the Shoppes at Union Square presented by the Planning Board Attorney Mike Donnelly --

MR. DONNELLY: Excuse me one second. Do we need a maintenance agreement on the stormwater, because that's a new provision?

MR. HINES: Yes.

MR. DONNELLY: Unlike at the time of the original resolution, there's now a

1 requirement when you have a stormwater collection  
2 and treatment system like this, you have to enter  
3 into a maintenance agreement. It's set forth in  
4 the code but we'll make reference to that  
5 language. I'm sorry.

6  
7 CHAIRMAN EWASUTYN: Thank you. And  
8 that would have to be approved by the Town Board;  
9 correct?

10 MR. DONNELLY: It's a standard form.

11 MR. HINES: It's a standard form  
12 included in the ordinance. They need to execute  
13 it to ensure long-term maintenance and operation  
14 of the stormwater improvements.

15 Just for the record, the consolidated  
16 lot with the removal of the four lot lines is  
17 going to result in a 10.39 acre parcel of  
18 property.

19 This map is fine.

20 CHAIRMAN EWASUTYN: Any questions from  
21 the Board Members as far as the resolution  
22 presented by Mike Donnelly for the amended site  
23 plan?

24 (No response.)

25 CHAIRMAN EWASUTYN: Okay. That being

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understood, then I'll move for a motion to grant that approval.

MR. GALLI: So moved.

MR. WARD: Second.

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

MR. GALLI: This has been a long time coming. I just know you two gentlemen will do a fine job. Good luck.

CHAIRMAN EWASUTYN: There being discussion, a motion made by Frank Galli, seconded by John Ward, any further discussion?

(No response.)

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

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: And myself. So carried.

Thank you.

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Joe, so I don't have to leave a note,  
when you return can I have six copies of that,  
bring them back to the office?

MR. MINUTA: Yes, you will. Can I  
present this to you?

CHAIRMAN EWASUTYN: Is that what I need  
to sign?

MR. MINUTA: Yes.

MR. GODDARD: Thank you very much.

(Time noted: 8:08 p.m.)

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

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

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DATED: February 8, 2012

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

----- X  
In the Matter of

ORCHARD HILLS AMENDED SITE PLAN  
(2011-28)

Route 9W and Oak Street  
Section 9; Block 1; Lot 78.1  
R-3 Zone

----- X

AMENDED SITE PLAN

Date: January 19, 2012  
Time: 8:08 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  
THOMAS P. FOGARTY  
JOHN A. WARD

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

APPLICANT'S REPRESENTATIVE: ROSS WINGLOVITZ

----- X

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

1  
2 MR. BROWNE: Our next item of business  
3 is Orchard Hills, amended site plan, project  
4 number 2011-28, being represented by Ross  
5 Winglovitz.

6 MR. WINGLOVITZ: Good evening. Ross  
7 Winglovitz with Engineering Properties here on  
8 behalf of JK Scanlon regarding the amended site  
9 plan for Orchard Hills.

10 We were here last month regarding minor  
11 site plan amendments which we identified in our  
12 letter of submission to the Board back in  
13 November.

14 Most significant of those were the  
15 recreation area, larger pool deck, slightly  
16 smaller all sports court, a number of sidewalk  
17 changes and so forth that we've outlined.

18 At the meeting last month there was a  
19 concern about phasing. We did have a work session  
20 here on December 27th in which the project  
21 manager for JK Scanlon, Sal Moffa, showed up and  
22 explained where they were at. Basically the  
23 entire apartment area is complete, with the  
24 exception of building 16, with the foundations  
25 going in. The building will be set probably in

1  
2 February. All of the buildings have been set,  
3 parking areas are primarily completed. There's  
4 still a couple curbed islands that need to be  
5 finalized.

6 The plan for occupancy for the entire  
7 site starts here with occupancy of what's called  
8 building 2 and working their way around the  
9 exterior of the loop. The area around building  
10 16, building 10 and the parking lot will be  
11 fenced for safety because that will be the only  
12 construction really going on in this area, other  
13 than landscaping probably would need to be  
14 completed in the spring.

15 The townhouse section, the roads have  
16 been completed up to the intersection and then up  
17 the hill to the top. There are still utilities  
18 being installed here. That will be the last area  
19 to be occupied.

20 Buildings 3 and 5 also still need to be  
21 constructed. The remainder of the buildings are  
22 all actually in.

23 Procedurally they want to start with  
24 occupancy in building 2, work their way around to  
25 building 4, 6 and 8, 11, 12 and then 10 at the

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rear of the site.

The sewer treatment plant is expected to be complete in February, early February. They're working on finalizing that now.

The State highway improvements have been completed with the exception of one light that needs to be in.

We're here to answer any questions you may have.

CHAIRMAN EWASUTYN: I think we'll turn to Jerry Canfield. You know the history of this project so well, bring us along.

MR. CANFIELD: What was your question?

CHAIRMAN EWASUTYN: Is this still an active project in the Town of Newburgh?

MR. CANFIELD: It's still a very active project. I think with this, I have no outstanding issues with this amended site plan for these changes.

Just to reiterate the fact that the original conditions that were imposed still apply with respect to certificate of occupancies. I believe the sewer treatment plant was to be online, functioning, serving the project. The

1  
2 traffic light must need to be functioning and in  
3 service. The light -- I know the Board Members  
4 had done an inspection up there a couple weeks  
5 ago in the area, so you're aware the light is  
6 there. It's not functioning yet but it is  
7 strung. I believe they're waiting on the  
8 telephone company.

9 MR. WINGLOVITZ: Correct. One mass drum  
10 that needs to go in can't be installed until the  
11 telephone company moves their lines.

12 MR. CANFIELD: Right. I know the  
13 developer has hopes of occupying the apartment  
14 portion, which is in the front, I've heard  
15 several different dates, perhaps as early as  
16 February. We have no problem with complying with  
17 that or trying to help you meet your goals,  
18 however the previous conditions, I just can't  
19 reiterate the importance of the sewer plant, the  
20 traffic light.

21 Karen was up. I know she has some  
22 concerns with the berm and the fence that was  
23 installed. She's going back up and going to meet  
24 with Sal again. That would be the berm and fence  
25 on the Oak Street entrance side which would be

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somewhat of a buffer for the few residents that are there in contact with the site.

MR. WINGLOVITZ: This location here?

MR. CANFIELD: Yes.

Basically that's all I've got. I have no issues with this amendment.

CHAIRMAN EWASUTYN: Pat Hines, Drainage Consultant?

MR. HINES: We don't have any outstanding comments on the amendment.

We did discuss, at work session, the project has been going relatively smooth with regard to the soil erosion and site work. We've had very little, if any, issues during the construction.

What just came to mind is at some point the Oak Street access is going to be terminated. Is that upon occupying the buildings? It's a construction entrance only. I just want to make sure --

MR. WINGLOVITZ: The access is to be through here for the whole project, that was one reason they did that first, and then be maintained. There were concerns from Parr Valley

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about using this as a construction access and just limiting it to the sewer treatment plant, the construction of the entryway and so forth.

MR. HINES: I don't believe that entrance is currently gated.

MR. WINGLOVITZ: Oak Street?

MR. HINES: Yes.

MR. WINGLOVITZ: Boy, you know every time I've been through there I went right in.

MR. HINES: Myself also. If you're going to start -- I don't mind if you use it for construction but I don't want it to become the sneak out, avoid the light for the residents. I think if it is not gated it needs to become a gated construction entrance with access for the emergency services. Because you were speaking, it came up.

CHAIRMAN EWASUTYN: And some kind of post and signage on the interior to warn people of that.

MR. HINES: People may start thinking that's --

CHAIRMAN EWASUTYN: You can't maintain it but at least it will be up.

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2 MR. CANFIELD: I agree with Pat's  
3 comments. That's a very good point. I have  
4 received some inquiries from some of the  
5 residents up in the Oak Street area, specifically  
6 Bright Star Drive and Alta Drive. Once they seen  
7 this on the agenda, that was their first comment,  
8 are they changing it and is that going to be an  
9 entrance. My response was no. So it's a  
10 legitimate point.

11 MR. WINGLOVITZ: Yup. Good comment.

12 CHAIRMAN EWASUTYN: Thank you, Pat.

13 Bryant Cocks, Planning Consultant?

14 MR. COCKS: I have no additional  
15 comments.

16 CHAIRMAN EWASUTYN: Mike Donnelly?

17 MR. DONNELLY: This will be the sixth  
18 amended site plan approval resolution. We will  
19 carry forth the earlier original conditions. We  
20 had discussed one, at least my notes say, and it  
21 came from a concern of what happens if there are  
22 buildings that are started or sites that are  
23 disturbed and then nothing happens. We wanted to  
24 have a trigger to say those building sites would  
25 be returned to a safe, stable and attractive

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condition. I don't remeber when in time that was, whether such a note --

MR. HINES: It's really not an issue anymore. The building sites are up.

MR. CANFIELD: At the time we had a concern that there were certain buildings that were not going to be constructed.

MR. DONNELLY: I had a feeling it was old. There's nothing new that needs to be carried over. The old conditions will carry.

We need a stormwater maintenance agreement, which may not have been in the original agreement.

MR. WINGLOVITZ: The Town has a standard agreement?

MR. HINES: It's right in the ordinance now. It's an appendix to the ordinance.

MR. GALLI: Ross, are you having the same problem with the telephone company as the other applicant was? I heard you say something.

MR. WINGLOVITZ: This improvement started in October right after the hurricanes and floods. All the utilities have been backed up trying to get manpower mobilized to do projects

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like this.

MR. GALLI: Did they give you a time estimate?

MR. WINGLOVITZ: I haven't heard. They understand that that's part of the equation for getting COs.

CHAIRMAN EWASUTYN: I'll move for a motion from the Board to grant the amended site plan approval for Orchard Hills subject to the conditions of the resolution presented by our Attorney, Mike Donnelly.

MR. MENNERICH: So moved.

MR. FOGARTY: Second.

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

(No response.)

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

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

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CHAIRMAN EWASUTYN: Aye.

Thank you. Congratulations.

MR. WINGLOVITZ: Thank you very much.

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

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

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

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DATED: February 8, 2012

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

----- X  
In the Matter of

HUDSON DINER  
(2011-02)

Request for a Six-Month Extension of  
Final Site Plan Approval

----- X

BOARD BUSINESS

Date: January 19, 2012  
Time: 8:18 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  
THOMAS P. FOGARTY  
JOHN A. WARD

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

----- X

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

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HUDSON DINER

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MR. BROWNE: We have a couple items on Board Business. The first one is the Hudson Diner, project number 2011-02.

The applicant is requesting a six-month extension of final site plan approval which will run from February 15, 2012 to August 15, 2012.

CHAIRMAN EWASUTYN: I'll move for that motion.

MR. GALLI: So moved.

MR. FOGARTY: Second.

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

(No response.)

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

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

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

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

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

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DATED: February 8, 2012

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

----- X  
In the Matter of

PROPOSED TOWN OF NEWBURGH LOCAL LAW: REQUEST FOR  
ZONING TEXT REVISIONS & OPEN AREA DEVELOPMENT  
DESIGNATION MID-HUDSON MARINA, OAK STREET  
(2010-19)

DISCUSSION BY MICHAEL DONNELLY & BRYANT COCKS

----- X

BOARD BUSINESS

Date: January 19, 2012  
Time: 8:20 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  
THOMAS P. FOGARTY  
JOHN A. WARD

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

----- X

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

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2 MR. BROWNE: The next item is Michael  
3 Donnelly and Bryant Cocks will discuss the  
4 proposed Town of Newburgh law, request for zoning  
5 text revisions and open development area  
6 designation Mid-Hudson Marina, Oak Street, Town  
7 of Newburgh, New York.

8 MR. DONNELLY: Maybe I should begin. I  
9 outlined this a little bit in the work session.  
10 Just to clarify again, this is a project that,  
11 under an earlier version, had received full SEQRA  
12 review, meaning an EIS and a Findings Statement.  
13 I've seen that document and we're all in  
14 agreement it did occur.

15 What's currently proposed is, I'm quite  
16 sure because I've been told this, a reduction in  
17 the size of the project. I think we have every  
18 reason to believe the SEQRA review in terms of  
19 its content would have handled all of the  
20 environmental issues raised. I also have a  
21 feeling the Findings Statement addressed a very  
22 different project, and that might need to be  
23 amended.

24 Put aside the SEQRA for a moment and  
25 then I'll come back to it. There are three

1  
2 proposals before various boards of the Town. One,  
3 most obviously is the new site plan approval for  
4 the revised project. Additionally, the applicant  
5 has applied to the Town Board for a change in the  
6 zoning chapter text to allow some changes in  
7 density or use, I forget the exact flavor of  
8 those, and that's pending before the Town Board.  
9 In addition, the access way that will serve this  
10 project is across a right-of-way or easement, and  
11 under the Town Law, Section 280-A, an open  
12 development area needs to be created before  
13 building permits can be issued and site plan  
14 approval can be granted for the project. That  
15 application is a Town Board application. That  
16 has been made to the Town Board.

17 Under Section 280-A of the Town Law,  
18 before the Town Board can act on creation of an  
19 open development area, they are required to ask  
20 the Planning Board for its advice on that  
21 application. The Planning Board's jurisdiction  
22 is to grant that -- to render that advice, you  
23 have a letter from the Town Board asking for it,  
24 and they ask specifically for both your advice as  
25 well as the rationale and the information backing

1  
2 it up. You were also given authority to propose  
3 to the Town Board that the Town Board enact  
4 regulations governing the creation of the open  
5 development area, if they approve it, of either a  
6 general or specific nature, and I think it's the  
7 specific ones that really have application here.

8           It is before you for the purpose of  
9 that advice. I don't know that you need to  
10 closeout SEQRA before you give the advice.  
11 However, before the Town Board can take action  
12 on either the zone change petition or the open  
13 development area petition, and before you can  
14 take action on the site plan, you need to  
15 closeout SEQRA. I think we need to have the  
16 applicant get to us a copy of the EIS so we can  
17 look at it. We need to have a summary prepared  
18 of the highlights of why this project is fully  
19 addressed in that EIS, and we certainly need to  
20 have a copy of the Findings Statement so we can  
21 determine whether or not it adequately covers  
22 this project. If it does, you can then issue a  
23 SEQRA consistency determination. That is a  
24 finding that the EIS covers all of the issues in  
25 the project and all of this proposal is within

1  
2 its threshold and that the Findings do not need  
3 to be amended. I think it's more likely you'll  
4 say that the EIS covers the project but then  
5 issue an amended Findings Statement. I think as  
6 we're doing that, we need to have the applicant  
7 prepare that or help to have a chart or highlight  
8 of the Findings that need to be changed so we can  
9 do an amended one.

10 In the meantime I think you need to get  
11 a hold on the issues raised by the creation of  
12 the open development area, how wide is the  
13 easement, what precautions need to be put in  
14 place, is the sight distance adequate, does it  
15 need to have warning signs or are there any  
16 restrictions on further development that may make  
17 it unable to handle that. Those would be the  
18 types of things I think you could put into your  
19 recommendations. And of course your thumbs up/  
20 thumbs down and rationale advice to the Town  
21 Board needs to be given. I don't know if you  
22 need to turn to your technical consultants for  
23 them to give you specific advice in that regard.  
24 I think you should hear further from the  
25 applicant on the SEQRA issue. At some point, and

1  
2 I think sooner rather than later, that advice  
3 needs to be handed off to the Town Board. It  
4 would be preferable if we closed out SEQRA first,  
5 but I believe that the advice to the Town Board  
6 is a preliminary nonbinding determination that  
7 could be done before you close SEQRA.

8           There are two tasks before you: Get a  
9 handle on SEQRA, work with your consultants to  
10 put together your advisory report to the Town  
11 Board on creation of the 280-A open development  
12 area. You have not yet been asked, I don't  
13 think -- and, Bryant, correct me if I'm wrong --  
14 for any particular report on the proposal for the  
15 zone changes before the Town Board. You will at  
16 some point if that continues on, because when the  
17 Town Board has before it a change in either the  
18 map or the text of the zoning chapter, it's  
19 required to ask you for a report on specific  
20 criteria. You're quite familiar with that. I  
21 don't think that's been done yet. I think Mark's  
22 letter said they have not yet prepared the local  
23 law because I think they're still in discussion  
24 with the applicant over the nature of what those  
25 proposals might be.

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CHAIRMAN EWASUTYN: Questions from Board Members. Frank Galli?

MR. GALLI: No.

CHAIRMAN EWASUTYN: Cliff?

MR. BROWNE: With respect to the open development area, could you explain that one more time to me?

MR. DONNELLY: Why one is needed?

MR. BROWNE: What it is.

MR. DONNELLY: I think I had given you -- probably one of the things that might help you is the letter on the proposal last month outlining Section 280-A. 280-A is a very specific section of law to follow. Essentially what it says is that before building permits can be issued, and obviously you can't issue a building permit in this context unless you have site plan approval, the status of the roadway that will provide access has to have a certain level of formality. That level is met by it being on the official map of the Town, or, if there's no official map, by it being a road shown on a plot or approved plat, so on and so forth. The road must also be suitably improved. Usually

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2 that means to Town roadway specifications. When  
3 the roadway providing access does not satisfy the  
4 formal status requirement, it's not on the  
5 official map of the Town, not on a subdivision,  
6 not an existing State, County or Town highway,  
7 then therefore the access to the site is by  
8 easement or right-of-way, then the only way which  
9 a building permit can be issued for the site is  
10 if the Town Board creates for that site what's  
11 called an open development area. It is  
12 basically a specific legislative act that will  
13 allow a piece of property that could not  
14 otherwise be developed, because it doesn't have  
15 the access, to obtain the right to use the  
16 easement or right-of-way as its access point, and  
17 in the process of creating one the Town Board is  
18 required to ask the Planning Board for its advice  
19 on that proposal. That's the juncture we're at.

20 MR. BROWNE: Essentially it's a special  
21 form of an easement?

22 MR. DONNELLY: It allows an easement to  
23 be granted by legislative act of the Town Board  
24 when it wouldn't otherwise be allowed.

25 MR. BROWNE: Thank you.

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CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: A couple things. One is on the road that will go in on that easement, assuming it was approved. I think we should have our technical experts look at that and tell us what type of road is needed and what kind of improvements are needed on that. That should go in our suggestion to the Town Board.

CHAIRMAN EWASUTYN: And that would be a specific recommendation.

MR. MENNERICH: Right. The other thing I'm wondering about -- I realize this project has got less impact than the previous one. If my recollection is right, the previous one had the big marina operation and single-family houses where this one is going to have the townhouses. I don't know what the numbers are of people in the two scenarios, but I do remember when we had public hearings there was a lot of input from the public on the site. I guess I'm questioning whether we should have another public hearing or not on the new proposal.

MR. DONNELLY: Certainly that's an option for you, both under SEQRA, if you require

1 a supplemental, and for the site plan. There's  
2 no provision for a public hearing on the advisory  
3 report under 280-A. That's not to say that  
4 inherently you can't hold a public hearing on  
5 whatever you'd like, but it's not one that's  
6 provided for in State law. I think you should  
7 get a handle on what is the density of this  
8 project and is the roadway that's proposed to be  
9 used adequate for that purpose, because that's  
10 the rub of the open development area, does this  
11 easement work for this particular piece of land.  
12 I think that is really what you need to give your  
13 advice to them on. It's important that you give  
14 that specific advice because it is possible that  
15 the open development area is created and then for  
16 whatever reason this application goes away and  
17 now the open development area is created, it can  
18 be used for any other use. If you don't impose  
19 or if the Town Board doesn't accept your proposed  
20 regulations and restrictions on the creation,  
21 then there's no handwriting on the wall for the  
22 next user and they think it's a walk in the park  
23 to do what they'd like. So I think the  
24 comparative analysis of the old project and the  
25

1  
2 new, and then technical advice on the nature of  
3 the roadway and what types of regulatory  
4 restrictions should be addressed for the creation  
5 of the open development area.

6 CHAIRMAN EWASUTYN: Tom Fogarty?

7 MR. FOGARTY: Mike, what is the next  
8 immediate step for the owner to take and the next  
9 step that we have to take to move this?

10 MR. DONNELLY: The only step that's  
11 before you immediately is the advisory report on  
12 the 280-A open development area. I have said to  
13 the applicant's representatives I think sooner --  
14 the sooner the better we get a handle on the  
15 SEQRA issues, because while you can give your  
16 advisory report before you close out SEQRA, I  
17 think it might be helpful to have that SEQRA  
18 analysis before you so you can look at what are  
19 the environmental issues that the earlier members  
20 of the Planning Board saw with this project,  
21 because they may directly relate to what  
22 restrictions you may want to place or regulations  
23 you may want to recommend in relation to the open  
24 development area. The site plan will come later  
25 and be guided by the creation of the open

1  
2 development area, if it happens, and any  
3 amendments to the code that may take place. So  
4 you can push that further down the road. I think  
5 SEQRA and your advisory report are the two things  
6 that are before you.

7 MR. FOGARTY: The advisory report, who  
8 will put that together?

9 MR. DONNELLY: I'm going to volunteer  
10 Bryant.

11 CHAIRMAN EWASUTYN: I think that would  
12 be a combination again. That would be a  
13 combination of Bryant, that would be a  
14 combination of Ken Wersted, and that would be a  
15 combination of Pat Hines.

16 MR. DONNELLY: And you.

17 MR. FOGARTY: That's the next step in  
18 that process.

19 CHAIRMAN EWASUTYN: And the question  
20 then is, and it's a good question, good point,  
21 Jerry, Pat and Bryant will be meeting on the 31st  
22 to review the Russell and Lee site plan on Route  
23 52. If you remember, we had set that up for a  
24 consultants' meeting . That's a project across  
25 from Tarsio's, because it was the old garden

1 center, it had a lot of buildings. The question  
2 was do we demo buildings, can you demo buildings.  
3 So they're meeting with him on the 31st.  
4

5 Correct?

6 MR. CANFIELD: Yes.

7 CHAIRMAN EWASUTYN: The Board may want  
8 to consider, and Ken Wersted would have the make  
9 the trip down, to also add this on for a think  
10 tank session to come up with these  
11 recommendations. It could be an advisory group  
12 get together to come up with specific  
13 recommendations and discuss this. You're right.  
14 Like Mike said, as far as SEQRA and Findings,  
15 that will have to come from the applicant group  
16 themselves. Do you want to move in that  
17 direction?

18 MR. FOGARTY: Yeah. I think that's the  
19 way we should go. I think we should go in an  
20 orderly process.

21 CHAIRMAN EWASUTYN: John Ward?

22 MR. WARD: I had a question. When you  
23 said open space, and say this project doesn't go  
24 for future open space, is that like setting a  
25 foundation for a future --

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MR. DONNELLY: Once the open development area is created, then that plan is entitled to use that access way.

MR. WARD: That's what I wanted to understand. Thank you.

CHAIRMAN EWASUTYN: Comments from our consultants. Jerry Canfield?

MR. CANFIELD: Just one thing. On this particular project; Mike, the issue with the number of slips, that was a zoning issue. That will be addressed?

MR. DONNELLY: I think that was part of the proposed changes to the law.

MR. CANFIELD: It is? Okay.

MR. DONNELLY: I thought so.

MR. COCKS: Yes, it is.

MR. CANFIELD: If not, then it would have to go for a variance.

MR. HINES: Right now marinas require 100 slips to be called that.

CHAIRMAN EWASUTYN: That's why theirs is at that number then.

MR. CANFIELD: I think this project only had 40, if I'm correct.

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MR. FOGARTY: Didn't they reduce the sailboats?

MR. COCKS: It's moorings, not even slips anymore.

MR. HINES: Just what Ken had said, there was no residential component to this marina. The residential was the 21 lots above and this was a larger marina/restaurant facility under the original, and now they got rid of the restaurant.

CHAIRMAN EWASUTYN: Bryant Cocks?

MR. COCKS: I have no additional.

CHAIRMAN EWASUTYN: I'll move for a motion to set the Mid-Hudson Marina for a consultant work session on the 31st of January for our consultants to advise us on the reasoning and specific recommendations for an open development area designation.

MR. MENNERICH: So moved.

MR. FOGARTY: Second.

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

(No response.)

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

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Myself. So carried.

Michelle, just for the record, and even for later submissions on vouchers, use the project number for Mid-Hudson Marina for vouchers.

One more reminder. Monday evening, this coming Monday, is the public hearing on the EIS for the Delaware Aqueduct.

MR. GALLI: If we all show up, is that a quorum?

CHAIRMAN EWASUTYN: Please keep in mind that Tom Fogarty and Cliff Browne will be absent for the month of December.

MR. GALLI: February.

CHAIRMAN EWASUTYN: Just checking myself. We have to monitor our presence for

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those two meetings.

I'll move for a motion to close the meeting of January 19, 2012.

MR. FOGARTY: So moved.

MR. GALLI: Second.

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

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. FOGARTY: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: And myself. So carried.

(Time noted: 8:35 p.m.)

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

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7 I, Michelle Conero, a Shorthand  
8 Reporter and Notary Public within and for  
9 the State of New York, do hereby certify  
10 that I recorded stenographically the  
11 proceedings herein at the time and place  
12 noted in the heading hereof, and that the  
13 foregoing is an accurate and complete  
14 transcript of same to the best of my  
15 knowledge and belief.  
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DATED: February 8, 2012