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

----- X

In the Matter of

PLANNING BOARD REORGANIZATION

----- X

BOARD BUSINESS

Date: January 8, 2009
Time: 7:00 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

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

----- X

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

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REORGANIZATION

MS. HAINES: Good evening, ladies and gentlemen. I'd like to welcome you to the Town of Newburgh Planning Board meeting of January 8, 2009. At this time we will call the meeting to order with a roll call vote starting with Frank Galli.

MR. GALLI: Present.

MR. BROWNE: Present.

MR. MENNERICH: Present.

MR. PROFACI: Here.

CHAIRMAN EWASUTYN: Present.

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

MR. DONNELLY: Michael Donnelly, Planning Board Attorney.

MS. CONERO: Michelle Conero, Stenographer.

MR. CANFIELD: Jerry Canfield, Town of Newburgh Fire Inspector.

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

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

MS. ARENT: Karen Arent, Landscape Architectural Consultant.

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

MS. HAINES: Thank you. At this time I'll turn the meeting over to Joe Profaci.

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

(Pledge of Allegiance.)

MR. PROFACI: If you wouldn't mind turning off your cell phones.

MS. HAINES: This is our first meeting since the Town had their reorganizational meeting and we have some actions before us tonight for reorganization.

First I want to say congratulations to Cliff Browne, Ken Mennerich and Joe Profaci for being reappointed on Monday night.

CHAIRMAN EWASUTYN: Congratulations.

MS. HAINES: The first item we have is for the appointment of Ken Mennerich for the Vice Chairmanship of the Planning Board.

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REORGANIZATION

CHAIRMAN EWASUTYN: I'll move for that motion.

MR. GALLI: I'll second it.

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

(No response.)

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

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: And myself. So carried.

MS. HAINES: Next we need a motion for the appointment of Michael Donnelly for the position of Planning Board Attorney.

MR. PROFACI: So moved.

MR. GALLI: Second.

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

MR. GALLI: Aye.

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REORGANIZATION

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: Myself yes. So
carried.

MS. HAINES: Next is a motion for the
appointment of Bryant Cocks of Garling Associates
as our Consulting Planner.

MR. BROWNE: So moved.

MR. MENNERICH: Second.

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

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: Myself aye.

MS. HAINES: Next we need a motion to
appoint Karen Arent, Registered Landscape
Architect, as our Landscape Architectural
Consultant.

MR. GALLI: So moved.

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REORGANIZATION

MR. MENNERICH: Second.

CHAIRMAN EWASUTYN: I have a motion by Frank Galli. I have a second by Ken Mennerich. I'll ask for a roll call vote starting with Frank Galli.

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: Myself yes. So carried.

MS. HAINES: We need a motion to appoint Kenneth Wersted of Creighton, Manning Engineerng as our Traffic Consultant.

MR. PROFACI: So moved.

MR. GALLI: Second.

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

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

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REORGANIZATION

CHAIRMAN EWASUTYN: Myself aye. So carried.

MS. HAINES: Next we need a motion to appoint Patrick J. Hines of McGoey, Hauser & Edsall as our Consulting Engineer.

MR. MENNERICH: So moved.

MR. PROFACI: Second.

CHAIRMAN EWASUTYN: I have a motion by Frank Galli. I have -- excuse me. That was by Ken Mennerich. I have a second by Joe Profaci. I'll move for a roll call vote starting with Frank Galli.

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: Aye. So carried.

MS. HAINES: We now need a motion to appoint Michael Musso of HDR LMS as our Telecommunications Consultant.

CHAIRMAN EWASUTYN: I'll move for that motion.

MR. PROFACI: So moved.

CHAIRMAN EWASUTYN: I have a motion by

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myself and a second by Joe Profaci. I'll ask for a roll call vote starting with Frank Galli.

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: Myself yes.

I would like to congratulate everyone and welcome you to the start of the new year.

MS. HAINES: I have one more, John. We need a motion to appoint Michelle Conero as our Stenographer. That's not on the list.

MR. PROFACI: So moved.

MR. GALLI: Second.

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

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: Myself yes. So carried.

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MS. HAINES: Now we need a motion for the adoption of the Planning Board meeting schedule for the year 2009.

CHAIRMAN EWASUTYN: I'll move for that motion.

MR. GALLI: Second.

CHAIRMAN EWASUTYN: I have a motion by myself and a second by Frank Galli. I'll ask for a roll call vote starting with Frank Galli.

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: And myself yes. So carried.

MS. HAINES: Last we need a motion for the adoption of the consultants' work session schedule for the year 2009.

MR. MENNERICH: So moved.

MR. PROFACI: Second.

CHAIRMAN EWASUTYN: I have a motion by Ken Mennerich, a second by Joe Profaci. I'll ask for a roll call vote.

MR. GALLI: Aye.

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REORGANIZATION

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: Aye. So carried.

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

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

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

DATED: January 16, 2009

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

----- X

In the Matter of

GOLDEN VISTA
(1999-33)

Meadow Hill Road
Section 60; Block 1; Lot 9
R-3 Zone

----- X

RESIDENTIAL SITE PLAN

Date: January 8, 2009
Time: 7:10 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

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

APPLICANT'S REPRESENTATIVE: ANDREW FEATHERSTON

----- X

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GOLDEN VISTA

MS. HAINES: The first agenda item that we have tonight is Golden Vista. It is a residential site plan, it's located on Meadow Hill Road in an R-3 zone and it's being represented by Andrew Featherston.

MR. FEATHERSTON: Good evening, Members of the Board. Happy New Year. Would you like me to give you any briefing on this whatsoever?

CHAIRMAN EWASUTYN: What would the Board like?

MR. GALLI: He might as well go through it.

CHAIRMAN EWASUTYN: Go through it then.

MR. FEATHERSTON: Okay. Let me see. Interstate 87 is just below the page. North is generally in that direction. This is Meadow Hill Road after you cross the bridge, come up the hill winding. This is east of the school. The school is in about this location. This is Meadow Hill Road, this is Meadow Winds Development. The site is approximately eighteen-and-a-quarter acres. It's in the R-3 zone. It's proposed for 188 units of senior citizen housing made up of one and two-bedroom units. There is one other unit

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GOLDEN VISTA

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for a caretaker making the total 189.

There's 188 parking spaces required on the site, there's 264 proposed.

The water is proposed to be tapped from Meadow Hill Road, go through the site and loop into the existing system in Meadow Winds. That's one of the easements that we just recently had to acquire. There's an easement for the water but also for the emergency access between the two developments.

The sanitary sewer is collected all by gravity, discharges out, and this is the secondary -- second easement that we needed was to access that sanitary manhole at that location also on Meadow Winds.

That's it, Mr. Chairman.

CHAIRMAN EWASUTYN: And it took you that long? We just accomplished it in less than thirty seconds.

MR. REINEKE: He wasn't on the project the whole time.

CHAIRMAN EWASUTYN: I'm missing something but we won't get into it at this point. I've always said I'm a little slow anyway.

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GOLDEN VISTA

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MR. GALLI: I just had a question on his presentation. He said there's 189 units.

MR. FEATHERSTON: In total with a caretaker's apartment.

MR. GALLI: You don't have a parking lot because you said 188 parking spaces?

MR. FEATHERSTON: There's 264 proposed, 188 required.

CHAIRMAN EWASUTYN: Comments from our consultants. Jerry Canfield.

MR. CANFIELD: At the work session we had discussed the road width being changed to comply with the fire code. There's one -- actually a few sections where the fire hydrants are located. They all appear to be located in a curbed area. That area needs to be increased to the twenty-six feet. It appears that it's workable to do that if we could just push the curb back somewhat to give that twenty-six foot span. That's it on fire protection.

MR. HINES: It's currently twenty-five. It's a one-foot change.

MR. FEATHERSTON: Correct.

CHAIRMAN EWASUTYN: Pat Hines, Drainage

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GOLDEN VISTA

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Consultant.

MR. HINES: I gave the review to the Board during work session, kind of a history of where the project has been since before Andrew was here.

We have no outstanding technical comments.

We talked about the fire access.

There's a need to have road names established for the 911 address. That hasn't been done yet.

The water system is there. The drainage was upgraded to current standards since 1999. I think back in '04 it started to get updated to those standards.

We have no outstanding comments.

CHAIRMAN EWASUTYN: Bryant Cocks, Planning Consultant.

MR. COCKS: We have no further comments.

I just wanted to note a negative declaration was issued for this project on March 16, 2000.

CHAIRMAN EWASUTYN: Thank you. Karen

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GOLDEN VISTA

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Arent, Landscape Architect.

MS. ARENT: I have no comments.

CHAIRMAN EWASUTYN: Ken Wersted,
Traffic Consultant.

MR. WERSTED: No comments.

CHAIRMAN EWASUTYN: I'll turn to Mike
Donnelly, the Planning Board Attorney, to review
with the Planning Board the conditions in the
resolution for final site plan approval for
Meadow Hill Holdings, LLC known as Golden Vista.

MR. DONNELLY: I have given you all a
copy of a proposed final site plan resolution.
The applicant's representatives have a copy as
well.

In the resolution I tracked all of the
changes from the earlier preliminary approval
resolution, and in checklist fashion we can go
through those at this time. I do note that ARB
has yet to be presented, and there is a condition
that says ARB has been reserved to the future.

The first condition having to do with
the earlier wetlands disturbance has been
resolved and that condition can be deleted. In
it's place we'll insert a condition that requires

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receipt of a sign-off letter from Jerry Canfield's office in which he reports that the plans have been changed to modify the roadway widths in the areas that he just spoke of in order to comply with the current New York State Fire Code.

Condition number 2 has also been resolved. Those drainage calculations were provided and are satisfactory.

Condition 3 remains. It simply recites that the Planning Board's approval is subject to the conditions of the resolution of the Town Board that granted senior citizen residential status to the project. That agreement or that resolution required that certain offers of dedication be delivered, and before signing of the plans a condition that bears number 4 of those documents will have to be delivered.

There is an out-of-district sewer user agreement that is referenced in condition 5.

The Health Department approval from condition 6 has been received, therefore that condition can be removed.

Condition 7 related to the easement

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agreement that covered both water connection, sewer connection, as well as emergency access. I do indeed have a copy of an easement agreement and it makes provision for all three of those, however for reasons that seemed important at the time we had required that to the extent that there was an emergency access agreement, it was to run for the purposes of that emergency access not just to the land owners reciprocally but to the Town as well. The copy of what I have did not do that. I don't know that that is crucial because anybody that enters the property, they have the right to cross to the other, and you can enter either property for emergency purposes, then you can cross to the other property without trespassing. I don't believe -- I don't think it was a requirement of emergency services.

Jerry, I don't think you have any issue with that.

MR. CANFIELD: No.

MR. DONNELLY: I think -- although it doesn't technically satisfy it, I think we can remove the condition. I think that's more than what was required.

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The Town Board resolution of June 16th as well as the code requires that there be a recorded document carrying forth the senior citizen approval, and that will have to be presented to the town attorney and recorded prior to signing of the plans.

Further, the association -- the condominium association bylaws need to be submitted to and approved by the town attorney as well.

There was a condition number 9 that required final approval of the utilities, water, sewer and stormwater plans, by the town engineer, the Planning Board engineer and the Newburgh code compliance department. We believe in all likelihood that has been done but we're going to leave the condition to make sure that each of those communicates, to Bryant Cocks first but to the Planning Board that those have been fully satisfied. We'll also include, though it's not listed here, what I said earlier, and that is a statement that ARB has not yet been granted and will be granted at a later date.

The applicant shall be required to post

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a landscape security and inspection fee, a stormwater improvement security and inspection fee, a water main extension security and inspection fee, and a sewer main extension security and inspection fee.

As mentioned earlier, the Town Board will have to approve the road name, and that must be accomplished before the plans are signed.

Condition number 14 is a standard condition that says you can't build anything on site that is not shown on the plans.

There were two others conditions that we discussed at the work session. The first is the requirement that a letter/petition under Vehicle and Traffic Law Section 1660 be submitted to the Town Board which authorizes the Town police department to enforce Vehicle and Traffic Law violations on the property. I don't think that's any problem for the applicant.

And the last is, and I don't have a copy of the Town Board resolution, but unless it has been waived by the senior citizen approval resolution of the Town Board, then there will be a requirement of the payment of parkland fees for

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GOLDEN VISTA

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the units in the project.

I think that covers all the conditions.

CHAIRMAN EWASUTYN: Questions from --

MR. REINEKE: No surprises. I think most of it is already in place and the balance is just a question of getting final sign offs. I have already been in touch on the various things that required his review. He did some modifications on the declarations, so now that we have this we can proceed to get that completed and recorded, which again is one of your conditions. No surprises.

CHAIRMAN EWASUTYN: For Michelle Conero who does the record keeping --

MR. REINEKE: Steve Reineke, attorney for the applicant.

MR. DONNELLY: One question. Steve, I took Meadow Hill Holdings, LLC off the recorded instrument. Is that the proper party to receive this approval?

MR. REINEKE: They are the record owners. Yes, that would be the correct.

CHAIRMAN EWASUTYN: Comments from our Board Members. Frank Galli?

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GOLDEN VISTA

MR. GALLI: No additional.

CHAIRMAN EWASUTYN: Cliff Browne?

MR. BROWNE: No.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: No.

CHAIRMAN EWASUTYN: Joe Profaci?

MR. PROFACI: No.

CHAIRMAN EWASUTYN: Additional comments
from our consultants. Jerry Canfield?

MR. CANFIELD: Nothing additional.

MR. HINES: Nothing.

CHAIRMAN EWASUTYN: Bryant Cocks?

MR. COCKS: No.

CHAIRMAN EWASUTYN: Karen Arent?

MS. ARENT: No.

CHAIRMAN EWASUTYN: Ken Wersted?

MR. WERSTED: Nothing.

CHAIRMAN EWASUTYN: Having been
presented with the conditions for site plan
approval in the resolution discussed by our
attorney, Mike Donnelly, for Meadow Hill
Holdings, LLC, Golden Vista, I'll move for a
motion to grant final site plan approval subject
to those conditions.

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GOLDEN VISTA

MR. MENNERICH: So moved.

MR. PROFACI: Second.

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

(No response.)

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

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: And myself yes. So carried.

Congratulations.

MR. FEATHERSTON: Thank you very much.

MR. REINEKE: Thank you.

CHAIRMAN EWASUTYN: It's a great building that you're putting up on the corner. It looks very nice. Good luck with it.

(Time noted: 7:19 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.

DATED: January 16, 2009

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

----- X
In the Matter of

GARDNERTOWN COMMONS
(2004-19)

Corner of Gardnertown Road & Creek Run Road
Section 75; Block 1; Lot 21
R-3 Zone

----- X

RESIDENTIAL SITE PLAN

Date: January 8, 2009
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
JOSEPH E. PROFACI

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

APPLICANT'S REPRESENTATIVE: JOHN CAPPELLO

----- X

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MS. HAINES: The next item of business we have tonight is Gardnertown Commons. It is a residential site plan located on the corner of Gardnertown Road and Creek Run, it is in an R-3 zone and it's being represented by --

MR. CAPPELLO: John Cappello, Jacobowitz & Gubits.

MR. QUEENAN: John Queenan, Lanc & Tully.

MR. GREALY: And Phil Grealy from John Collins Engineering.

MR. TERACH: Barry Terach, Pendergast & Terach Architects.

MR. CAPPELLO: Why we're here tonight really is to begin the process, or hopefully move toward final site plan approval for the Gardnertown Commons 104-condominium unit project located on Gardnertown Road.

The Board issued a negative declaration and granted a preliminary site plan approval on this back in May 2006. In the interim we've been to the Health Department for the water system, done the final designs on the sewer system. Also during that time we finalized the soil

1 remediation plan for one small area of the site.
2 What happened during that time is the building --
3 New York State Building Code requirements changed
4 for multi-units, so we had to increase the width
5 of the interior road from twenty-four to
6 twenty-six feet.
7

8 Also during that time the Town amended
9 its law regarding buffers, so we had to slightly
10 move the units from the adjoining properties to
11 meet the new buffer requirements.

12 The submission has been before the
13 consultants now.

14 The other new aspect of it is, you
15 know, as the applicant is considering commencing
16 construction we've determined that it's in the
17 best interest to really develop it into four
18 construction phases. Each one of the
19 construction phases will be a separate
20 condominium. We colored it here. Phase I is the
21 yellow, phase II is the green, phase III is the
22 pink. You see the completion of the loop road
23 will be in phase III. Phase IV would be the
24 final section. Each one of the phases will be a
25 condominium, which means in phase I if there's a

1
2 problem with the roof on one of the buildings,
3 that's the problem of the owners in condo 1.
4 Same with condo 2 and condo 3.

5 I understand the Board issued a concern
6 regarding general maintenance and maintenance of
7 the rec facilities, maintenance of the road,
8 cutting of the grass all through the units. That
9 will be done by a master homeowners association.
10 So each of the condos will be members of the
11 homeowners association. Everything outside the
12 unit buildings themselves will be handled either
13 through ownership of the homeowners association
14 in the instance of the recreation and the
15 detention ponds, or through easements given by
16 the condo to the homeowners association for
17 maintenance of the lawn, for maintenance of the
18 road in areas which are in each individual
19 condominium.

20 With that, I think that's really the
21 changes. I have the engineer; I have Phil
22 Grealy, our traffic engineer; and our architect
23 here to answer any specific comments the Board or
24 its consultants may have.

25 CHAIRMAN EWASUTYN: Okay. I'd like for

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Cliff Browne to respond to your presentation as far as the HOA. He's had more experience than any of us on the Board.

MR. BROWNE: Just a little background. Some years ago I was the vice president on the board of managers of condo 1 in Meadow Winds, so I'm a little familiar with the operation of a condominium along with the HOA.

My major concern wasn't so much the building phases but with the condominium ownership and so on. What you just mentioned about the condominiums having the verbiage built into the prospectus that the condominiums will in fact be granting the easement to the HOA for -- are you talking full maintenance or just the exterior things? Are we talking the building as well?

MR. CAPPELLO: The buildings would be the condo. The HOA would be everything outside the walls.

MR. BROWNE: As far as maintenance is concerned --

MR. CAPPELLO: That would be the road, the grass, the -- you know, the detention areas.

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2 I think the units -- the unit owners of each of
3 the condos, 1, 2, 3 and 4, would own the
4 buildings. So I don't think we can spread the
5 cost for a problem with the building in condo 1
6 to a unit owner in condo 4, but you certainly
7 could spread the cost of maintenance of the
8 entire lawn area because, as you know, you have
9 to submit a whole prospectus to the state
10 attorney general so they will see it is
11 reasonable to say that you all benefit from
12 keeping a uniform landscaping, and keeping
13 everything maintained, and keeping the roads
14 maintained. But if there is a problem in an
15 individual building in a condo, it is, from the
16 attorney general, less reasonable to say the
17 condo owner in condo 4 would have to pay for a
18 building problem in condo 1. Whether the same
19 management company would maintain the buildings,
20 probably.

21 MR. BROWNE: My experience is each
22 condo unit had their own management and the HOA
23 had their own management and nobody talked to
24 each other. My major concern was just the fact
25 of the management of that operation and how that

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would work out.

Talking earlier, Mike, our Attorney, mentioned that verbiage could be hopefully worked in there so those kinds of things could get worked out satisfactory for everybody. It is a concern.

MR. CAPPELLO: We understand. I think that's why wisely the Town has in its requirements that we submit the offering plan -- the guts of the offering plan to the town attorney, and of course the Planning Board attorney, for, you know, any comments or concerns to make sure, you know, to the extent that we can, you anticipate the problems. It's still human beings and you're given to human error but you do the best within the legal requirements and every time there's a problem you build in more language to try to address those problems.

MR. BROWNE: What I was looking at was the plans that were submitted. When I saw this I'm saying this is kind of nuts because the individual condo is responsible for a very small portion of the outside grounds and the driveway, et cetera. What you're presenting now --

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2 MR. CAPPELLO: That's not the
3 intention. That will be added in there. It's
4 our office -- I'm not the attorney in my office
5 who does the condos but we've done these before.
6 To make sure it's a unified management of all the
7 open areas is my understanding of it. The
8 buildings in the condos, that would be -- you
9 know, it would make sense you have the same
10 management company.

11 MR. BROWNE: Is there a reason, other
12 than financing, to separate them into individual
13 condos rather than just a phased building plan?

14 MR. CAPPELLO: Well, a big reason in
15 this economic times is really phasing it is to
16 build the infrastructure, to build the entire
17 loop road and finance it and bond an entire loop
18 road. All the facilities up front is, you know,
19 a tremendous cost. Also under the Martin Act you
20 have to sell a certain number of units before you
21 can obtain COs. So it makes it more advisable to
22 have smaller manageable components to then be
23 able to finalize them. When you do submit, even
24 for section 1, you have to show them the ultimate
25 build out and budget and how things will, you

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know, work out as the condo goes. It's really, you know, financial.

MR. BROWNE: The concerns from our end of the business is we need to consider that it doesn't go past phase I or possibly past phase II and stops. So we need to make sure that from a planning standpoint what is done can work on its own if at any one of those points you may have to stop.

MR. CAPPELLO: I certainly know we tried to take that into account in designing it. You know, there were a couple comments, you know, from your consultants on those. We did, you know, take that in mind as to what would happen, and that's why the road, you know, was designed with temporary cul-de-sacs that could, you know, function if future phases didn't go through. And also that is one of the reasons why you can see here in phase III we're building units up to here. At that point we determine what the number of units and the length of the cul-de-sac that would be, you know, required to construct the whole loop road because we wouldn't want to leave, you know, a dead end to this link. So we

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did, you know, attempt. We would certainly welcome your comments to incorporate any design in the manner they could stand on their own.

MR. BROWNE: It sounds like pretty much, Mike, he's already proposing what you were suggesting.

MR. DONNELLY: I think the only piece you had mentioned earlier that John is saying should not, in fairness, be addressed would be the maintenance of buildings, roofs, things of the kind because those should properly belong to each condo group because why should condo 4 pay for an aging building in phase I. But beyond that, and we'll pass the recommendation on to Mark Taylor, we want to make sure that the HOA will have the authority and the ability to manage the roadways, the open areas, the recreational areas, the drainage facilities. And then the condo association -- obviously members of the HOA will vote on that, but it will be controlled by the HOA. I think from a legal point of view the devil is of course in the details, and that will have to be reviewed by Mark Taylor.

MR. BROWNE: One more along with that.

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You might want to also look at the point where the HOA is made up of the unit owners versus the developer. I don't know if there's a legal minimum requirement that that could happen or arbitrarily or whatever.

MR. DONNELLY: I think the HOA is also governed by review by the attorney general. There they have the requirement the owner has to phase out after the requisite number of units have been sold into private hands. I would think that at the beginning, since the owner is going to have to be building these things, they really need to be in charge, otherwise it's too cumbersome to have the individual unit owners voting.

I don't know what you're proposing. Are there four members of the HOA?

MR. BROWNE: What I'm kind of thinking is that with the HOA, why still have the developer responsible for everything and then you have the unit owners that are interested in, from their perspective, getting some of the things done or not done. There can be a conflict as to who is going to do what, when and how. That

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needs to be looked at.

MR. DONNELLY: Most of it is governed by State law. Are you proposing the HOA to be comprised of all the individual unit members or it will be four members, one for each condo association?

MR. CAPPELLO: I frankly couldn't tell you whether it's, you know, individual members or the condo. I know each condo --

MR. DONNELLY: Mark Taylor should look at that.

MR. BROWNE: My experience is ultimately when everything was finished the HOA was made up of a certain number of members from each condominium. It doesn't have to be board members but each had a fixed number on the HOA board.

MR. DONNELLY: So each condo association bylaws would set forth the methodology for choosing its representative members to serve on the HOA board, that way you have a mix of voices.

MR. BROWNE: My concern, though, is going out so long. If I'm not mistaken there was

1 a magic number of seventy-five percent sold out,
2 then the HOA was basically made up of condo
3 owners. It is kind of a phase. Seventy-five
4 percent is going to be a long time and you're
5 going to have the developer basically in charge,
6 responsible, whatever, for everything while you
7 have the condo owners not really have any say at
8 all. That needs to be looked at.

10 MR. DONNELLY: You're saying if after
11 phase II, which would only be fifty percent of
12 the units, the developer were to disappear from
13 the scene, then there would be no one in charge
14 of the HOA and there would be a vacuum for the
15 maintenance of the --

16 MR. BROWNE: I think in that situation,
17 if I'm not mistaken, there are still laws that
18 govern how that transpires.

19 MR. DONNELLY: I figured most of it is
20 covered by statute.

21 MR. CAPPELLO: I think that's part of
22 how we, you know, phase the improvements, to
23 build a certain amount of, you know, road in
24 phase I. And also for the recreation facilities,
25 they would be built after the forty-fourth unit.

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That was discussed with the Board. So at least you will know you will have forty-four, you know, condo owners available to, you know, help fund --

MR. BROWNE: That's a sales point, too.

MR. CAPPELLO: Yeah, yeah. That is.

The detailed budget will, you know, go in an offering plan and will be reviewed by the State just for that purpose, to make sure that each phase can stand on its own. That will also go to the, you know, town attorney.

MR. BROWNE: Okay.

CHAIRMAN EWASUTYN: There were two concerns that were raised during the work session. One was what you heard from Cliff Browne, Planning Board Member, that we were going to ask for more clarification as far as the phasing plan.

The second concern was raised by Jerry Canfield, completing maybe just phase II, I'll have Jerry speak, where the loop road ended.

Jerry, would you raise your comments.

MR. CANFIELD: Sure. During the work session we were discussing as the phasing plan presents itself with the completion of phase I

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2 and phase II with the temporary cul-de-sac,
3 potentially totally only build out for those
4 phases, you'll have nine buildings, potentially
5 fifty-two units. The roadway will be
6 approximately 1,200 feet and a dead-end to a
7 cul-de-sac. Fire protection wise that doesn't
8 present the best scenario.

9 My recommendation was to build out the
10 road and complete the utilities to loop the road
11 around. In speaking with the applicant's
12 representative, John from Lanc & Tully, today, he
13 had discussed about providing some type of
14 temporary second means of egress -- entrance and
15 egress onto Gardnertown Road. That was just a
16 discussion. I'm not certain if you're prepared,
17 John, to explain what you have proposed there, if
18 that's appropriate for the Board.

19 CHAIRMAN EWASUTYN: I think it is. Go
20 ahead.

21 MR. QUEENAN: In speaking with Jerry
22 this afternoon, and I read through his comments,
23 it's a valid comment. I just wanted to say, you
24 know, why this location was chosen for the road.
25 1,200 feet is a typical residential cul-de-sac.

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2 I know this is multi-family. It was chosen for
3 that length and basically for economics based on
4 the number of units that would be constructed to
5 this point and the cost of construction of the
6 road. From this point to the finish pretty much
7 is about 900 to 1,000 feet. It includes water,
8 sewer, drainage, utilities that would go in. It
9 would be an exorbitant cost for the first two
10 phases.

11 After talking to Jerry and looking at
12 it, I think we can come up with a temporary
13 access. This is the phase II edge of the
14 cul-de-sac right here. We could simply rough in
15 an access point here, grade it, put down a base
16 and provide for emergency vehicles only right
17 through building 12 here which would be built as
18 part of phase III. This would not be an
19 additional disturbance. We would only have a
20 little bit of disturbance on Gardnertown at this
21 point. That would serve as a secondary means for
22 emergency vehicles. Another way would be to
23 rough in a road without putting utilities in,
24 swing around these trees here so that they're
25 maintained and sneak out back onto Gardnertown.

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Once phase III commences that would be removed and the road would be completed.

CHAIRMAN EWASUTYN: Jerry.

MR. CANFIELD: John, just one question. Did I hear you say that access would be put in, you're proposing, during phase III?

MR. QUEENAN: The secondary would be put in as part of phase II as long as -- if the units are selling based on they're going and there's no reason to stop at phase II, we wouldn't put it in at all, we would finish III.

MR. CANFIELD: I think also -- Pat, I would think that further to the east -- excuse me, to the west that that road comes out -- the further east you go you start to go down gradient down Gardnertown Road, which is not optimum either. As you get closer to that turn you have limited sight distance. If we were to keep it further to the west it would be more beneficial.

MR. HINES: There is a grading issue there that John Queenan is going to have to take a look at. I don't think you've done that work. Karen identified it as a concern earlier. We're going to have to come up with some happy medium

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GARDNERTOWN COMMONS

here between the grading and preservation of trees. I'm not so worried about the sight distance.

MR. QUEENAN: It's gated emergency.

MR. HINES: Emergency access only.

MR. QUEENAN: In looking at the topo, it looks like the best place would be go right through building 12, then the flattest portion to connect up to Gardnertown would be right here. Based upon the locations of the specific trees we could --

MR. HINES: I think once it's designed Jerry and I can take a look at it.

MR. QUEENAN: I'll try to get the best location for it.

MR. CANFIELD: Also take into consideration provisions for maintenance thereof, again being open ended time wise. That should be a strong consideration, such as snowplowing. If by chance it becomes a construction entrance, that should be addressed as well, whether it will or will not be a construction entrance.

MR. QUEENAN: At this time I would say we would like to keep one construction entrance,

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and that would be the main entrance. I think that would be the best.

MR. CANFIELD: Okay.

CHAIRMAN EWASUTYN: What we're discussing right now is the phasing, what will be completed during the first two phases. During our work session this evening we discussed the phasing as it relates to the agreement with the Town Board as far as road improvements. I'd like to have Mike Donnelly bring that information to the table right now.

Mike.

MR. DONNELLY: In terms of the roadway -- off-site roadway improvements, the developer's agreement that has already been negotiated with the Town requires that those improvements be completed before issuance of a certificate of occupancy for the forty-first unit in the project. Given that it was tied to a specific unit number by that agreement, although we can acknowledge that that will necessarily be in phase II, I think the condition of that developer's agreement should be carried as a resolution condition in the site plan resolution.

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I assume that that was determined after looking at the tipping point, so to speak, when the safety required that the intersection improvements be made.

CHAIRMAN EWASUTYN: John, we will shortly -- I think I'll start with Planning Board Members, asking them about their comments or concerns. Before I do that I'll just let you know this is the first project of what may in fact be sort of characteristic of the current market conditions where applicants are coming before us looking to phase the projects. I'm not going to speak at any great length about the uncertainty of the times that we're living in. The big question to all of us is, you know, when will the next phase occur, will the next phase ever really occur, and how well do we protect ourselves and the Town. We could get actually into the details of the site plan.

Frank Galli.

MR. GALLI: I like what Jerry and Cliff brought up about the associations and the access road being finished, the second access for emergency vehicles. That was basically it. The

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rest is stuff they covered pretty well.

CHAIRMAN EWASUTYN: Cliff Browne?

MR. BROWNE: I go back to kind of what I said before also, and the others. The ability for each phase to stand alone is very important. Each of those phases, I is built out, II is build out. I and II have to be able to be on their own, support themselves and have the physical layout such that it will support the roadway and the whole thing. It's got to be considered at this point because, again as John mentioned, there's no guarantee it's going to be built out. We don't know. The way your plans are presenting it, this also seems to be strong in your minds that it may not be built out. So, you know, we have to keep those things up there in front as far as how the buildings are built.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: In addition to those two items, I'm going to discuss the tree situation near the buildings that was brought up by Jerry for the fire access.

MR. CANFIELD: Do you want me to address that now?

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CHAIRMAN EWASUTYN: Karen or Jerry, or both.

MR. CANFIELD: What the question is, and I had spoke with John about earlier, it's one of my comments, was with respect to the trees in front of the buildings, to somehow alter them in some way, and Karen could probably best address that because that's her area of expertise, to a type of tree or maintenance of a tree to somewhat limit the growth of the tree so it does not become an obstruction, keeping in mind the only access to these buildings for firefighting through aerial apparatus devices is through the front, the street side of these buildings.

Karen.

MS. ARENT: We spoke about the possibility of either using a very sparsely branched tree or a tree with a very tight canopy that would grow fifteen feet or so wide. We should discuss possibly adding a couple more trees if we do use the fifteen-foot wide just to give the feeling of the street tree look as well as enabling the fire truck to get in between each of these trees. If you use a very tight tree

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you'll be able to get the fire truck to the windows but it won't feel like much because it's so small. We have to -- we'll work this out. We'll figure out the best way.

MR. QUEENAN: That's fine.

MS. ARENT: I'm going to look into the possibility of using a more sparsely branched tree. I have to make sure the trees that -- the selection would remain sparsely branched because sometimes when they're young they're more sparsely branched than when they're older.

MR. QUEENAN: Our office will work with you on that.

MS. ARENT: A solution that will look good and make Jerry happy.

CHAIRMAN EWASUTYN: Jerry, does that cover all your comments?

MR. CANFIELD: No. Just for the record, and again John and I had discussed all of these comments, another point is to the west of the project where the road goes up into the clubhouse and recreation area, the plan calls -- depicts a two-inch water line, a service line basically. The clubhouse building is required to

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be sprinklered, and that's by Town of Newburgh
Municipal Code which is more stringent than the
New York State Building and Fire Prevention Code.
Also I'm recommending that the line placed to
that building and the sprinkler system be a
minimum of six inches in size and add a fire
hydrant. The six-inch number comes because
that's the minimum Orange County Board of Health
will allow with a hydrant. It may be better
served to just continue the eight inch that you
have throughout the site rather than just have an
oddball six-inch line there.

We had also discussed relocating some
of the fire hydrants in light of the cul-de-sac
and the phasing plan to better facilitate the
buildings as they're constructed, and perhaps
time lapses in the future, which John is
agreeable to doing.

We had also asked to add a hydrant. I
don't know the impact of that on your County
Health approval.

MR. QUEENAN: I was going to say --
just to start, we don't have any objection to any
of Jerry's comments with just one twist. I would

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2 like to leave all the hydrants that are on the
3 plan designed in their locations and not remove
4 any because that will trigger the Health
5 Department's re-review. If we add additional
6 hydrants they do not have to review them. We
7 will add all the hydrants you'd like and leave
8 the ones that we have on the plan there if that's
9 acceptable.

10 MR. CANFIELD: More is better. Okay.
11 I have no problem with that.

12 One last item that we haven't discussed
13 is we also had talked about the entryway onto
14 Gardnertown Road, the curbing in the center
15 median. If that detail could be of the mountable
16 curb type, that would better facilitate larger
17 truck apparatus, fire trucks turning into the
18 site. Basically that's it.

19 MR. QUEENAN: No objection.

20 CHAIRMAN EWASUTYN: At this time I'll
21 turn to Pat Hines, our Drainage Consultant.

22 MR. HINES: We had some clean-up
23 comments. Check with Jim Osborn's office. I
24 know you have the restrained joint pipe shown but
25 you also show a thrust box. I don't know if

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they'll -- you do only need to use the restrained pipe. I gave you the standard notes that need to show up on there.

We discussed the "temporary cul-de-sacs", that they're going to be constructed similar to the road. We don't know the timeframes for other curbs.

I had some comments that Jerry Canfield addressed with you, the two-inch water main. I have a concern about the swale that we discussed emanating from the first proposed cul-de-sac and down to Creek Run Road, so you're going to have to show me something that addresses that. It's too long of a run and too steep. When you do the final plans, if you can submit that to us.

I guess it's the intent to submit bonding for the phased improvements as each phase is coming on-line. Is that the case? I don't know if that was clear. Each phase is going to be independently bonded?

MR. CAPPELLO: That's what we will indeed do.

MR. HINES: That's all we had. I think they're clean up. The plans are in pretty good

1 shape as far as the technical details.

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3 CHAIRMAN EWASUTYN: Bryant Cocks,
4 Planning Consultant.

5 MR. COCKS: There was a couple zoning
6 issues that have been addressed on the plans.
7 The first was already discussed about the
8 twenty-six foot wide road width to conform with
9 New York State Fire Code.

10 The applicant did mention before that
11 all the buffering and setback requirements have
12 been met and they have labeled on the plans
13 either patios or decks, whichever applies to each
14 building, so that the setback can be met.

15 The building separations from the rear
16 of each building to another building is
17 seventy-five feet and from the side of each
18 building to the other side is thirty-five feet.
19 Those have been met.

20 There's no on-street parking. They're
21 providing 315 parking spaces which is an
22 additional space for each unit plus the two
23 spaces required for each unit.

24 There's been no architectural drawings
25 submitted for our review at this time. That's

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going to be a condition of approval.

The gazebo for the bus stop is going to have to be detailed.

One detail that we saw was left off was for the lighting fixtures. The applicants estimated that there was going to be twelve-foot lighting fixtures but no detail was given. They did provide the fixture number. The detail should be shown on the plans.

That was it for our comments.

CHAIRMAN EWASUTYN: Any comments from the Board Members at this time?

MR. GALLI: No additional.

MR. BROWNE: No.

MR. MENNERICH: No.

MR. PROFACI: No.

CHAIRMAN EWASUTYN: Karen Arent, Landscape Architect.

MS. ARENT: I had a question, John. The driveway on the eastern end ends and it's too narrow. If you could just look into that and if it's possible to do that it would be -- it would help the street scape to get more green spaces and less curb cuts.

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MR. QUEENAN: We'll look into that.

MS. ARENT: Awhile back we reviewed architectural drawings and the walkways going to the side units. They showed curbed walkways which I thought was a really nice way to lead into the unit rather than hugging the side of the building. So if that's the intent, that could be shown on the site plan as well.

MR. QUEENAN: Sure.

MS. ARENT: Just make sure the architectural drawings coordinate with the site plan. The phasing information on the grading plan covers the finished floor grades for the buildings, which I think is very important on the grading plan . So if you could clean that up a little.

Also, when we were looking at your sheet, your overall site plan, there were extraneous lines that are the same or similar as your wall symbols. If you could also clean that up. It's hard to tell why they're here or what they're supposed to be.

Then on the double trunk Maple near the stormwater management area, the disturbance limit

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line goes very close to the tree. If you can figure out a way to adjust that, because it's only ten feet away which is very close to a big Maple.

If there's a way to reduce the fill or something in that area, that would be great.

MR. QUEENAN: This location right here?

MS. ARENT: Yes. Exactly. And the width of the disturbance limit line actually measures ten feet which is really difficult. In the field we had an issue at Exeter. We were defining a ten-foot area and then you have the ten-foot wide disturbance limit line. Is it ten feet or thirty feet? Maybe that disturbance limit line could be narrowed but still a strong symbol so we can read what it is.

MR. QUEENAN: We'll try to do something.

MS. ARENT: Thanks. And then on the phasing plan, the recreational area and clubhouse are hatched as if they would be part of phase III but they're listed to be built upon the completion of forty-four units, so they should be hatched as if they are part of phase II.

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MR. QUEENAN: We actually had it hatched as a separate phase because you could -- it could be constructed during phase II.

MS. ARENT: It looked like the same symbol as the phase II symbol.

MR. QUEENAN: I think phase II was green.

MS. ARENT: I have hatching on my drawing. Just review that. There was a cross hatch on both I thought, the same symbol. If you can review that. What I reviewed for the phasing plan is a black and white one.

MR. QUEENAN: Okay.

MS. ARENT: The detail on the landscape plan should call out materials for stepping the walkway and patio. This detail should be referred to on the site plan, and also can be shown in greater detail on the architectural drawings, whichever you choose as long as we have some more detail about these areas.

We were discussing during work session there's a note on the landscape plan that the separation between driveways should either be pavers or stamped asphalt. The Planning Board

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would prefer to see pavers in that area. If you could just take the asphalt out.

There was another thing brought to my attention during work session. On your phasing plan, building 4 is labeled as phase II and building 5 -- building 4 should be labeled as phase II and building 5 as phase 1. If you could look at that. Again, it's the labeling on the black and white drawing.

MR. QUEENAN: Okay.

MS. ARENT: We discussed the playground area and there's nothing shown, no detail for what's proposed in that area. Earlier on we were asking if you knew what the age -- projected age group of children in your -- in this project would be and if you could match up playground equipment to that projected age group. I don't know if you've done that recently.

MR. QUEENAN: No. I can discuss it with you. I don't know what the age group for the community is going to turn out to be.

MS. ARENT: We would also like to see details of the picnic area and the barbecue pits. If you could investigate whether the keystone

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block that you are -- keystone wall units, if they recommend putting sleeves in for fencing. Some of the retaining wall companies are now recommending sleeves to be installed as part of the installation.

MR. QUEENAN: Yes. They come pre-manufactured.

MS. ARENT: Yes. If keystone recommends that, if you can show that on the detail.

MR. QUEENAN: Sure.

MS. ARENT: On the landscape plan, Cherry is designated for plants that appear to be shrubs. It should be -- it's a Maraschino Cherry but it's shown as a five-foot diameter circle which is really a shrub size. It would be funny to have the Cherry trees close together. If you could revise that.

MR. QUEENAN: Sure.

MS. ARENT: On your lighting plan, if you could select the post and show how that would be attached to the footing. Hopefully we won't see that big concrete footing. Feel comfortable attaching it at ground level.

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MR. QUEENAN: Okay.

MS. ARENT: Especially I think the light posts are far enough off the road you don't have to worry about them being damaged by snowplowing. If that's the case, it would be nicer to see the posts directly in the ground.

MR. QUEENAN: We'll take a look at that.

MS. ARENT: We'll need a landscape cost estimate.

Then I have a list of architectural things we need to see. We talked about providing space inside the garage for garbage cans, and just to make sure you illustrate that on the drawings.

The plan and elevations of the recreation building need to be submitted.

The gazebo at the entrance Bryant mentioned.

Oh, also, I'm sorry, the front entrance details need to be shown on the plans. I don't know whose plan -- you have the curbed rock wall entrance. Perhaps to the side. And then there's a mail house with a rock stonewall. All those

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things need to be detailed, whether it's architectural drawings or the site plan. If it's architectural drawings, just refer to those drawings on the site plan.

And then just when submitting architecture, show renderings to illustrate colors. In another project we didn't require all the buildings to be the same color. In fact, it was nice when they changed colors.

MR. TERACH: It's our intent to do that.

MS. ARENT: Great. That's it.

CHAIRMAN EWASUTYN: Comments from the Board Members?

MR. GALLI: No additional.

MR. BROWNE: I had one. HOA water throughout the site, one of the issues we always run into is individual units happen to sprinkler HOA stuff. Find a way to get some type of water spigots throughout the site that would be controlled by the HOA.

MR. QUEENAN: Okay. We'll incorporate it into the architecture.

MR. HINES: Jim Osborne is not going to

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want that. He does not want Town water used for sprinklering.

MS. ARENT: Just hose spigots.

MR. BROWNE: Karen, come up with an idea.

MS. ARENT: A hose spigot.

MR. HINES: They're not going to want a sprinkler system.

MR. BROWNE: Something, because what happens is you put plants in and then the developer is going to hook up to one of the condo units to water it.

MR. HINES: That's the problem. The current law for condominiums requires individual service to each units. You have to have your own water and sewer line and your own meter. That's exactly what's going to happen. Or they're going to have to bring a water truck in or put in their own tap somewhere.

MR. BROWNE: That's that.

MR. QUEENAN: Either that or each unit gets its own hose tap at the front of the house.

MR. HINES: What he's saying is the developer is going to hook up to the closest one

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and keep the homeowners spinning.

MR. QUEENAN: We'll see what others have done.

MR. HINES: I know the Town is not big on using the municipal water system for watering.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: No.

CHAIRMAN EWASUTYN: Joe Profaci?

MR. PROFACI: No, thank you John.

CHAIRMAN EWASUTYN: I just have two additions. Would you provide a detail sheet for the patio construction?

If you could possibly rethink a six-inch -- six-foot high stockade split rail fence or a stockade fence separating the patios, maybe with something of a vinyl that's more long lasting and maintenance free for the cost.

This is a minor note, John. It's up to you. Your detail sheet shows the curb as being 3,500 psi and the walk being 3,000 psi. Maybe you can come up with a uniform number psi for both.

MR. QUEENAN: 3,500 maybe.

CHAIRMAN EWASUTYN: All right. Now

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I'll turn to Ken Wersted, Traffic Consultant.

MR. WERSTED: I issued a letter last week. I only had one real comment in that and it was in regards to the parking striping at the mailbox area. I had noted that the striping had appeared to be longer than needed, however I did sketch some cars in there and it appeared fine, so you can ignore that comment.

MR. QUEENAN: Actually, if we add the cross stripe perpendicular to the other space it works out.

MR. WERSTED: Exactly.

MR. QUEENAN: That's fine.

MR. WERSTED: You can ignore that comment. In the meantime, looking over the sidewalk details there are two items. One, the details on sheet 6, and as you see I laid out on the plan, it shows most of the sidewalks being four feet and it widens to six feet where the parking stalls overlap. I think the sidewalks should probably be five feet throughout as the minimum and then you can keep the six foot where you have the parking stalls overlapping there.

Then also provide some details of where

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the sidewalks terminate having an access ramp there to the crosswalk. I don't see any, you know, sidewalk ramp details.

MR. QUEENAN: There's none on the sheet?

MR. WERSTED: I don't believe so. I'm looking on sheet 6.

MR. QUEENAN: If it's not there we can add it.

MR. WERSTED: I might be missing it. If it's on here, great. If not, if you could put that on there.

MR. QUEENAN: Not a problem.

MR. WERSTED: The last sheet in the packet is the intersection improvements at Gidney Avenue and Gardnertown Road. This sheet is also referenced in the developer's agreement and also possibly in the resolution. The sheet itself shows the concept of what would be built but we'll need additional details to become construction ready plans. I think the developer's agreement notes that those plans will be provided.

MR. DONNELLY: The developer's

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agreement contemplates those detailed plans being submitted and approved in the future.

MR. WERSTED: That was it.

MS. ARENT: We also spoke at work session about making that wall on the intersection detail a nice looking wall and maybe similar to --

MR. QUEENAN: These here?

MS. ARENT: Yeah. The wall at the intersection you're going to be building. Detail the wall and make it look as natural as possible using warm grays and things like that.

CHAIRMAN EWASUTYN: At this point, any further comments from the Planning Board Members?

MR. GALLI: No additional.

MR. BROWNE: No.

MR. MENNERICH: No.

MR. PROFACI: No.

CHAIRMAN EWASUTYN: I'll give this opportunity to Mike Donnelly, Planning Board Attorney.

MR. DONNELLY: I've provided you all with the proposed resolution of approval. I've also given a copy to the applicant's

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2 representative. The resolution carries forth all
3 of the conditions of the preliminary approval so
4 we can go through them in checklist fashion.

5 Let me begin by saying I've taken a
6 number of notes and at the beginning of the
7 resolution I'll include conditions that require a
8 sign-off letter from Pat Hines, from Ken Wersted,
9 from Bryant Cocks, from Jerry Canfield on his
10 meeting comments, and from Karen on her memo
11 comments as well as the two additional items that
12 were discussed, and that is the change of tree
13 species choices to accommodate firefighting
14 access and the change of the note to require
15 pavers instead of stamped pavement in the area
16 separating the units. All of the sign-off
17 letters will be needed before the final plans can
18 be signed.

19 Turning to the numbered conditions in
20 the resolution. Condition number 1 required
21 certain outside approvals before final approval.
22 All three of those, Orange County Health
23 Department, out-of-district sewer user agreement
24 and a sewer flow acceptance letter from the City
25 of Newburgh, have been received and that

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2 condition being satisfied can be removed.

3 Number 2 related to the Department of
4 Health approval for soil remediation. All of the
5 -- there is full compliance shown on the plans, I
6 am told, with the requirements of the Health
7 Department, but because this is not a subdivision
8 the Health Department does not have jurisdiction
9 over that approval so the condition can be
10 removed.

11 Next we talked a little bit about
12 phasing, and I think I would place a condition, I
13 took some notes, at this juncture that says the
14 project must be constructed in conformance with
15 the phasing plans hereby approved. In addition,
16 the applicant shall comply with the following,
17 and I have a bullet that says, and I assume this
18 is what is intended, phases must be built
19 simultaneously or sequentially. No phase may be
20 built out of order. Next, phase II must include
21 a secondary emergency access point to be approved
22 by the Planning Board before construction of that
23 phase may begin, which approval shall include
24 satisfactory provision for maintenance of and
25 snow removal from that access way. No

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certificates of occupancy for units in that phase shall be issued until that emergency access is completed.

Condition number 3 on the bottom of page 4 that related to the developer's agreement, an agreement has been reached. A final draft of it has been sent to me. I know John Cappello and Mark Taylor worked it out but we need to have an agreement signed before the final plans can be signed.

Condition number 4, I think in view of where we are, should be modified to read as follows: That all required off-site traffic improvements shall be completed to the satisfaction of the town engineer and town building department as set forth in the developer's agreement before issuance of a certificate of occupancy for the forty-first unit in this project.

Condition number 5 related to the requirement of a VTL 1660 authorization. That has been delivered and that condition can be removed.

Condition number 6 related to the requirement that the recreational facilities be

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2 completed before the forty-fourth certificate of
3 occupancy. That condition shall be carried
4 forward.

5 Condition number 7, I've modified the
6 language slightly in view of what we discussed
7 this evening to say the applicant shall -- in
8 view of the phasing plan, the applicant shall, as
9 a condition of this approval, deliver to the town
10 attorney a copy of the proposed condominium
11 association bylaws as well as those of the
12 proposed homeowners association bylaws, both to
13 include proposed covenants and restrictions
14 intending to carry forth any applicable provision
15 of this approval. Such documents shall be
16 satisfactory to the town attorney as to form and
17 content. The final plan shall not be signed
18 until such documents are submitted. With that I
19 will send a note to Mark Taylor reporting to him
20 on the discussion this evening and the Board's
21 recommendation in terms of the maintain --
22 ongoing maintenance issues we discussed here this
23 evening so he'll understand the contents of what
24 is intended here.

25 We'll need to add a condition, and I

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think this is the appropriate juncture, for the Town Board to approve the road name in the project.

Condition 8 will relate to grading, and we talked a little bit about this at the work session. Jerry Canfield's request was in addition to the grading, as we progress, that within each phase an as-built plan be submitted to the building department prior to the last certificate of occupancy being issued for that phase. There has been some difficulty with some of the soil remediation projects with grade changes and makes for problems later on in the field.

Number 9 relating to clearing limits is a construction phase note that shall remain.

Condition number 10, I don't know where we're going with Architectural Review Board approval. I'll just hold this to decide -- to see whether we conclude that this evening, in which case we'll have the usual condition, or if it's reserved to a later date it will recite that. The next conditions relate to the various financial securities that will be

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required, and those are landscape, stormwater, water main, sewer main, private roadway, and multi-family fees.

I had a condition 16 relating to offers of dedication. I should have asked earlier at the work session, are there any offers of dedication shown on the plan that need to be accomplished?

MR. HINES: No.

MR. DONNELLY: So that condition can be removed.

We have the standard condition that's numbered 17.

MR. HINES: Mike, there may be some right-of-ways for the off-site improvements.

MR. DONNELLY: Let's leave it then. It says if any.

MR. CAPPELLO: We do have to give a deed to the Town.

MR. DONNELLY: We'll leave that in there.

Condition number 17 is a standard condition that says you can't build anything on the site that isn't shown on the approved plan.

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That handles all of the site plan conditions.

CHAIRMAN EWASUTYN: Do you want us to leave and come back later?

MR. CAPPELLO: Oh, no. Carry on.

CHAIRMAN EWASUTYN: Thanks. You plan on a later date coming back with architectural plans for the Board to approve?

MR. TERACH: Yes.

MR. CAPPELLO: Yes.

CHAIRMAN EWASUTYN: So Mike, that will be a condition that will have to be approved at a later date.

Do the Board Members have any question as far as the conditions for the resolution of approval for the site plan for Gardnertown Common Associates, LLC presented by Mike Donnelly?

MR. GALLI: No.

MR. BROWNE: No.

MR. MENNERICH: No.

MR. PROFACI: Nothing.

CHAIRMAN EWASUTYN: Any additional comments from our consultants. Jerry Canfield?

MR. CANFIELD: Nothing additional.

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GARDNERTOWN COMMONS

CHAIRMAN EWASUTYN: Pat Hines?

MR. HINES: Nothing else.

CHAIRMAN EWASUTYN: Bryant Cocks?

MR. COCKS: No.

CHAIRMAN EWASUTYN: Karen Arent?

MS. ARENT: Nothing.

CHAIRMAN EWASUTYN: Ken Wersted?

MR. WERSTED: Nothing.

CHAIRMAN EWASUTYN: Then I'll move for a motion to grant site plan approval for Gardnertown Commons, LLC subject to the conditions of the resolution of approval presented by Attorney Mike Donnelly this evening.

MR. PROFACI: So moved.

MR. MENNERICH: Second.

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

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GARDNERTOWN COMMONS

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: Myself yes. So carried.

MR. CAPPELLO: Thank you very much.

CHAIRMAN EWASUTYN: John, this is a separate matter. Berlin, LLC, how are we progressing with that?

MR. QUEENAN: We're still under review by the DOT.

CHAIRMAN EWASUTYN: You're kidding me?

MR. QUEENAN: No. I've actually not had a response from them in about four months after letters and phone calls about every other week.

CHAIRMAN EWASUTYN: Why?

MR. QUEENAN: They're very busy.

CHAIRMAN EWASUTYN: Michael, you'll be back before us, from what I understand, in February in reference to Gateway.

UNIDENTIFIED SPEAKER: We're working on the revisions that were suggested.

CHAIRMAN EWASUTYN: Okay.

MR. GREALY: Happy New Year, everybody.

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(Time noted: 8:15 p.m.)

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

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

DATED: January 16, 2009

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

----- X
In the Matter of

ORANGE LAKE PHYSICAL THERAPY
(2008-31)

Corner of Old South Plank Road & Route 52
Section 52; Block 7; Lot 2.2
B Zone

----- X

CONCEPTUAL SITE PLAN

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

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

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

APPLICANT'S REPRESENTATIVE: JOSEPH J. MINUTA

----- X

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

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ORANGE LAKE PHYSICAL THERAPY

MS. HAINES: The next item we have tonight is Orange Lake Physical Therapy. It's a conceptual site plan located on the corner of Old South Plank Road and Route 52, it's in a B Zone and being represented by Joe Minuta.

MR. MINUTA: Good evening. Happy New Year to everyone. I'm here tonight representing Orange Lake Physical Therapy.

We're in the very early stages of concept design, and to open this up to some discussion I think is pertinent. I have received all the comments from the consultants, and they actually have been addressed in written form today by my office. I don't think it's necessary to go through each and every one of them but I would like to touch upon a couple of items that may get the ball rolling a little quicker for this project.

Let me just illustrate the project to you for a short spell. The project is located on the corner of Route 52 and adjoins Old South Plank Road. For the purposes of this I'll try to refer to Route 52 as Route 52 rather than South Plank Road, and Old South Plank road becomes

1 ORANGE LAKE PHYSICAL THERAPY 77
2 somewhat confusing.

3 The current lot is actually segmented.
4 It's one contiguous lot which has two parcels on
5 it. The front parcel has been dedicated to the
6 Town of Newburgh and we're going through some
7 motions to figure out what exactly the
8 stipulations on the property were and are. We've
9 been informed by the surveyor of the parcel that
10 this is usable land for the project but we are
11 trying to confirm that, and we are going to be
12 speaking with Mark Taylor.

13 The plan that we initially provided
14 makes use of the entire parcel. It is our intent
15 to leave the existing stonewall and landscaping
16 that is currently at the entrance known as what
17 we're considering the gateway to Orange Lake.
18 The intent of the project is to enter the
19 property on Route 52 and flow through the
20 property onto Old South Plank Road. The only
21 traffic that would be within the site would be
22 for those individuals who are actually coming to
23 the facility and then would be parking here. Any
24 thoroughfare such as box trucks or delivery
25 trucks would be coming straight through this

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section here, therefore eliminating the need for delivery zones. Your standard box truck would fit within the required areas.

I bring particular attention to the fact that we've got quite a few parking spaces, twenty-three in total, and per Ken's comments fifteen I believe you would calculate for this parcel. If that is the requirement, that actually puts us in a very good position to not use the first parcel here reportedly owned by the Town of Newburgh. What we've done is come up with several different plans to illustrate that. These were along the way as some of our initial concept designs. The one that's really sort of shining through from that particular comment is to be able to use the plan here which eliminates any usage of parcel 1, maintaining all existing landscaping, flag pole, stonewall, et cetera in its entirety. Also providing a much deeper landscape buffer visually of this area. We would be reducing the parking spaces down to sixteen spaces, so we would be one in excess of the fifteen, and that pretty much accommodates the lot. We also accommodate the landscaping

1 ORANGE LAKE PHYSICAL THERAPY 79
2 within that as well.

3 These are a couple of images. This one
4 was actually presented to Michael DeMundo, part
5 of the Orange Lake Association. They had
6 presented this to their board and they were
7 delighted to see this. We've also been working
8 closely with them on some items with respect to
9 the property and their concerns.

10 The overall property does have a couple
11 of items of concern which have been somewhat
12 addressed to this point. It does have a wetland
13 area on it. We do have a survey that delineated
14 the wetlands area. It is a small area. It's
15 Army Corp of Engineers and we do have the ability
16 to fill that area completely due to its size.

17 The overall site does not require
18 stormwater retention based on the fact that we
19 are -- our disturbed area is less than an acre.

20 There was a particular question, a
21 concern from the Orange Lake Homeowners
22 Association and also a comment I believe that
23 Karen had brought up which was the idea that
24 there's a culvert underneath Old South Plank
25 Road. From one side -- and I've been out there

1 on several occasions to observe this myself. On
2 this side of the road there is an opening,
3 however it seems to be closed off. On this side
4 of the road there is no opening. The only two
5 openings that we have are stormwater pipes that
6 have come in, and they actually spill into this
7 wetlands area. That's a relatively new
8 improvement in the past couple of years based on
9 the decay of material.
10

11 So that being said, the intent for the
12 property is to use any stormwater -- existing
13 stormwater system here, connect to the existing.
14 Obviously this would be piped or closed off in
15 its entirety.

16 We have adequate water and sewer at the
17 property. It is within the zone.

18 There was question with respect to
19 drive-through and fire apparatus access. It's my
20 opinion on this that we could keep the existing
21 thinner roadway rather than the twenty-foot wide
22 apparatus since we would be meeting fire code
23 Chapter 5 requirements where we do have both
24 public ways on either side of it and we have 150
25 foot hose access. Should something happen, this

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entire site could be accessed from either roadway, thus eliminating the need for a truck to come into the property, also alleviating the potential danger of that being out of the fall zone of the building.

The proposed building will be approximately fourteen feet for the first level and then there will be a partial second story which is probably going to be another ten feet above that. For planning sake we're looking at this for an overall thirty foot which would be far below the thirty-five foot height requirement. That is depicted here. In other words, this would be the front portion of this at the corner of the lot and planking on either side.

There are two uses for this building, one being the physical therapy center, the second being the wellness center and a gym. The idea is to have a similar service that would cohabitate with the physical therapy center. Whether that's going to be a separate tenant or not we're not sure at this point in time. We have listed this as retail, as the second portion of this is about

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1,000 feet, for the sake of having the ability to use it as a retail space.

That in a nutshell seems to be the project. I am open to any discussion or questions.

CHAIRMAN EWASUTYN: Comments from Board Members. Frank Galli?

MR. GALLI: The separate parcel there, --

MR. MINUTA: Yes.

MR. GALLI: -- the applicant is saying -- the applicant doesn't own this property yet; correct?

MR. MINUTA: The applicant does not -- well, the applicant doesn't own the property.

MR. GALLI: If he buys the property he's getting that piece of it with it?

MR. MINUTA: See, that's what needs to be understood a little further. The surveyor is saying it's one contiguous lot. Two parcels but all one lot. I don't know if rights have been given to the association to provide these. That's been my understanding from discussions with the owner.

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MR. GALLI: Does he need that parcel for setbacks or anything?

MR. MINUTA: At this point we have setbacks, which are front yard setbacks, on all of this. The plan proposed meets those front yard setbacks. If we take into account that this does not need to be used, then we have a side yard setback and we still meet those requirements of the other plan that is proposed.

MR. GALLI: Okay. That's the only question I had.

MR. MINUTA: Overall the concept design we come up with in both cases meets the zoning.

CHAIRMAN EWASUTYN: Cliff Browne?

MR. BROWNE: Nothing.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: The second story of the building, what would that be used for?

MR. MINUTA: That's going to be used for like file storage. Obviously being the type of facility it is, they need to keep records in archives for several years. They didn't want to build a basement. We're trying to come up with an architectural aesthetic that is a throwback to

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ORANGE LAKE PHYSICAL THERAPY

earlier of time of an arcade, if you will, of a style which would be in very well keeping with the Orange Lake community.

MR. MENNERICH: The entrance that they have off of Route 52 there looks very nice. I guess hopefully either way you'll be able to preserve things like the flag pole, and the walls, and the landscaping that's there already.

MR. MINUTA: The intent is to leave everything as it is. Should we need to use that first parcel, it would be to relocate the electric meter that's there.

MR. MENNERICH: Okay.

CHAIRMAN EWASUTYN: I'll ask the question. When he says an arcade, do you think he wants to do like Dirty Harry's used to be? Do you remember Dirty Harry's?

MR. MENNERICH: I hope not.

CHAIRMAN EWASUTYN: Do you remember Dirty Harry's?

MR. GALLI: I'm not as old as you guys.

MR. MINUTA: I'm willing to accept pictures if you have them.

CHAIRMAN EWASUTYN: Joe Profaci?

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MR. PROFACI: Nothing.

CHAIRMAN EWASUTYN: Jerry, the presentation as far as the fire codes and the width of the aisles, are you understanding of that?

MR. CANFIELD: Yes, I am. Would you like me to go through all the comments? I have a couple others as well. I have zoning as well.

CHAIRMAN EWASUTYN: Go ahead.

MR. CANFIELD: First off, the building is required to be sprinklered per Town code.

MR. MINUTA: Agreed.

MR. CANFIELD: You understand that, Joe, it's more restrictive than the building code?

MR. MINUTA: Yes.

MR. CANFIELD: I'm just going down the line. I remember reading correspondence, and I believe it was Bryant's comment, with respect that I reviewed this under the understanding or with the understanding that these lots would be combined, okay, and there would be one lot. That's what the project is presenting. If that's the case then the lot displays three front

1 yards, --

2 MR. MINUTA: Correct.

3 MR. CANFIELD: -- all of which the bulk
4 use requirements do apply. Your project
5 complies. In addition to the bulk use
6 requirements there's an additional requirement
7 for frontages on State roads, which you still
8 comply. But I'm confused now with your
9 presentation being two lots. If that's the case,
10 then you have two front yards and one side yard
11 which needs to be fifteen feet which doesn't
12 appear to comply.

13 MR. MINUTA: Potentially our new plan
14 -- we took a look at that. Our new plan which is
15 here -- let me just bring this up to you very
16 quickly because they've all seen it here in the
17 front. This one does comply. We've basically
18 shortened up the building a little bit. This
19 being the first lot, we have our fifteen foot
20 setback here.

21 MR. CANFIELD: Okay.

22 MR. MINUTA: We really do have two
23 options. Again, we're early in the design phase
24 of this. I don't mean to confuse the Board but
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that's where we are.

MR. CANFIELD: The other comment I had was with respect to building height which Joe had touched on. Fire department access, you're right, it is in the fire code about the access road being within 100 feet of the building, 150 feet of the building. There's a section that also says the local jurisdiction has the authority.

MR. MINUTA: Of course.

MR. CANFIELD: He's the one that has the deciding factor. My response to that, Joe, is you're a hundred percent correct in that portion of the code, you comply, however I just can't visualize the jurisdictional fire department staying out on Route 52.

CHAIRMAN EWASUTYN: Neither can I.

MR. MINUTA: Agreed.

MR. CANFIELD: Knowing our firemen and how they are, they're going to want to get on the site to get off the roadway in both cases. As it looks, it doesn't appear to be that big of a deal to increase these entrance ways from 176, tuck it back a little bit perhaps on each side to

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ORANGE LAKE PHYSICAL THERAPY

increase it to the 20 feet. If you can give us accessibility. The parking lines scaled out are a little longer than 18 feet.

MR. MINUTA: They're on the skew so they do come out to be that.

MR. CANFIELD: If you could perhaps tuck that back just to get that 20 feet.

MR. MINUTA: Okay.

MR. CANFIELD: It does not have to be a 360 but at least in driving range so they can get in and off the road type thing.

MR. MINUTA: Okay. So if I'm understanding that correctly, you want full access around the building on the interior side of the lot?

MR. CANFIELD: Get us into the lot and --

MR. MINUTA: Get you back here.

MR. CANFIELD: Yeah. That would work. That would work.

MR. MINUTA: Great.

MR. CANFIELD: The building is not that large. Typical hose lengths and stretches are not that much.

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MR. HINES: They probably got smaller under your new design.

MR. MINUTA: Not much. I think we manipulated it.

MR. CANFIELD: All those comments -- basically the site accessibility comments are maintained. The sprinkler, the building height we addressed.

The only thing up in the air as far as my comments are the zoning questions depending upon which actual proposal we're going to be looking at finally.

MR. MINUTA: Very well.

MR. CANFIELD: Okay. That's it, John. Thank you.

CHAIRMAN EWASUTYN: Okay. Pat Hines.

MR. HINES: The proposed building envelop should be shown on the plans, existing conditions.

We'll need a survey with the existing topography obviously submitted.

The next comment has to do with the lots we've discussed. You'll clarify that probably through a title company I would assume.

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You're proposing to landscape what I think your neighbor is using as a parking lot right now. That may become an issue.

MR. MINUTA: We're trying to reclaim some of that as green space.

MR. HINES: I guess we'll get your neighbor's reaction at the public hearing.

We'll need site utilities shown in the future.

DOT approval.

I thought the lot line was the 100-foot width. It does correspond to that.

You only have building setbacks where the building has proper width. If you have that that does become your lot width area too.

Angled parking we talked about.

Water and sewer, you said you're in the district. We just need that shown.

I have some comments on the EAF you can clarify.

I do want to clarify the Town has a separate stormwater management regulation that is more stringent than the DEC's, so there is no net increase requirement even from a site less than

1 one acre.

2
3 You'll have to take a look at the
4 stormwater management. The depression layer that
5 currently stores water, you need to address that
6 also. You will need to take a look at stormwater
7 there.

8 We need finished floor shown on
9 whatever building you ultimately design there.

10 That's what we have.

11 MR. MINUTA: Excellent.

12 MR. HINES: I know you have them.

13 MR. MINUTA: I do. Thank you.

14 CHAIRMAN EWASUTYN: Karen Arent,
15 Landscape Architect.

16 MS. ARENT: On the existing landscaping
17 in the Town of Newburgh property is very
18 attractive and creates a beautiful gateway. If
19 the pears and spruces could be preserved along
20 with the stonewall, that would really help
21 preserve the gateway to the residential
22 community. Just accurately portray this
23 landscaping and stonewall. It's not accurately
24 portrayed there.

25 There is a culvert that goes across

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ORANGE LAKE PHYSICAL THERAPY

Route 52 and connects to a larger wetland over here, so I didn't know if since these are connected, --

MR. HINES: I haven't been to the site.

MS. ARENT: -- what impacts that has. I was exploring the idea or asking you but it sounds like it might not be possible, since your neighbor is using the pavement and they have a through road here, if that could possibly be shared. Maybe you could agree with him to share some of the pavement and the through road and that would ease up the amount of pavement that you're showing on your side. I didn't know if that was a possibility or not. If you could look into sharing this access drive, --

MR. MINUTA: Absolutely we can look into that.

MS. ARENT: -- that would really help.

MR. HINES: That may help your fire access.

MS. ARENT: And the look of the whole site. You can probably get rid of all this parking and double-loaded aisle here and you could have green space all around.

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MR. MINUTA: You're not suggesting we share parking with the neighbor?

MS. ARENT: No. Well, if that's a possibility, too. Just explore parking and the access road, especially if they might use the parking at a different time than you would be using it.

MR. MINUTA: Okay.

MS. ARENT: That's something that you would have to coordinate more with Ken.

MR. MINUTA: I'll bring that to my client.

MS. ARENT: And then I also mention that sometimes properties like this -- like on this property you're pretty much paving right up to the property lines on both sides. Being it is -- in the past the design guidelines speak against that. It says to hide the parking as best as possible. Also this is a residential community. To have parking right up to a major access drive, there's a residential community, kind of spoils the character. If you could possibly, even if you needed a variance for setbacks, try to observe the design guidelines.

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2 This is something you'd have to discuss
3 with the Planning Board, but try to -- you can
4 come through here and double load the parking if
5 you can't share. That would enable all this to
6 be green space. You would get all your parking
7 and then it would be a much more beautiful site.
8 Just explore some ideas.

9 MR. MINUTA: I do have one question
10 with respect to the design guidelines versus
11 zoning. Are the guidelines guidelines or --

12 MS. ARENT: The guidelines are
13 guidelines. Sometimes zoning is -- correct me if
14 I'm wrong, sometimes if a site can be much more
15 attractive and fitting with the design
16 guidelines, it makes sense to ask for relief from
17 a setback.

18 MR. DONNELLY: Sure. I think when the
19 Zoning Board analyzed the five factors for
20 character of the community, that would be a
21 legitimate reason to exercise their jurisdiction
22 to give you a setback variance in favor of the
23 objective to the guidelines, but that would be
24 their call.

25 MR. MINUTA: Would it be fair to say

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that the guidelines would then become the hardship?

MR. DONNELLY: You don't need a hardship for an area variance. If you want to put it in those terms, yes. It can't be both and one has to yield. Either we ask the Planning Board to waive the guidelines or we ask you to waive the setback. We think, and the Planning Board thinks, you may want to consider letting the guidelines be what wins.

MR. MINUTA: Thank you.

MS. ARENT: That's it.

MR. MINUTA: Thank you.

CHAIRMAN EWASUTYN: Ken Wersted, Traffic Consultant.

MR. WERSTED: I think the presentation covered most of my questions, the last one being access for garbage trucks. Obviously the dumpsters are in the northwest corner and to access it might be difficult in terms of having a garbage truck be able to turn around, pick up garbage. Whether it's a front loader or rear loader I don't know.

MR. MINUTA: If I may illustrate. The

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intent here is the truck would come in through here, pull forward, back up and front load here, load and unload and then do the same, come back up here to the signaled intersection.

MR. WERSTED: There may be the need to look at that, the radii.

MR. MINUTA: I think we'll widen this a little more. Thank you.

MR. WERSTED: I think if you look at the alternative plan and maybe pursue -- I would assume that the Newburgh parcel is separate, and if you go with lower parking, it will probably kick you over into needing a variance from the parking if the building size remains the same. You still need twenty-three but, you know, you can get away with fifteen or sixteen parking spaces. I think you still have to go to the Zoning Board and get that variance.

MR. MINUTA: Something that I do have a question on is with respect to the amount of parking for this parcel. Based on the Town code, the zoning code for this, we came up with twenty-four spaces. I'm trying to figure out whether that calculation within there is the

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accurate of the two based on what we have. I'm just trying to understand where fifteen came from versus the twenty-three we calculated so I have a consistent method going forward.

MR. WERSTED: The fifteen I calculated was based on ITT's study of parking requirements, similar to trip generation. The Town code I believe is based on different standards and so forth where they see the need for, you know, one space per a certain amount of square footage based on the land use. IT has gone out and looked at different uses and said how much parking is needed based on how many cars are there. So the number that I provided of fifteen vehicles would be the average peak parking. If you provide fifteen or sixteen parking spaces, then you may have somebody come in and have to drive around the whole site to find the one space. Typically when we're looking at parking requirements, and generally with hospitals and larger facilities, we like to see anywhere from ten to fifteen percent extra provided just to account for an occasional snowfall, when there's half an inch of snow on the ground and you can't see the striping

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and now everyone parks a little bit further away from the car next to them and now we potentially have ten or twelve parking spots. So that's how I came up with that number and the details of that.

MR. MINUTA: Okay.

CHAIRMAN EWASUTYN: I think we applied that IT formula with Walgreen's, did we not?

MR. WERSTED: Yes, we did.

CHAIRMAN EWASUTYN: In which case we went from a hundred and something down to eighty-three I think it was.

MR. WERSTED: Correct. The Walgreen's project included a bank and -- I guess there was an interpretation of where the Walgreen's falls into in terms of a -- was it retail? I don't believe the Town's code has language for a pharmacy. The applicant considered it retail and noted that it would be -- it required a hundred and some odd parking spaces. If I remember correctly, they went to the Zoning Board and the Zoning Board said, you know, we really want you to have all the parking that you are required by that language intent in the code. There were

1 many letters written back and forth. From our
2 perspective we had provided documentation from
3 ITT that said a pharmacy really only requires,
4 you know, approximately fifty parking spaces. So
5 there was a big discrepancy between what the Town
6 code required and what IT suggested would be the
7 peak demand.
8

9 MR. MINUTA: Okay. I am familiar with
10 that. You can say the same thing about a Federal
11 credit union versus a bank. There's a lot more
12 traffic although similar. Understood.

13 MR. WERSTED: So that was the aspect
14 surrounding the Walgreen's. The difference is in
15 what the Town code requires and what may be
16 observed.

17 MR. MINUTA: Excellent. Thank you.

18 CHAIRMAN EWASUTYN: Ken Mennerich?

19 MR. MENNERICH: While you're discussing
20 parking, could you consider on the handicap
21 parking -- you show two spaces for handicap
22 parking.

23 MR. MINUTA: Yes.

24 MR. MENNERICH: For a physical therapy
25 type of operation wouldn't there be the

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likelihood of needing more spaces for handicap?

MR. MINUTA: As a practical matter that would sound logical. From a code perspective it becomes encumbering to try to accommodate that extra aisle, the five-foot aisle. So that becomes a push and pull scenario.

MR. MENNERICH: I guess what I'm thinking, though, is if there is a rationale for lowering the number of parking spaces, maybe you can make more of them handicap when you lower the number. That's all.

MR. MINUTA: We did provide two, and that's actually one over what is required. So we sort of went that route a little bit.

MR. WERSTED: Just going to one of my earlier questions. I had asked in my comments if this was an existing practice somewhere else that would be moving here or it's a new practice. If it was an existing practice they might have some experience as to --

MR. MINUTA: It is an existing practice.

MR. WERSTED: -- how many disabled people might be visiting that existing practice

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that might need extra room to park and get out of vehicles.

MR. MINUTA: Fair enough.

CHAIRMAN EWASUTYN: What's your intent at this point?

MR. MINUTA: My intent is to take these comments, move forward, take a look at the parcel that's in question. I think the next step -- I think the plan we have on the lower right there, not using the parcel, is really the path of least resistance at this point as far as having to obtain additional information, however it might be beneficial to take a look into it. So I'm undecided at this point. I'll have to have my client make that decision.

The next step of this is certainly going to be to present to you a plan that -- either this or the one we presented and move forward from there.

CHAIRMAN EWASUTYN: Mike, in reference -- did you have something to say, Ken?

MR. MENNERICH: Just one other question that's been touched on is the connection between wetlands and stuff between the -- going north and

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south I guess. Won't you have to get that resolved pretty early in your process to know how to lay out the property?

MR. MINUTA: We have resolved that actually. I had Dave Tomkins, who is a wetlands specialist with Klein, Felter, go on the property. They actually did do wetlands flagging. There's no connection between this particular property and the north side of Old South Plank Road. That connection does not exist. The fact that it is an Army Corp wetlands and we are below the threshold needed, we can actually fill that entire section.

MS. ARENT: I was just telling Pat to take a look at the wetlands on the south side of 52. That's connected with the culvert to the wetlands.

CHAIRMAN EWASUTYN: Okay.

MR. MINUTA: Would it help or be appropriate at this juncture to show you the survey that we have of that wetlands area? Anybody interested?

MR. HINES: Just resubmit it with your stuff.

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MR. MINUTA: Fair enough.

CHAIRMAN EWASUTYN: Mike, at this point, while the applicant is deciding on what the final site plan would be, currently before us right now would be to declare our intent for lead agency.

MR. DONNELLY: You can do that. I don't know how you feel about the concept because really two concepts are being proposed. You may want to wait.

CHAIRMAN EWASUTYN: We can either grant conceptual approval and declare our intent for lead agency, at the same time circulate to Orange County Planning Department and begin the SEQRA process, or if you'd like to hold off until you decide what site plan you really want to go with, we can defer that action to a later date.

MR. MINUTA: As much as I'd like to move forward and push the timetable, I would have to leave it up to your Board and what the legalities of that means. We're definitely going to pursue one or the other but at this point we're not sure which one. I don't know if that encumbers you in any way.

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MR. DONNELLY: The piece of the concept that is a little undecided is whether the applicant can work out the shared access moving the building forward to try to meet the design guidelines, even if that might, you know, mean a variance. That's a slightly different concept. I don't know. Maybe we want to explore and see if those things are workable.

CHAIRMAN EWASUTYN: Let me see what the Board wants to do. Frank Galli?

MR. GALLI: I would rather wait until he explores everything and gets the final concept that he wants and the final plan he's going to use and bring it back to us. Things are moving along at a pretty quick pace, so --

CHAIRMAN EWASUTYN: Cliff?

MR. BROWNE: I agree with Frank. A little on the thin side.

MR. MENNERICH: I agree to wait.

CHAIRMAN EWASUTYN: Joe?

MR. PROFACI: I agree. I would like to see you go further, Joe.

MR. MINUTA: Fair enough.

CHAIRMAN EWASUTYN: Thank you for your

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time.

MR. MINUTA: My pleasure. Thank you
all.

Before the next meeting should I
schedule for a workshop or come back to this
Board?

CHAIRMAN EWASUTYN: Come back.

MR. MINUTA: Very well. Thank you.

(Time noted: 8:50 p.m.)

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

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

DATED: January 16, 2009

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

----- X

In the Matter of

WOODFIELD MANOR SUBDIVISION - PHASE II
(1995-34)

Request for an Extension of Conditional Final Approval

----- X

BOARD BUSINESS

Date: January 8, 2009
Time: 8:50 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

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

----- X

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

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MS. HAINES: The first item of Board Business is Woodfield Manor Subdivision, Phase II. We received a letter from Michelle Babcock dated January 5, 2009 requesting a 180-day extension of the conditional final subdivision approval. The current approval expires on January 28, 2009. With a 180-day extension, approval will be valid through July 27, '09.

CHAIRMAN EWASUTYN: I'd move for that motion.

MR. PROFACI: So moved.

MR. GALLI: Second.

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

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: Myself aye. So carried. Thank you.

(Time noted: 8:52 p.m.)

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

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

DATED: January 16, 2009

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

----- X
In the Matter of

PONDS AT BRITAIN WOODS
(2003-20)

Receipt of DEIS on January 8, 2009

----- X

BOARD BUSINESS

Date: January 8, 2009
Time: 8:53 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

ALSO PRESENT: DINA HAINES
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PATRICK HINES
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PONDS AT BRITAIN WOODS

111

MS. HAINES: The last thing on Board business is the Ponds at Britain Woods. We received the DEIS today, January 8, 2009.

CHAIRMAN EWASUTYN: Okay. I'll just move for a motion to acknowledge the fact that we received the DEIS.

MR. GALLI: So moved.

MR. MENNERICH: Second.

CHAIRMAN EWASUTYN: I have a motion by Frank Galli. I have a second by Ken Mennerich. I'll ask for a roll call vote starting with Frank Galli.

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: Myself. So carried.

(Time noted: 8:54 p.m.)

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

----- X

In the Matter of

SUPREME COURT RULING REGARDING ENDANGERED SPECIES

----- X

BOARD BUSINESS

Date: January 8, 2009
Time: 8:54 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

ALSO PRESENT: DINA HAINES
MICHAEL H. DONNELLY, ESQ.
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BOARD BUSINESS

CHAIRMAN EWASUTYN: I just want to take a brief moment and I'll let you out. Bryant gave us the new Supreme Court ruling on endangered species.

My quick take is -- Mike, you're always right as far as declaring a negative declaration and closing out SEQRA before we get into a public hearing and that determination. You even said if you want to have a public hearing before you do that, you can still do that but procedurally you still have to do it this way, so we're correct on that basis.

Where do we stand with all this now?

MR. DONNELLY: What's troublesome about the portion of the decision that relates to endangered species, if I read the case correctly, what that planning board did is relied upon existing DEC maps or data and that indicated that there were no known endangered species that existed on that site, and found that something they could rely upon in issuing a negative declaration. The court seemed to say that more was required, and

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BOARD BUSINESS

that more is an actual visit or viewing by someone. I guess that means when we look at an applicant's EAF we want to make sure that the part of the EAF that addresses presence of endangered species includes based upon a field visit by X, Y, Z, some identified person and their level of expertise. That I think would satisfy that case. I think that can be onerous for applicants and the board on a garden variety of matters, a two-lot subdivision in a residential neighborhood where somebody actually has to do that.

More troublesome than that to me is if you carried that forward to other issues. I think it's common for applicants at the EAF stage to rely upon wetlands inventory maps or other similar soils maps. All of the things that are typically relied upon by applicants, at least at that preliminary environmental stage, I think are called into question by the decision. I don't know that it will be extended beyond endangered species. I had heard that that decision is being appealed on that ground, so conceivably it will be

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BOARD BUSINESS

reversed.

I think what it tells us is we should look not just at what the answer is but to whether or not that source reports that answer based upon some actual examination and not from something they looked up in a book or a study even though it's governmentally produced. So I think it provides some caution to us.

Now, most of the larger projects, even at the EAF stage somebody has gone out there and there is a report and somebody has done a delineation of wetlands. Certainly on a larger project someone has made some preliminary evaluation to the presence of endangered species. I think we have to go an extra layer.

I should say that it's a Third Department decision. New York State has four departments, First, Second, Third and Fourth. We're in the Second Department. Decisions of the intermediate appellate court outside of your department don't bind you. They would be persuasive. In other words, if you

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BOARD BUSINESS

did send somebody out to look at endangered species and someone challenged your negative declaration, they would argue this Third Department case. That wouldn't bind the judge but it would be persuasive authority, something the judge would consider. I wouldn't say ignore it. It doesn't bind you.

I think we want to be careful that EAFs are not somebody just checking a bunch of boxes without somebody checking what the basis was.

CHAIRMAN EWASUTYN: That department, if I read it right, consisted of only two counties.

MR. DONNELLY: No. The Third Department is Sullivan, Albany, Columbia --

CHAIRMAN EWASUTYN: It's more than two. Okay.

MR. DONNELLY: It may go up to the Canadian border.

CHAIRMAN EWASUTYN: Then I stand corrected.

MR. DONNELLY: I think the Third Department is from Ulster up to the border, then the Fourth Department is over the other way.

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BOARD BUSINESS

MR. HINES: I read that decision. Someone can come to a public hearing and say you didn't look under that log. You're trying to prove no, there's not something there, I looked everywhere.

MR. DONNELLY: That becomes credibility. If the EAF had a statement that this was based upon a field observation, the mere fact that somebody disagreed, it's for the Board to decide which they find more credible even without a public hearing.

MR. HINES: It's the standard in the industry across the State.

MR. DONNELLY: That is now called into question, that's for sure.

CHAIRMAN EWASUTYN: You all got copies of that. Dina put that in your box.

Anything else before we look to close?

(No response.)

CHAIRMAN EWASUTYN: Okay.

Again, the gateway project they are working on. That will be back the first week in May.

MS. HAINES: February. February 5th.

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BOARD BUSINESS

CHAIRMAN EWASUTYN: Thanks.

I'll move for a motion to close the
Planning Board meeting of the 8th of January.

MR. MENNERICH: So moved.

MR. GALLI: Second.

CHAIRMAN EWASUTYN: I have a motion by
Ken Mennerich and a second by Frank Galli. I'll
ask for a roll call vote.

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: Aye.

(Time noted: 8:59 p.m.)

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