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

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In the Matter of

2008 REORGANIZATION

----- X

BOARD BUSINESS

Date: January 17, 2008
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

----- X

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

REORGANIZATION

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CHAIRMAN EWASUTYN: Good evening, ladies and gentlemen. I'd like to welcome you to the Town of Newburgh Planning Board meeting of the 17th of January.

At this time we'll 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: Myself here present.

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

MR. DONNELLY: Michael Donnelly, Planning Board Attorney.

MS. CONERO: Michelle Conero, Court Stenographer.

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

MR. COCKS: Bryant Cocks, Planning

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Consultant with Garling Associates.

MS. ARENT: Karen Arent, Landscape Architectural Consultant.

CHAIRMAN EWASUTYN: At this time I'd like to turn the meeting over to Frank Galli. (Pledge of Allegiance.)

MR. GALLI: Please turn off all cell phones or whatever devices you have that make noise.

CHAIRMAN EWASUTYN: This is 2008. This is our first meeting since the Town had their reorganizational meeting and we have some actions before us tonight for reorganization.

I'll turn to Dina Haines, Planning Board Secretary, to bring that along.

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

CHAIRMAN EWASUTYN: I'll move for a motion to appoint Ken Mennerich Vice Chairman.

MR. GALLI: So moved.

MR. PROFACI: Second.

CHAIRMAN EWASUTYN: I have a motion by Frank Galli. I have a second by Joe Profaci.

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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 for the appointment of Michael Donnelly for the position of Planning Board Attorney.

MR. PROFACI: So moved.

MR. MENNERICH: Second.

CHAIRMAN EWASUTYN: I have a motion by Joe Profaci and 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 yes. So carried.

MS. HAINES: We need a motion to

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appoint Bryant Cocks of Garling Associates as our Consulting Planner.

MR. MENNERICH: So moved.

MR. PROFACI: Second.

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

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 Karen Arent, Registered Landscape Architect, as our Landscape Architect Consultant.

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.

REORGANIZATION

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2 MR. MENNERICH: Aye.
3 MR. PROFACI: Aye.
4 CHAIRMAN EWASUTYN: Myself yes. So
5 carried.
6 MS. HAINES: We need a motion to
7 appoint Kenneth Wersted of Creighton, Manning
8 Engineering as our Traffic Consultant.
9 MR. MENNERICH: So moved.
10 MR. PROFACI: Second.
11 CHAIRMAN EWASUTYN: I have a motion by
12 Ken Mennerich. I have a second by Joe Profaci.
13 I'll move for a roll call vote starting with
14 Frank Galli.
15 MR. GALLI: Aye.
16 MR. BROWNE: Aye.
17 MR. MENNERICH: Aye.
18 MR. PROFACI: Aye.
19 CHAIRMAN EWASUTYN: Myself yes. So
20 carried.
21 MS. HAINES: We need a motion to
22 appoint Patrick J. Hines of McGoey, Hauser &
23 Edsall as our Consulting Engineer.
24 MR. PROFACI: So moved.
25 MR. GALLI: Second.

REORGANIZATION

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2 CHAIRMAN EWASUTYN: I have a motion by
3 Joe Profaci. I have a second by Frank Galli.
4 I'll ask for a roll call vote starting with
5 Frank.
6 MR. GALLI: Aye.
7 MR. BROWNE: Aye.
8 MR. MENNERICH: Aye.
9 MR. PROFACI: Aye.
10 CHAIRMAN EWASUTYN: Myself yes. So
11 carried.
12 MS. HAINES: We need a motion to
13 appoint Michael Musso of HDR LMS as our
14 Telecommunications Consultant.
15 MR. GALLI: So moved.
16 MR. MENNERICH: Second.
17 CHAIRMAN EWASUTYN: I have a motion by
18 Frank Galli. I have a second by Ken Mennerich.
19 I'll ask for a roll call vote starting with Frank
20 Galli.
21 MR. GALLI: Aye.
22 MR. BROWNE: Aye.
23 MR. MENNERICH: Aye.
24 MR. PROFACI: Aye.
25 CHAIRMAN EWASUTYN: Aye.

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MS. HAINES: We need a motion to appoint Michelle L. Conero as the Stenographer to the Planning Board.

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. So approved.

MS. HAINES: We need a motion for the adoption of the Planning Board meeting schedule for the year 2008.

MR. GALLI: So moved.

MR. BROWNE: Second.

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

(No response.)

REORGANIZATION

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2 CHAIRMAN EWASUTYN: I'll move for a
3 roll call vote starting with Frank Galli.
4 MR. GALLI: Aye.
5 MR. BROWNE: Aye.
6 MR. MENNERICH: Aye.
7 MR. PROFACI: Aye.
8 CHAIRMAN EWASUTYN: Aye.
9 MS. HAINES: We need a motion for the
10 adoption of the consultants' work session
11 schedule for the year 2008.
12 MR. PROFACI: So moved.
13 MR. GALLI: Second.
14 CHAIRMAN EWASUTYN: I have a motion by
15 Joe Profaci. I have a second by Frank Galli.
16 Any discussion of the motion?
17 (No response.)
18 CHAIRMAN EWASUTYN: I'll move for a
19 roll call vote.
20 MR. GALLI: Aye.
21 MR. BROWNE: Aye.
22 MR. MENNERICH: Aye.
23 MR. PROFACI: Aye.
24 CHAIRMAN EWASUTYN: Myself yes. So
25 carried.

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Congratulations to everyone.

(Time noted: 7:06 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 26, 2008

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

- - - - - X

In the Matter of

LANDS OF SUMMER KIM PHASE II AT LONGVIEW FARMS
(2006-39)
End of Barbara Drive
Section 20; Block 1; Lot 1
AR Zone

- - - - - X

CONTINUED PUBLIC HEARING
26-LOT SUBDIVISION & 6 LOT LINE CHANGES

Date: January 17, 2008
Time: 7:07 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

APPLICANT'S REPRESENTATIVE: BRADLEY ALLEN

- - - - - X

MICHELLE L. CONERO
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(845)895-3018

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CHAIRMAN EWASUTYN: At this time we'll get into the first item of business and that's the lands of Summer Kim Phase II at Longview Farms. It's located on Barbara Drive in an AR zone and it's being represented by --

MR. ALLEN: Brad Allen from Whiteman, Osterman & Hanna.

CHAIRMAN EWASUTYN: It's a continuation of a public hearing for a 26-lot subdivision and 6 lot line changes.

Is there anyone here this evening who has any questions or comments?

(No response.)

CHAIRMAN EWASUTYN: Mr. Palmerone, I see you're in the back. Do you have any questions?

MR. PALMERONE: No.

CHAIRMAN EWASUTYN: Do you want to bring us along?

MR. ALLEN: Sure. Brad Allen from Whiteman, Osterman & Hanna. Mr. Staples was called out of town to Florida unexpectedly. Sorry he couldn't be here tonight.

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I missed the last meeting but I understood you continued the public hearing the last time. One of the issues raised was the existence of litigation between Hickory Shadow -- Summer Kim, unrelated entities, and Mr. Palmerone and his entity Taylor's Way. Since the last meeting there was a court hearing and as part of the court hearing there was a conference between the parties. We have reached a tentative settlement agreement that we expect to be commenced in the next few weeks. I've addressed those comments to Mr. Donnelly and sent a letter to the Planning Board.

At this time we would like to ask you -- assuming that everything else -- all the other comments and questions have been addressed, we would like to ask you for preliminary plat approval.

MR. DONNELLY: The issue that was in litigation would, depending upon its resolution, affect the layout of the subdivision, and that was part of the reason for waiting to see what happened at the conference. You've received a letter from both Mr. Gaba, the attorney for the

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other party in that litigation, as well as from Mr. Allen, and both have agreed that a resolution requires that settlement to be finalized before final approval would make sense.

The resolution I've -- the condition I've provided for in the resolution requires either that the litigation be finally settled or that the map, in the event it can't be amended, show how the grading and the access will be handled in the event the litigation is unsuccessful. Given the tentative nature of the settlement, the report letter from both counsel, I see no reason why that needs to be held up for a longer period.

CHAIRMAN EWASUTYN: Before I move for a motion to close the public hearing on the 26-lot subdivision and 6 lot line changes for the lands of Summer Kim Phase II at Longview Farms, is there anyone here this evening who has any questions or comments?

(No response.)

CHAIRMAN EWASUTYN: Okay. Then I'll move for a motion to close the hearing.

MR. MENNERICH: So moved.

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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: Myself yes. So carried.

Mike, can you give us conditions for preliminary approval for the lands of Summer Kim Phase II at Longview Farms.

MR. DONNELLY: A number of other issues need to be taken care of before final approval. I've prepared a resolution and I've given a draft of it to counsel for the applicant as well as for Mr. Palmerone.

First, the Orange County Department of Health will have to grant realty subdivision approval. There will need to be a notice of

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2 intent for stormwater discharge filed with the
3 DEC. There's an outstanding issue regarding an
4 existing concrete box culvert on the site that
5 will have to be resolved to the satisfaction of
6 the town engineer and the town highway
7 superintendent before final approval can be
8 granted. The final plans will need to show the
9 required number of street trees. The Town Board
10 will have to approve the names of the roadways.
11 The litigation will have to be either settled
12 with finality or the plat amended to adjust the
13 grading and access to adjoining lands. When
14 final approval is granted there will be a series
15 of conditions that will be imposed as part of
16 that. They're announced in the resolution. The
17 first is the approval of the soil management plan
18 with the Department of Health. There are several
19 parcels to be adjusted with adjoining property
20 owners. Those deeds will have to be prepared,
21 reviewed by me and found satisfactory before
22 final, and they will have to be recorded as a
23 condition of that final approval. A flood
24 development permit will be required from the code
25 compliance department, and the approval will be

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2 conditioned upon obtaining that permit. There
3 are more than 10 lots in this subdivision and the
4 resolution announces that the more than 10 lot
5 ARB revisions will govern how houses are to be
6 built. We'll need a series of financial
7 securities, a landscape security, a stormwater
8 security, a Town road security. Each of those
9 have inspection fees that go with them. There
10 will be offers of dedication required for the
11 lands to be offered for the Town. There's a
12 requirement of the payment of fees in lieu of
13 parkland.

14 CHAIRMAN EWASUTYN: Does anyone have
15 any additions or comments? I'll turn to our
16 consultants first. Pat Hines, Drainage
17 Consultant?

18 MR. HINES: All our comments have been
19 incorporated in the resolution.

20 CHAIRMAN EWASUTYN: Bryant Cocks,
21 Planning Consultant?

22 MR. COCKS: We have no further
23 comments.

24 CHAIRMAN EWASUTYN: Karen Arent,
25 Landscape Architect?

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MS. ARENT: No further comments.

CHAIRMAN EWASUTYN: Board Members.
Frank Galli?

MR. GALLI: Nothing further.

CHAIRMAN EWASUTYN: Cliff Browne?

MR. BROWNE: Nothing more.

MR. MENNERICH: No.

MR. PROFACI: No.

CHAIRMAN EWASUTYN: Having heard the conditions for preliminary approval recited by our Attorney, Mike Donnelly, I would move for that motion.

MR. GALLI: So moved.

MR. PROFACI: Second.

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

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

MR. ALLEN: Thank you.

CHAIRMAN EWASUTYN: Mr. Palmerone, I
hope you're satisfied.

MR. PALMERONE: Yes.

(Time noted: 7:13 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 26, 2008

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

----- X

In the Matter of

LANDS OF WEBER
(2006-58)
Mill Street
Section 4; Block 1; Lot 47.7
RR Zone

----- X

CONTINUED PUBLIC HEARING
THREE-LOT SUBDIVISION

Date: January 17, 2008
Time: 7:13 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

APPLICANT'S REPRESENTATIVE: JONATHAN CELLA

----- X

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

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CHAIRMAN EWASUTYN: The next item we have this evening is the lands of Weber. It's a public hearing for a two-lot subdivision located on Mill Street in an RR Zone. It's being represented by Jonathan Cella.

Ken Mennerich will read the notice of hearing.

MR. MENNERICH: "Notice of hearing, Town of Newburgh Planning Board. Please take notice that the Planning Board of the Town of Newburgh, Orange County, New York will hold a public hearing pursuant to Section 276 of the Town Law on the application of lands of Weber for a two-lot subdivision on premises Mill in the Town of Newburgh, designated on Town tax map as Section 4; Block 1; Lot 47.7. Said hearing will be held on the 17th day of January at the Town Hall Meeting Room, 1496 Route 300, Newburgh, New York at 7 p.m. at which time all interested persons will be given an opportunity to be heard. By order of the Town of Newburgh Planning Board. John P. Ewasutyn, Chairman, Planning Board Town of Newburgh. Dated January 2, 2008."

CHAIRMAN EWASUTYN: Dina Haines.

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MS. HAINES: The notice of hearing was published in The Sentinel on Friday, January 11, 2008 and in The Mid-Hudson Times on Wednesday, January 9, 2008. The applicant's representative sent out nineteen registered letters, twelve were returned. The publications and mailings are all in order.

CHAIRMAN EWASUTYN: Thank you. Jonathan, would you give your presentation please.

MR. CELLA: The existing parcel is 5 acres zoned RR which requires a minimum lot size of 2 acres. The subdivision will create two building -- one new building lot of 2.2 acres and the balance of 2.8 acres will go with the existing residence located in the rear of the parcel.

Both lots will be serviced by the existing driveway across from Mill Street -- Old Mill Street. We're located in between the New York State Thruway and wetland MB-5.

CHAIRMAN EWASUTYN: Thank you. Is there anyone here this evening who has any questions or comments in reference to the two-lot

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subdivision?

(No response.)

CHAIRMAN EWASUTYN: I'll turn to our consultants for their recommendations to the Planning Board. Pat Hines?

MR. HINES: We have one clean-up item. There was a labeling discrepancy between the separation distances between the well and septic. Adequate separation distance exists as to scale on the plan but it's labeled as 150 and it should say 200. That's the only outstanding comment we have.

CHAIRMAN EWASUTYN: Okay. Bryant Cocks, Planning Consultant?

MR. COCKS: The applicant has met all of our comments regarding lot layout and zoning. We forwarded the project to the Orange County Planning Department, DEC and the Thruway Authority. We received a letter back from the Orange County Planning Department but have not received word back from either other agencies.

CHAIRMAN EWASUTYN: Karen Arent?

MS. ARENT: No comments.

CHAIRMAN EWASUTYN: Frank Galli?

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2 MR. GALLI: No additional comment.
3 CHAIRMAN EWASUTYN: Cliff Browne?
4 MR. BROWNE: No.
5 MR. MENNERICH: No questions.
6 MR. PROFACI: No, thank you.
7 CHAIRMAN EWASUTYN: I'm going to ask is
8 there anyone here this evening, one more time,
9 who has any questions or comments?
10 (No response.)
11 CHAIRMAN EWASUTYN: Okay. There being
12 no hands raised for the public hearing for the
13 lands of Weber, I'm going to move for a motion to
14 close the public hearing.
15 MR. MENNERICH: So moved.
16 MR. PROFACI: Second.
17 CHAIRMAN EWASUTYN: I have a motion by
18 Ken Mennerich. I have a second by Joe Profaci.
19 Any discussion of the motion?
20 (No response.)
21 CHAIRMAN EWASUTYN: I'll move for a
22 roll call vote starting with Frank Galli.
23 MR. GALLI: Aye.
24 MR. BROWNE: Aye.
25 MR. MENNERICH: Aye.

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MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: Myself yes. So carried.

Mike Donnelly, can you give us the conditions of approval for the two-lot subdivision for the lands of Weber?

MR. DONNELLY: This would be for both preliminary and final approval. We'll need a sign-off letter from Pat Hines on the few items mentioned in his memo of January 11, 2008. We'll need an approval of the wetlands delineation by the New York State Department of Environmental Conservation. I think we decided at work session that you gave notice to the Thruway Authority that they do not have approval authority over this project but merely they are the owners of adjoining property. Since they have not commented there's no need to condition the approval on receiving comments from them. We'll need a common driveway easement and maintenance agreement that I'll need to review before the plat can be signed, and that will need to be recorded simultaneously with the plat. There will be a requirement of the payment of fees in

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lieu of parklands.

CHAIRMAN EWASUTYN: Thank you. Having heard the conditions of approval from our Attorney, Mike Donnelly, I'll move for that motion.

MR. GALLI: So moved.

MR. PROFACI: Second.

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

(No response.)

CHAIRMAN EWASUTYN: Then 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. So carried.

MR. CELLA: Thank you.

(Time noted: 7:18 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 26, 2008

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

----- X
In the Matter of

PROPOSED PHARMACY AND BANK
(2006-51)
North Plank Road, Noel Drive & Stanley Place
Section 77; Block 2; Lot 5
B Zone

----- X

SITE PLAN

Date: January 17, 2008
Time: 7:18 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

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

APPLICANT'S REPRESENTATIVE: NEIL WILSON

----- X

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

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CHAIRMAN EWASUTYN: The following item of business this evening is the proposed pharmacy and bank. It's a site plan located on North Plank Road, Noel Drive and Stanley Place in a B Zone. It's being represented this evening by Neil Wilson.

MR. WILSON: Mr. Chairman, Members of the Board, good evening. Neil Wilson, I'm the Attorney for the applicant.

At the December 27th meeting of the ZBA the ZBA acted to deny the application which we had originally proposed to put in only 82 parking spaces as opposed to the 114 ordinarily required of a retail operation. What we had done immediately after the meeting was to prepare a plan revision, which I'm going to ask Tim O'Brien of BL Companies just to take you through very quickly, in which we have incorporated 12 spaces at the rear of the site.

Unfortunately this plan revision still requires a variance for parking but it now also requires a second variance because we'll be cutting into the landscaped area -- the buffer area in the back which of course was required as

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a result of the amendments made to the Zoning Law in April of last year.

So I'm just going to turn it over very quickly to Tim.

MR. O'BRIEN: As Neil pointed out about the Zoning Board, they disapproved the variance for the parking. We looked at the site plan and tried to figure out the best place to add additional parking to the sides. The only portion of the site that was really left open where we could have access by a drive aisle and still get the parking spaces is this section here which is in the sixty-foot rear buffer.

MR. BROWNE: Could you turn that a little bit?

MR. O'BRIEN: We added 12 spaces right here. This line here is your sixty-foot rear buffer from the property line. I'd like to point out that although it's a residential buffer, there's no homes on that side directly behind the site on Stanley Road. Everything else is on the opposite side of Stanley Place Road. So we were able to add 12 spaces as Neil pointed out. We still will require a variance for that, for

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parking, but now we would also require a variance for being inside the buffer.

MR. WILSON: So of course this plan revision would require obviously a re-working of the grading, of the stormwater as well as the overall landscaping originally proposed for that part of the site.

We received some preliminary comments from your consultants. What we're asking for tonight is to be sent over to your consultants for a team meeting and for further discussion of this plan revision.

I'd also like, as part of that discussion, to discuss with the Board and your consultants as we were sort of cycling through a response -- our response to the ZBA decision, I became convinced actually that the Planning Board has the authority under your current Code to set the parking rate for this particular use. We've been using the retail parking ratio, which is 1 for every 150 square feet of space. The problem is this is a pharmacy. They sell goods at retail. The underlying use is a pharmacy. You don't have a parking rate or a definition of

1
2 pharmacy in your Code, nor do you have a
3 definition of retail in your Code to indicate
4 whether or not it was intended to include this
5 kind of a use within the meaning of retail. You
6 do have a provision in your Code, however, that
7 allows for the Planning Board to set the parking
8 rates for uses which are not otherwise listed.
9 So certainly the problem for us has been the
10 Walgreen's Pharmacy portion of the use. We're
11 utilizing the bank -- the bank and retail parking
12 ratio for the Key Bank portion, and that's fine.
13 The problem is that under your Code a parking
14 rate of 1 per every 150 square feet for this kind
15 of use, a pharmacy with a drive-up, is simply too
16 much. We've always believed, and frankly Ken
17 Wersted confirmed through his analysis to this
18 Board and a subsequent analysis to the ZBA which
19 the ZBA chose to ignore, that the 82 parking
20 spaces that are proposed for use are in fact
21 adequate for the use. So certainly it's our hope
22 that the Board would agree, your consultants
23 would agree, and frankly that would eliminate a
24 trip back to the ZBA.

25 MR. DONNELLY: I'll comment. We did

1
2 see your letter. We discussed it at the work
3 session and I think what the Board, and they'll
4 give us direction in a moment, would like from
5 you is the following: If you could give us a
6 narrative of the Walgreen's use and within it try
7 to specify as roughly as you can percentages of
8 the floor plan, or sales, or whatever it might be
9 that relate to those uses. In the meantime I'll
10 look at the dictionary definitions of the terms
11 involved. We will ask Ken Wersted to comment on
12 the table reference to the ITE manual that you
13 refer to in your letter. We can discuss those
14 things at the consultants' work session which
15 you've asked for and we can report back to the
16 Board our recommendations in regard to the issue.
17 As we understand what you've presented,
18 it's your argument that because this use is not
19 specified, that Section 185-13 c-1 authorizes the
20 Planning Board to fix the appropriate level of
21 parking that would avoid the need for a variance
22 and the matter could be handled here. The Board
23 would need to make a decision on that fork in the
24 road, whether it stays here or it goes back to
25 the Zoning Board. We would like that narrative

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from you in order to take stock in that issue.

MR. WILSON: Very good.

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

MR. GALLI: No. What Mike just said actually because of the old days of pharmacy was 1,000 square foot and 700 was for the pharmacy and 300 was for candy and greeting cards. Nowadays pharmacies are 15,000 square feet and a 1,000 foot is for pharmacy and the rest is retail, everything except what needs to be frozen. Everything in a supermarket. That's my take on it.

CHAIRMAN EWASUTYN: Cliff Browne?

MR. BROWNE: I have to agree with what Frank said. Just follow with what Mike's direction is.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: The spaces you're adding, is it your intent to discuss the need of those too as part of this or have you already accepted the fact that they are needed?

MR. WILSON: Well, we've never believed they were needed. We've discussed that

1
2 extensively with the ZBA. In fact, as I outline
3 in my letter, the ITE code -- I'm sorry, the ITE
4 parking generation manual includes the land use
5 specifically for a pharmacy with a drive-up
6 window. That is actually the calculation that
7 Ken Wersted had in the letter that he had sent
8 over to the ZBA in response to a specific request
9 from the ZBA actually. In it he concurred that
10 the 82 parking spaces that we were proposing
11 would be adequate because the actual calculation
12 between the bank and the pharmacy indicated that
13 the number was 77. So we were providing 5 more
14 spaces than what would have been required under
15 that particular calculation.

16 Frankly, the location of these spaces
17 at the rear of the site, the utility is a
18 question. We've placed them there because we
19 simply don't have anyplace else to put them.
20 They are very close to the entryway. Again, we
21 don't believe that we need them.

22 CHAIRMAN EWASUTYN: Joe Profaci?

23 MR. PROFACI: I think a lot of my
24 thinking on this is going to be based on the
25 narrative that you provide and on the percentages

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of use for each type of use.

MR. WILSON: Not a problem.

MR. PROFACI: So if you can be as honest and specific on that as you could, that would be appreciated.

CHAIRMAN EWASUTYN: Additional comments from our consultants. Pat Hines?

MR. HINES: I have no additional but would be willing to discuss it at the work session.

MR. COCKS: The work session is on Tuesday, the 22nd.

CHAIRMAN EWASUTYN: The date?

MR. COCKS: The 22nd.

MR. WILSON: Next week?

MR. COCKS: Yes.

CHAIRMAN EWASUTYN: Karen?

MS. ARENT: My only comment was if there's a grade change that would need to be accommodated if they put the parking spaces there.

CHAIRMAN EWASUTYN: Cliff Browne?

MR. BROWNE: Just to follow up a little more on what Frank mentioned. We're facing the

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2 same type of issues with gas stations, the
3 demographic change in use, a change in the whole
4 concept of what a gas station is versus what it
5 used to be. I believe the pharmacy is another
6 one of these things that's a changing situation
7 that's evolved into something it never was when
8 the codes were originally written. I think on
9 our end as a Board we have to be very careful
10 what decisions we make with this because it's
11 going to set a precedent moving forward. I think
12 we need to be really careful with what we're
13 doing with this. Not to put you on the spot with
14 this particular project but it is a situation we
15 need to look at carefully because it is changing.
16 It is more of a supermarket than a drug store
17 now. You know, they used to be, like Frank said,
18 mostly drug store, a little bit of retail. Now
19 it's just the opposite. We see that all over. I
20 think we need to be really careful when we look
21 at this.

22 CHAIRMAN EWASUTYN: Any additional
23 comments from the members?

24 (No response.)

25 CHAIRMAN EWASUTYN: Okay. I'll move

1
2 for a motion to set this up for the consultants'
3 workshop meeting on the 22nd of January.
4 MR. GALLI: So moved.
5 MR. MENNERICH: Second.
6 CHAIRMAN EWASUTYN: I have a motion by
7 Frank Galli. I have a second by Ken Mennerich.
8 Any discussion of the motion?
9 (No response.)
10 CHAIRMAN EWASUTYN: I'll move for a
11 roll call vote starting with Frank Galli.
12 MR. GALLI: Aye.
13 MR. BROWNE: Aye.
14 MR. MENNERICH: Aye.
15 MR. PROFACI: Aye.
16 CHAIRMAN EWASUTYN: Myself yes. So
17 carried.
18 MR. WILSON: Thank you very much.
19 CHAIRMAN EWASUTYN: Mike, before we
20 move on to the next item should we consider
21 sending a letter to the Town Board in general
22 mentioning the fact that there's no definition in
23 the Code for pharmacy or retail at a point in
24 time when they may be looking to revise that?
25 MR. DONNELLY: I think after we take

1
2 stock and report back, I think Cliff has pointed
3 out it may well be a good idea. I agree that
4 both pharmacies and gasoline service stations
5 should be addressed definitionally so we know
6 what animal we're talking about because a super
7 retail drug store is very much different than the
8 pharmacy and soda counter that existed years ago.
9 Realistic parking requirements for what it is
10 should be set. It may be that ours are too high.
11 Certainly some part of what Ken is suggesting is
12 that it might be. I think after you reach a
13 determination on this issue such a recommendation
14 to the Town Board may be a good one.

15 MR. MENNERICH: I think just the
16 concept of a drive-through is new too, and how
17 that impacts what parking is needed for people to
18 go in.

19 MR. DONNELLY: Yes.

20 CHAIRMAN EWASUTYN: Thanks.

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22 (Time noted: 7:26 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 26, 2008

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

----- X
In the Matter of

DRISCOLL SUBDIVISION
(2005-46)
Route 300
Section 34; Block 1; Lots 45, 46, 32.1, 32.2, 52.1 & 53.5
Section 60; Block 2; Lot 4
R-3 Zone

----- X

107-LOT SUBDIVISION
FINAL ENVIRONMENTAL IMPACT STATEMENT

Date: January 17, 2008
Time: 7:27 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
ALSO PRESENT: JOSEPH E. PROFACI
DINA HAINES
MICHAEL H. DONNELLY, ESQ.
BRYANT COCKS
PATRICK HINES
KAREN ARENT

APPLICANT'S REPRESENTATIVE: ROSS WINGLOVITZ

----- X

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CHAIRMAN EWASUTYN: The following item of business we have this evening is the Driscoll subdivision. It's 107-lot subdivision. We received and we're reviewing the Final Environmental Impact Statement. It's located on Route 300, it's zoned R-3 and it's being represented by Ross Winglovitz.

MR. WINGLOVITZ: Good evening. Ross Winglovitz, Engineering Properties, here representing the Driscoll subdivision.

Back I think in late November we had submitted a draft of the Final Environmental Impact Statement for review and potential approval of the Board regarding its completeness. We have received some comments from your consultants. We'd be glad to discuss them. I would specifically like to discuss a few of them. I would yield to the Board on how you want to proceed.

CHAIRMAN EWASUTYN: Why don't you address the ones that you specifically want to address and then we'll move from there.

MR. WINGLOVITZ: We had comments from Pat, most of which were clarifications. Comment

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2 number 5 was regarding sidewalks and the concern
3 that if the Town doesn't take them they'll be
4 sidewalks that the HOA would maintain that would
5 be in the public right-of-way. We think that
6 that can be accomplished. We got mixed reviews.
7 We had presented this to the Town Board back last
8 spring actually and there was a split on the
9 board whether they wanted sidewalks to be
10 maintained by the Town. We did bring up if they
11 weren't maintained by the Town the option would
12 be the homeowners association. Nobody told us
13 yes that was okay but we didn't get any negative
14 responses to doing that. We think the Board made
15 it clear sidewalks are important to them so we
16 would like to accomplish it through either an HOA
17 or Town ownership as long as there's a mechanism
18 that will work that will satisfy everybody. If
19 there isn't I don't know where else we could put
20 them. I think we would have to remove them from
21 the plan.

22 MR. DONNELLY: My advice to the Board
23 during work session is I believe either
24 alternative is legally permissible.

25 MR. WINGLOVITZ: Item 6 was regarding

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2 the Army Corp of Engineers and our proposed
3 mitigation which is preservation of this wetland
4 area and its approveability. We have in fact
5 done that just recently for Orchard Hills. That
6 was just approved last June where we preserved
7 that wetland, the wetland area at the top of the
8 hill as mitigation. From what I understand the
9 Army Corp actually prefers that. So we do have
10 information about that. Any other clarifications
11 we can provide.

12 MR. HINES: Does that become deed
13 restricted?

14 MR. WINGLOVITZ: Yes.

15 MR. HINES: I think that should be
16 elaborated on.

17 MR. WINGLOVITZ: Yes, it becomes deed
18 restricted.

19 MR. HINES: This is a unique situation.
20 You're encircling this wetland with a road. They
21 may object.

22 MR. WINGLOVITZ: I guess our down side
23 would be if we couldn't find a mitigation area --
24 if they didn't accept that our down side would be
25 to proceed with a permit. After preliminary we

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would have to find another spot on site or have to lose a lot to accomplish it.

MR. HINES: I think that should be expanded on in the F.E.I.S., how that's going to be accomplished.

MR. WINGLOVITZ: Okay.

CHAIRMAN EWASUTYN: That's two locations on the site?

MR. WINGLOVITZ: There's two impact areas at both crossings. This is the mitigation area we would be losing.

MR. HINES: That one specifically or is it going to be both? There's two isolated wetland areas.

MR. WINGLOVITZ: On here actually as well.

CHAIRMAN EWASUTYN: Thank you.

MR. HINES: So that other one will be preserved that you have colored in the darker green?

MR. WINGLOVITZ: Up here. Yes. That's part of the HOA area. I don't know if we actually included that area in the calculation. It is going to be open space and that is where

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that other area is going to be.

MR. HINES: Maybe you can clarify that also.

CHAIRMAN EWASUTYN: It's written the same in both areas. The description is the same.

MR. HINES: Right.

MR. WINGLOVITZ: A flow confirmation letter from the City of Newburgh. Do we need that prior to preliminary? Is that something we can get between preliminary and final?

MR. HINES: Typically it's at final. What you're saying there is there is capacity. I think an indication that there truly is that capacity may be helpful.

MR. WINGLOVITZ: So is it now or --

MR. DONNELLY: You don't need the actual approval from the City before preliminary. We can grant preliminary on that condition. You will need it before final.

MR. WINGLOVITZ: Before final. Okay. Pat had asked Ken's office to review the adequacy of our noise evaluation for the rock blasting and crushing operations. I guess we await any comments on that.

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MR. HINES: I did speak to Ken. He couldn't be here tonight but he is going to take a look at that further, the impacts of that rock crushing. It's kind of cursorily mentioned in the D.E.I.S. when I went back in after the comments.

MR. WINGLOVITZ: I do kind of talk about it later on.

MR. HINES: Yes.

MR. WINGLOVITZ: Comment 102 we wanted some clarification on which is regarding threatened or endangered species. We did a complete evaluation of the site. You're referring to a couple specific plant species.

MR. HINES: And specifically at the crossing.

MR. WINGLOVITZ: Is there -- I mean he did an evaluation of the wetland areas and the site. Do you want a letter from our consultant saying he specifically looked at those crossing locations?

MR. HINES: Just the crossings. The crossings there. We've done that with other developers along the Quassaick Creek corridor.

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MR. WINGLOVITZ: We'll get a clarification on that.

MR. HINES: Specifically for the two plant species identified in the biodiversity study. Realizing that study did not incorporate this portion of the stream corridor, there is an indication that they exist downstream of your site. Some recent studies were done on The Market Place site that identified similar species but not those exact species. So that work may be helpful for you to take a look at for this site.

MR. WINGLOVITZ: Okay. The rest were just clarifications that I can provide to --

MR. HINES: The next one, the fire flow analysis, was that missing?

MR. WINGLOVITZ: There was a fire flow analysis in the D.E.I.S. I think the page is probably titled incorrectly. It should have been pressure data. It was only there to provide the pressure data.

Regarding the discussions, there were comments from the neighboring subdivision regarding their inability to have proper pressure. We did a new pressure test here on 300

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and I did have a discussion as to -- you know, based on that new test that the pressure complies with the Code.

MR. HINES: Somewhere in the document you reference the fire flow or --

MR. WINGLOVITZ: Pressure data or something.

MR. HINES: I flipped back to look at it and there was one page that was --

MR. WINGLOVITZ: I saw it.

MR. HINES: At work session I discussed with the Board the stormwater management report. We did take a look at the report based on our previous comments and confirmed that the water surface elevations have been adjusted and that that is adequate for the F.E.I.S. portion of the project. As the site plan moves through we'll be taking a look at the individual pipe networks and such.

MR. WINGLOVITZ: On to Garling Associates' comments. There was a comment regarding the use of Gardnertown Road. We talked about under special circumstances, even after this entrance is constructed, we would like to

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2 use this. The question is how do we define that.
3 I think Bryant's comment -- we really don't see
4 -- we would like to rephrase in reverse and say
5 we won't use it unless it's a special
6 circumstance in which we would go to the building
7 department first about it.

8 MR. DONNELLY: That was my suggestion,
9 that in the Findings we have a condition that
10 says that you won't use it without prior
11 authorization of the building department.

12 MR. WINGLOVITZ: That's it. Because we
13 can see, you know, at some point even when this
14 is constructed you may be in here having to fix
15 something, a water line has a problem, you've got
16 to go in and block off this road. You want to be
17 able to use that. A specific circumstance like
18 that when there's something going on on the main
19 entry road.

20 Recreation fees. We presented in the
21 D.E.I.S. a discussion that we believe our
22 recreation complies with the subdivision
23 regulation requirement which precludes us from
24 having to pay recreation fees. I think Bryant is
25 asking us to include that in here. We think we

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prepared a plan that meets the subdivision regulation requirements of the Town that doesn't require us to pay recreation fees.

MR. DONNELLY: I didn't address it specifically, and I should have now that you bring it up. I had sent you a note outlining what would be required in terms of the Town's needs and what you provided. It's in that type of approach that you've addressed it.

MR. WINGLOVITZ: In the D.E.I.S. we had a discussion regarding compliance with the subdivision regulations where it's laid out. I remember you sent me that. I thought that was more related to the site plan for Polo Club. I thought subdivision regulations had their own criteria.

MR. DONNELLY: There's a State law provision involved here that says in those cases where suitable recreational facilities can not be located on site, that a fee in lieu of can be required by the Planning Board. So actually the preferred is that you provide them on site. It's the suitable that I was trying to address in the e-mail because it's those recreational facilities

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2 that the Town needs. I thought my suggestion was
3 that you need to address in the F.E.I.S. what it
4 is that the Town needs to see, whether your
5 facilities address that. not necessarily that
6 you have adequate play yards for the residents
7 there but whether the demands you're going to put
8 on the Town's recreational facilities, already
9 deficient, and because you can't provide the
10 suitable ones, that you would be required to pay
11 a fee.

Jane, we can talk more about it.

12
13 MS. DALY: Is there any data gathered
14 by the Town as of yet?

15 MR. DONNELLY: I don't know to what
16 extent the master plan includes a recreational
17 needs study. I'm not familiar with the level of
18 detail that's in it.

19 MR. WINGLOVITZ: I'm familiar --

20 CHAIRMAN EWASUTYN: I'm only thinking
21 out loud. Would Robbie Petrillo be the contact
22 person on that? Robbie's title is?

23 MR. GALLI: Recreation -- he's the
24 supervisor.

25 CHAIRMAN EWASUTYN: Supervision of

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recreation. I think I would probably start with him and see whatever suggestion he has.

MR. DONNELLY: I think the Planning Board would need that before. It has the authority under the Bazewater case to make the determination that the fee is required but I think what it needs to grasp is what are the recreational needs, what are the demands you place on it, and are those demands being met in what you're providing here. If not, the fee will be required. The court cases have said that the Planning Board can require both, that you provide some level of recreational space on site and still require the fee if what you're providing doesn't meet those larger needs.

MR. WINGLOVITZ: I was I guess making a distinction regarding the site plan versus a subdivision. I was thinking we compiled the subdivision regulations that was proving that those were set up basically in compliance with that and we met that criteria, we proved that. But you're saying we take it a step further and actually do the analysis.

MR. DONNELLY: I think the State law

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allows the fee in lieu of in both the site plan multi-residential projects as well as the single-lot residential context. It's a similar approach.

MR. WINGLOVITZ: The last comment I had for discussion was Bryant talked about letters from the Cronomer Valley Fire Department and the City of Newburgh regarding the ability to respond to a fire if necessary. We haven't done that in the past. We haven't gotten any indication from them that they don't have the ability. We've met with them. They are the ones that provided the response time information and personnel information to us. I'm looking for guidance on that. Is that going to be typically required moving forward or is that something that's specifically a special need to this project because of some certain circumstance?

MR. GALLI: Wasn't that generated because of a letter that --

CHAIRMAN EWASUTYN: The letter I think was actually spoken.

MR. GALLI: Spoken about that supposedly wasn't --

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CHAIRMAN EWASUTYN: Weinstein?

MS. DALY: Wiseman.

MR. WINGLOVITZ: He provided a comment in which it was minutes from the City of Newburgh Fire Department which they were just as a matter of course mutual aid and made a motion to provide mutual aid of one engine or whatever to support Cronomer Valley as part of a normal mutual aid motion. So that was his -- I got that -- that was the minutes that he provided. Somehow it came they didn't have enough but I didn't get that distinction at all from Cronomer Valley.

MR. GALLI: I don't know why the City of Newburgh would be involved at all.

MR. HINES: They're the jurisdictional --

MR. COCKS: We usually require a letter from the fire company for a project this size.

MR. GALLI: Right. Not from the City of Newburgh, though.

MR. COCKS: No.

CHAIRMAN EWASUTYN: They would be the jurisdictional fire department. Do you agree?

MR. COCKS: Yes.

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CHAIRMAN EWASUTYN: Okay.

MR. WINGLOVITZ: All the clarifications I have unless I missed something. Somebody is telling me I missed something.

A clarification that Jane wanted to be provided is the access here. That is true, we did have the survey provide more survey information at Circle Lane. There's a little tiny sliver, a tiny little piece that is still owned by Mr. Kroll. It was created as part of the subdivision that is between the end of Circle Lane and this property. It looked like there was actually a fifty-foot wide little sliver that was, you know, probably one time going to be a connection piece or a reserve piece that he maintained. We do not have physical access to Circle Lane. The stonewalls that are there, they are existing stonewalls. The sewer easement will go through here to the property lines.

MR. DONNELLY: If you could acquire an easement for the public to cross to reach the walking trail system.

MR. WINGLOVITZ: We can reach out to Mr. Kroll and see if there's any willingness to

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provide that.

MR. DONNELLY: I would say jumping would solve the problem but --

MR. WINGLOVITZ: It's about the size.

MR. HINES: The similar issue exists for the sewer utilities crossings. It may be something that needs to be investigated too. It certainly would make future connections easier.

MR. WINGLOVITZ: We'll make the effort to reach out to Mr. Kroll.

MR. HINES: It might be helpful for the Board to have a copy of that survey. The survey date is not shown there. It's almost impossible to read at the scale we're looking at.

MR. WINGLOVITZ: I can give you a copy of that.

MS. DALY: If you're interested in an easement for the Town to have public access over the Kroll property both for the sewer extension --

MR. HINES: Either an easement or if you folks can obtain ownership. It looks like from a review of the map a sliver is really the word to use there.

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MR. WINGLOVITZ: I'm surprised he paid taxes on that.

MR. DONNELLY: I think the easements can be different. I think the one allowing public access really runs to a right of public user. If the sewer line is also involved, that would need to run to the Town.

MS. DALY: We'll see if we can find it.

MR. WINGLOVITZ: That's all we've got.

CHAIRMAN EWASUTYN: You also received comments from Ken Wersted, our Traffic Consultant?

MR. WINGLOVITZ: Yes, we have. And from Karen. Yes, we have.

CHAIRMAN EWASUTYN: Do you want to --

MR. WINGLOVITZ: I have no questions regarding those. They are pretty clear.

MR. DONNELLY: John, could I make another request? That is as you move forward with these can you begin to draft for the consultants a proposed Findings Statement so that we have one to work from because that will be the next step? There's no reason why we shouldn't start on that as well.

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MR. WINGLOVITZ: Can we provide these in the form of replacement pages to the document?

MR. DONNELLY: I think the Board would prefer that than wasting all that paper. You'll need ultimately at the end of it to have one.

MR. HINES: That's fine with me.

CHAIRMAN EWASUTYN: Pat Hines, do you want to add to anything this evening? Ross took the time to go through your review.

MR. HINES: He hit the high parts. Comments 15 and 17 appear to conflict. They have to do with the access. One says yes it will be provided and one not. That needs cleaning up.

The rest of our comments were addressed.

I know Ken Wersted is going to look at the issues regarding the rock crushing and blasting. I spoke to him about that.

Otherwise my comments have been addressed by Ross and they can be included in a modified document for the Board.

CHAIRMAN EWASUTYN: Would that rock crusher be in a permanent position on the site or do you see it moving from one point to another

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point?

MR. WINGLOVITZ: We showed it in a permanent location to keep it centrally located. It's portable in the fact that it can be transported portably to the site. It's not going to be portable around the site.

CHAIRMAN EWASUTYN: Bryant Cocks?

MR. COCKS: All my other comments were just regarding details. It's pretty straight-forward. He addressed all the major comments I had on that.

CHAIRMAN EWASUTYN: Okay. Karen Arent?

MS. ARENT: I have no comments. The comments -- they can address the comments during site plan that I have.

CHAIRMAN EWASUTYN: Frank Galli?

MR. GALLI: Just talking about the rock crusher, maybe the 300 side instead of the residential side in the back.

MR. HINES: It's kind of at the intersection where Ross is indicating.

MR. GALLI: Okay. The further toward the commercial side because it makes a lot of noise.

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MR. HINES: It's really located there because that's the majority of the rock area, too. It coincides with that.

MR. WINGLOVITZ: This is where the rock --

MR. HINES: Then there's a small area to Ross's left there also.

MR. WINGLOVITZ: Over here.

CHAIRMAN EWASUTYN: Cliff Browne?

MR. BROWNE: I have a couple things, John. Getting back to the sidewalk. If there's a consensus I would like to see us some day note to the Town kind of urging them if you will to allow the maintenance of this thing by the homeowners association as we've been talking about. We as a Board have been trying to -- how do I say -- from all the documentation trying to develop more of a sense of community in projects, and sidewalks does that. The other thing we've been trying to do is to establish a method or mechanism where people can exercise, which sidewalks do. I think that the sidewalks are an important aspect of this project. I think we as a Board should make an effort to solicit the Town

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to allow this use.

CHAIRMAN EWASUTYN: Okay.

MR. BROWNE: Just my opinion. I would like to see that happen.

CHAIRMAN EWASUTYN: Let's start by seeing if there's a consensus. Frank Galli?

MR. GALLI: Yes.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: Yes.

CHAIRMAN EWASUTYN: Joe Profaci?

MR. PROFACI: Yes.

CHAIRMAN EWASUTYN: And myself.

At what point in the process, Mike, would we enter that?

MR. DONNELLY: If we're talking about writing a letter of recommendation, I think that can be done at any time. If the applicant is going to be visiting the Town Board again between now and the time of final, the sooner we get that recommendation there the better.

CHAIRMAN EWASUTYN: Then I'll move for a motion to have Mike Donnelly, Planning Board Attorney, provide that letter.

MR. MENNERICH: So moved.

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MR. BROWNE: Second.

CHAIRMAN EWASUTYN: I have a motion by Ken Mennerich. I have a second by -- was it Cliff Browne?

MR. BROWNE: Yes.

CHAIRMAN EWASUTYN: 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.

MR. HINES: During the work session Karen mentioned there was a discussion of moving the sidewalks further away from the curb to get that look for the subdivision we're looking for. Maintenance agreements are needed to maintain that piece of land between the curb and the sidewalk. I know for a fact the highway superintendent does not want to be mowing strips of grass along the roads. Just as you move forward with the Town Board, maintenance of the sidewalk and any of that vegetation of the land in between is going to be required or you may get

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an objection from the highway superintendent.

CHAIRMAN EWASUTYN: In speaking with the town engineer today it would seem that the town highway department would prefer concrete curbing as compared to Belgium curbing, so if you would move in that direction.

MR. WINGLOVITZ: We would much prefer Belgium block. I would be glad to have that conversation with them.

CHAIRMAN EWASUTYN: Then you may want to have that conversation.

MR. WINGLOVITZ: Yup. Aesthetically it's much nicer. From a construction perspective it's much easier to maintain.

MR. GALLI: We agree with you. They don't.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. BROWNE: The other comment is with the crossing of the main entrance, that construction going on there, is this the right time to ask for some kind of a boundary as far as the time? It sounds like that's going to be open ended as far as when and how it can be done and how far down the process --

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CHAIRMAN EWASUTYN: It would be part of phase I. I think you're talking about the entry on Route 300.

MR. HINES: That's identified in phase I. Their initial construction activities is to construct that entrance drive. Obviously they're going -- it's quite a fill section. They are going to need access from both sides to construct it, and actually the majority of their fill material is coming from the central portions of the site.

CHAIRMAN EWASUTYN: Explain that then, why don't you just take the time, how many units would be in place and what you're proposing.

MR. WINGLOVITZ: Phase I goes from Gardnertown Road through the site at the main entrance. This is part of the initial phase of construction. What we discussed in the document is that we would have access from both sides until such time as the bridge is constructed and we can get access from Route 300, then we would limit access here unless there was a need. As we discussed earlier, we would I guess get preauthorization for that need to use this as

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construction access in the future.

MR. BROWNE: So phase I includes the units or just the road?

MR. WINGLOVITZ: The road and the houses along this road out to 300.

MR. BROWNE: That's part of my concern. If we're going with the units and that then you have all that going on. At the same time they're still being allowed to, if you will, construct that crossing down there. I don't personally see why that road can't be done prior to this going in. Am I out of line on that?

MR. WINGLOVITZ: It places a significant burden I guess on the contractor being able to start the foundations and being able to start work. Practically this is going to be in very early on. I couldn't tell you they wouldn't start a few foundations.

MR. HINES: Could you limit COs? Maybe a limit, no COs until the road is open.

MR. WINGLOVITZ: That would be fine as a restriction.

MR. BROWNE: I guess my concern is it's open ended so there's not a --

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MR. HINES: The CO issue I think takes the open ended off and gives them an economic reason to construct, and at that point once --

MR. WINGLOVITZ: The best reason.

MR. HINES: -- once the houses are utilized -- are occupied it would make more sense to access off the State highway and allow the residential uses to access Gardnertown.

MR. BROWNE: Is this something that should be brought up at this point?

MR. HINES: It could be included in the Findings Statement. Yes.

MR. WINGLOVITZ: Absolutely.

MR. BROWNE: Is that --

CHAIRMAN EWASUTYN: That's fine. That's fine. We've done that very often as far as phases and what has to be completed in order to move on to the next phase. That's fine.

There were 35 units I think that were part of phase I.

MR. WINGLOVITZ: Yes. That's probably about right.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: Are we addressing site

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plan issues too as we go along?

CHAIRMAN EWASUTYN: I think we have the opportunity this evening, it's snowing out, no one is in a hurry. Sure.

MR. MENNERICH: I'll just point out on the Garling memo, item 5 under site plan, stonewalls should be three-and-a-half feet. That's an error. It should just be three feet.

MR. WINGLOVITZ: Okay. I was going to ask for a clarification because I wanted to keep them at three feet.

MR. MENNERICH: That's all.

CHAIRMAN EWASUTYN: Joe Profaci?

MR. PROFACI: Nothing.

CHAIRMAN EWASUTYN: Just a site plan issue, a minor note. On C-110 you reference if you look at sheet C-105 and in fact it should be sheet 111.

MR. WINGLOVITZ: It should reference sheet 111?

CHAIRMAN EWASUTYN: Right. And then in addition, on sheet 109, number 7 where it says no substitute without written approval from the landscape architect or owner, I think you should

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 speak with Karen as far as the verbiage on that.
 Include landscape architect for the Town of
 Newburgh Planning Board.

 MR. HINES: And remove the reference to
 the owner.

 MR. WINGLOVITZ: I can do that.

 CHAIRMAN EWASUTYN: A minor change in
 the text on page 2-59, response number 92. You
 discussed it as being wood when actually it's
 plastic. That's the fencing.

 MR. WINGLOVITZ: It's board on board.
 That's the style fence I was trying to point out.
 I can call it privacy fence if you want to take
 out board --

 CHAIRMAN EWASUTYN: Just be consistent
 with what's being shown on the site plan itself.
 That's all I've got.

 So at this point I'll move for a motion
 from the Board to consider the F.E.I.S. for the
 Driscoll subdivision as being incomplete at this
 time and not acceptable.

 MR. GALLI: So moved.

 MR. MENNERICH: Second.

 CHAIRMAN EWASUTYN: I have a motion by

DRISCOLL SUBDIVISION

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

(No response.)

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

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: Myself. So
carried.

MR. WINGLOVITZ: Thank you.

(Time noted: 7:58 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 26, 2008

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

----- X
In the Matter of

ORCHARD HILLS
(2003-41))

Six-Month Extension of Conditional Final Approval

----- X

BOARD BUSINESS

Date: January 17, 2008
Time: 7:58 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

APPLICANT'S REPRESENTATIVE: ROSS WINGLOVITZ

----- X

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

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CHAIRMAN EWASUTYN: It's not that it's so busy of an agenda, so while you're here just for a matter of record I'll step back -- if you don't mind, Ken Lytle -- for a second.

Dina, would you care to read the Board business in reference to the letter we received from Ross Winglovitz for Orchard Hills?

MS. HAINES: The letter we received from Ross was dated January 11, 2008. It's for a six-month extension of the conditional final approval for the site plan and the subdivision of Orchard Hills. The date of the original approval was August 2nd. That approval expires on February 7, 2008. With the six-month extension it will be effective until August 7, 2008.

CHAIRMAN EWASUTYN: Having heard from Dina Haines, Planning Board Secretary, I'll move for a motion to grant that six-month extension.

MR. DONNELLY: I'll correct one thing. Because it's a conditional final it's 360 days. When we do the math it actually comes out to August 1st.

MS. HAINES: Sorry.

CHAIRMAN EWASUTYN: I'll move for a

ORCHARD HILLS

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2 motion to grant the six-month extension for the
3 Orchard Hills subdivision until August 1, 2008.
4 MR. GALLI: So moved.
5 MR. MENNERICH: Second.
6 CHAIRMAN EWASUTYN: I have a motion by
7 Frank Galli. I have a second by Ken Mennerich.
8 Any discussion of the motion?
9 (No response.)
10 CHAIRMAN EWASUTYN: I'll move for a
11 roll call vote starting with Frank Galli.
12 MR. GALLI: Aye.
13 MR. BROWNE: Aye.
14 MR. MENNERICH: Aye.
15 MR. PROFACI: Aye.
16 CHAIRMAN EWASUTYN: Myself yes. So
17 carried.
18 MR. WINGLOVITZ: Thank you.
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20 (Time noted: 8:00 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 26, 2008

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

----- X
In the Matter of

DeSOUSE LOT LINE CHANGE
(2007-46)
23 Weyants Lane
Section 17; Block 1; Lot 61.11
R-2 Zone

----- X

CONCEPTUAL SKETCH PLAN
LOT LINE CHANGE

Date: January 17, 2008
Time: 8:00 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

APPLICANT'S REPRESENTATIVE: KENNETH LYTLE
----- X

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CHAIRMAN EWASUTYN: Our last item of business this evening is the lands of DeSouse. It's a lot line change, it's a conceptual sketch plan located on Weyants Lane in an R-2 Zone. It's being represented by Ken Lytle.

MR. LYTLE: Good evening. We were here a couple years ago. Actually, it got approved in 2004 for a two-lot subdivision. It was approved and filed. The homeowner in the first house, they're doing a small addition. During construction he realized that he took a mis-measurement and increased the size of his addition by an extra four feet requiring him to go for a variance, which since he owned the adjoining property wasn't going to happen so he came here for a lot line change.

The consultant brought up a couple comments regarding the existing well notes. If I remember correctly, the existing house we really couldn't determine the size of the septic so Pat asked us to design a new system in case there was ever a failure, which we have on there, and also a new system for the new lot created in the back. We put notes on the original subdivision that if

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2 the septic systems, either one of them or both of
3 them were to be installed, the wells would have
4 to be relocated. The old one would have to be
5 abandoned and the new one drilled at that time.
6 That's why we put the notes on there, so it would
7 be clarified for the homeowner.
8 MR. HINES: We're going to need to see
9 those I guess.
10 MR. LYTLE: I'll get it to you.
11 MR. HINES: There's two wells on lot 1
12 existing?
13 MR. LYTLE: Two existing wells that are
14 there.
15 MR. HINES: Servicing one house?
16 MR. LYTLE: The one over on the
17 left-hand side is servicing the house. The other
18 one is still an existing one. It's not being
19 utilized but it's still there.
20 MR. HINES: Does that one meet the
21 requirements for separation distance? I don't
22 have the topography in front of me.
23 MR. LYTLE: This one actually does.
24 When the new system for lot 2 gets installed, at
25 that time it would not meet. That's why we

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2 showed a new proposed well to be installed at
3 that time. We put the notes whenever one was
4 installed we would have a new one drilled. We
5 can get that over to you to look at.
6 MR. HINES: That's a pretty strange
7 note. I don't know how we -- it would be cleaner
8 to do it now.
9 MR. LYTLE: I can ask the homeowner.
10 He's actually interested and talked to us about
11 doing the stake out. In actually that timeframe
12 once that's granted he would be installing the
13 septic.
14 MR. HINES: The problem being I don't
15 know we can grant that. It's a 2004 issue.
16 MR. DONNELLY: If that was supposed to
17 have been done before I think it's a pre-
18 condition to doing it now. We have to see the
19 map notes to see if what you're telling us is
20 what the Board approved.
21 MR. LYTLE: That's fine. It was a
22 condition for the septic being installed the
23 wells be modified, abandoned and a new one
24 drilled.
25 MR. HINES: Did he add bedrooms to this

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house?

MR. LYTLE: No. No. That's why I said -- he wants to install a new one at this time which will require him drilling the new well. I don't believe it was a condition of the original approval but we'll get the map over to you to take a look at.

MR. HINES: I would think now is the time.

MR. LYTLE: That's fine. He's looking into doing it anyway so I'm sure it won't be a problem.

MR. DONNELLY: The question is how does the Board want to handle it. Do you want to condition it upon a letter that Pat has reviewed it and there's a satisfactory resolution, whatever that is, or do you need to have the applicant come back? What do you want to do? Pat is saying, though, his recommendation is unless the map note tells him to the contrary, that as a condition of this approval it will be taken care of now.

CHAIRMAN EWASUTYN: That would be the recommendation.

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MR. HINES: And the problem is that should someone build a house on the other lot or this lot gets sold it's going to be very difficult to have someone do that.

MR. GALLI: I have no problem with that.

CHAIRMAN EWASUTYN: Cliff?

MR. BROWNE: Good.

MR. MENNERICH: Yes.

MR. PROFACI: Yes.

CHAIRMAN EWASUTYN: Bryant, do you have anything to add?

MR. COCKS: No. I just had a couple clean-up items. There were two sections of the E.A.F. that just needed to get added in. And then the bulk table, just add in the actual dimensions. That was it.

CHAIRMAN EWASUTYN: Any additional comments from Board Members?

MR. GALLI: No additional.

MR. BROWNE: No.

MR. MENNERICH: No.

CHAIRMAN EWASUTYN: I'll move for a motion to approve the conceptual sketch plan and

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lot line change for DeSouse and to declare a negative declaration.

MR. MENNERICH: So moved.

MR. GALLI: Second.

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

(No response.)

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

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: Myself yes. So carried.

At this point I'll turn to Mike Donnelly for conditions of approval.

MR. DONNELLY: The first will be that the two wells shall be closed and the installation of the new well are required as a condition of this approval. The map will not be signed until this is accomplished. The standard two conditions of a map note of no buried

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utilities and being copied on the map filing and the deed transmittal.

CHAIRMAN EWASUTYN: Having heard the conditions for approval, I would move for that motion.

MR. GALLI: So moved.

MR. MENNERICH: Second.

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

(No response.)

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

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

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

MR. LYTLE: Thanks.

(Time noted: 8:06 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 26, 2008

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

----- X

In the Matter of

LANDS OF FINNIGAN
(2007-21)

Receipt of City of Newburgh Flow Acceptance Letter
Final Approval

----- X

BOARD BUSINESS

Date: January 17, 2008
Time: 8:06 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

----- X

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

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CHAIRMAN EWASUTYN: Dina, at this time will you present to the Board the items for discussion for Board business.

MS. HAINES: The first one is lands of Finnigan. We received the City flow acceptance letter on December 26th from the City of Newburgh, so they are up for final approval.

CHAIRMAN EWASUTYN: Mike, do you want to check your --

MR. DONNELLY: I have a resolution. This had been granted preliminary approval back in November so I used the preliminary approval resolution. The only conditions were the sewer flow acceptance letter, which has now been satisfied, and a requirement that parkland fees be paid. That leaves only the parkland fees as a condition.

CHAIRMAN EWASUTYN: So I'll move for that motion.

MR. GALLI: So moved.

MR. PROFACI: Second.

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

LANDS OF FINNIGAN

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(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: Myself yes. So
carried.

(Time noted: 8:07 p.m.)

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

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DATED: January 26, 2008

LANDS OF PICARD

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

----- X
In the Matter of

LANDS OF PICARD
(2006-43)

Six-Month Extension of Subdivision Approval

----- X

BOARD BUSINESS

Date: January 17, 2008
Time: 8:07 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

----- X

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

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2 CHAIRMAN EWASUTYN: Dina.
3 MS. HAINES: Next is lands of Picard.
4 We got a letter from Marshall Courtney on
5 January 16th. They would also like a six-month
6 extension of the subdivision approval. The date
7 of the approval was August 2nd. The approval
8 expires February 3rd. A six-month extension will
9 be effective until August 1, 2008.
10 CHAIRMAN EWASUTYN: Okay. I would move
11 for that motion.
12 MR. PROFACI: So moved.
13 CHAIRMAN EWASUTYN: I have a motion by
14 Joe Profaci.
15 MR. GALLI: Second.
16 CHAIRMAN EWASUTYN: A second by Frank
17 Galli. Any discussion of the motion?
18 (No response.)
19 CHAIRMAN EWASUTYN: I'll move for a
20 roll call vote starting with Frank Galli.
21 MR. GALLI: Aye.
22 MR. BROWNE: Aye.
23 MR. MENNERICH: Aye.
24 MR. PROFACI: Aye.
25 CHAIRMAN EWASUTYN: Myself yes. So

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carried.

(Time noted: 8:09 p.m.)

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

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

----- X
In the Matter of

CAROL TEMPORARIES
(2004-03)

Release of Landscape Bond

----- X

BOARD BUSINESS

Date: January 17, 2008
Time: 8:09 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

----- X

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MS. HAINES: The next one is Carol Temporaries. We got a memo from Karen and she's recommending to release the landscape bond.

CHAIRMAN EWASUTYN: Do you want to give us a presentation on that? We did cover it during the work session. Let's do it one more time.

MS. ARENT: Carol Temporaries, they didn't put in the curbs as they were supposed to. They put wheel stops instead. They didn't put a depression in the grass for stormwater management and they didn't put -- they put white pines in instead of ash or arborvitaes. Since the Town isn't going to use that money for any reason and since we now have a mechanism to prevent that in the future, which is that before they ask for their final approvals or their -- before they ask for their inspection from the Town for the CO they call me to look at the landscaping and the site improvements to make sure they're installed in accordance with the plan. Once they receive my letter then they schedule the site inspection for the Town officials before they issue the C of O. So now they don't even schedule the

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2 inspections for the CO until they get a letter
3 saying all the improvements are installed as per
4 the plan. I think now we have a mechanism to
5 avoid that in the future, that letting the money
6 be released won't set a precedent.

7 CHAIRMAN EWASUTYN: Discussion from
8 Board Members. Frank?

9 MR. GALLI: I --

10 CHAIRMAN EWASUTYN: If you're not
11 comfortable --

12 MR. GALLI: I'm not comfortable with it
13 actually. I think they do what they want to do
14 and come back and ask for forgiveness. Now we
15 have a mechanism in place. Then of course we
16 didn't. Somehow I would make them do it.

17 CHAIRMAN EWASUTYN: Okay. Cliff
18 Browne?

19 MR. BROWNE: I agree with Frank. I'm
20 trying to understand how releasing this money
21 back to them, how what they haven't done --
22 somehow to me it seems like they should be
23 related somehow. Are these things related or not
24 related?

25 MR. DONNELLY: It's not that they

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2 didn't do anything. They did it all wrong.
3 MR. HINES: One of the things to
4 remember is that you're talking about a
5 landscaping bond. Those are site plan issues. I
6 think the building department issued them their
7 CO without the curbs. The curbs are -- I think
8 the only change for landscaping is the species.
9 MR. GALLI: And the swale.
10 MR. BROWNE: The swale is landscaping.
11 MR. HINES: That was for drainage
12 issues because they were making the parking lot
13 slightly smaller. We talked a lot about the
14 required curbing. They didn't want to do it.
15 They made that pretty clear during the process,
16 that we were forcing them into that. It's your
17 policy when you have these plans before you to
18 get these sites in compliance.
19 MR. BROWNE: That's what I was trying
20 to get to. So Karen's money for the landscaping
21 is not really tied to --
22 MR. HINES: The site work. It's not.
23 MR. BROWNE: Unfortunately. I don't
24 like it but I don't see legally how we can not.
25 MR. DONNELLY: The Town can still

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2 enforce the failure to build the site plan
3 according to the plan and bring a proceeding if
4 they choose to compel the developer to put in the
5 curbs. All the security does is arguably permit
6 the Town to use the money to do the landscaping.
7 That provides the leverage that makes the
8 developer do the landscaping because the Town
9 never wants to really do it itself.

10 MR. BROWNE: What I was getting to is
11 the landscaping bond is not really tied to these
12 other issues.

13 MR. DONNELLY: It has nothing to do
14 with the other issues, no.

15 MR. BROWNE: I don't like it but --

16 MR. MENNERICH: How much money is
17 involved in the bond?

18 MS. ARENT: It's not much. It's a
19 couple thousand I believe. I don't even remember
20 at this point.

21 MR. HINES: \$3,000.

22 MS. ARENT: Something like \$2,000.

23 MR. MENNERICH: Should we be forcing
24 them to replace the trees with the right ones?

25 MS. ARENT: I don't know. I mean --

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2 ash or arborvitaes would have been better because
3 they're going to get wide. White pines are going
4 to get too wide. It's going to be a problem for
5 them and not the neighbors so much. I would
6 probably let it go and now that we have a better
7 mechanism I would -- I feel more comfortable now
8 that there's a solution for future projects. So
9 I would be more comfortable letting it go,
10 especially since they have been in the ground so
11 long. They're established. If we make them
12 change it they'll probably put garbage back.

13 CHAIRMAN EWASUTYN: Joe?

14 MR. PROFACI: Karen, the bond is only
15 for the trees?

16 MR. HINES: Yes.

17 MS. ARENT: For the landscaping. It's
18 not for the site plan.

19 MR. PROFACI: Not for the curbing.

20 MS. ARENT: When I was out there I saw
21 that, that's why I wrote that.

22 MR. HINES: Under the current process
23 there would be bonding required for the
24 stormwater improvements, for those site plan
25 improvements. In four years we've come a little

CAROL TEMPORARIES

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bit further because of experiences like this.

MS. ARENT: This isn't the only one.

CHAIRMAN EWASUTYN: Okay. Then I'll move for a vote to release the landscape bond for Carol Temporaries. I'll move for that motion.

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: Myself yes. So carried.

(Time noted: 8:13 p.m.)

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

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DATED: January 26, 2008

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

----- X
In the Matter of

ARMISTEAD MECHANICAL

Sending of Letter Regarding Stonewall

----- X

BOARD BUSINESS

Date: January 17, 2008
Time: 8:13 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

----- X

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

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2 CHAIRMAN EWASUTYN: While we're on the
3 same note, although it's not Board business we
4 should probably discuss based upon what Frank
5 Galli had said earlier which is walking down the
6 same area that we just left, preparing a letter,
7 Karen, a letter to Armistead Mechanical.
8 Mike, you'll help Karen Arent.
9 Let's discuss what that letter will
10 state.
11 MR. DONNELLY: I'm trying to remember
12 the issue.
13 MR. HINES: The stonewall.
14 MS. ARENT: Do you want the letter to
15 go to Armistead Mechanical?
16 CHAIRMAN EWASUTYN: It would go to
17 Armistead Mechanical; to Tilford Stiteler, the
18 building inspector; and whomever else you might
19 suggest.
20 MS. ARENT: Basically should it be
21 similar to the other letters I wrote?
22 CHAIRMAN EWASUTYN: Right. I think
23 we'll quote your memo. This is a follow up to
24 those memos.
25 MS. ARENT: Okay.

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MR. MENNERICH: So the letter would go to Tilford, though, with a copy to Armistead?

MS. ARENT: I think that makes sense.

MR. MENNERICH: Tilford is the one that's going to enforce it.

CHAIRMAN EWASUTYN: Mike, would you agree?

MR. DONNELLY: We want to make sure no CO is issued before it's completed. It should be a letter that's in that file so when he goes to review things it's there.

CHAIRMAN EWASUTYN: Okay. Fine.

MS. ARENT: We can suggest that it be bonded. If weather is a factor in completing it, the wall, that the wall be bonded. I would think that would be fair.

CHAIRMAN EWASUTYN: Okay. I'll move for that motion.

MR. GALLI: So moved.

CHAIRMAN EWASUTYN: I have a motion by Frank Galli.

MR. BROWNE: Second.

CHAIRMAN EWASUTYN: A second by Cliff Browne. Any discussion of the motion?

ARMISTEAD MECHANICAL

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(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: Myself. So
carried.

(Time noted: 8:17 p.m.)

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

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DATED: January 26, 2008

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

----- X

In the Matter of

THE POLO CLUB

Receipt of F.E.I.S.

----- X

BOARD BUSINESS

Date: January 17, 2008
Time: 8:17 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

----- X

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

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CHAIRMAN EWASUTYN: It's not under Board business but just we'll make mention of it. I would like to move that we received this evening the F.E.I.S. for Polo Club and just move for a motion to say that we received it.

MR. PROFACI: So moved.

MR. GALLI: Second.

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

(No response.)

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

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: Myself. So carried.

Anything anyone wants to bring up before I move for a motion to close the meeting?

(No response.)

CHAIRMAN EWASUTYN: I'll move for a

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motion to close the Planning Board meeting of
January 17th.

MR. MENNERICH: So moved.

MR. GALLI: Second.

CHAIRMAN EWASUTYN: I have a motion by
by Ken Mennerich and a second by Frank Galli.
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 myself. So
carried.

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

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

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